



Oregon

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August 24, 2012

TO: Land Conservation and Development Commission

FROM: Jim Rue, Acting Director
Anne Debbaut, Metro Regional Representative
Tom Hogue, Economic Development Specialist

SUBJECT: **Agenda Item __, September 20-21, 2012, LCDC Meeting**

APPEAL OF DIRECTOR'S DECISION TO APPROVE SCAPPOOSE URBAN GROWTH BOUNDARY AMENDMENT

I. AGENDA ITEM SUMMARY

A. Type of Action and Commission Role

On an appeal of a director's decision, the commission must make a decision pursuant to OAR 660-025-0160(6). Following the public hearing, the commission must either:

- (a) Approve the work task;
- (b) Remand the work task, or a portion of the work task to the local governments, including a date for re-submittal; or
- (c) Require specific plan or land use regulation revisions to be completed by a specific date.

B. Staff Contact Information

If you have questions about this agenda item, please contact Anne Debbaut, DLCD Regional Representative, at (503) 725-2183 or anne.debbaut@state.or.us.

II. SUMMARY OF RECOMMENDED ACTION

As outlined in the Director's Order approving Scappoose's urban growth boundary (UGB) amendment (Attachment A), the department determined that the city and county had adequately explained its decision and had properly complied with the statewide planning goals, related statutes and implementing administrative rules based on the findings and conclusions contained

in the order. A single appeal of the director's decision was subsequently filed as provided for in OAR 660-025-0150(6) and is required to be brought before the commission.

The department reviewed the appeal of the director's decision, which included 12 objections, and determined that the substance of the objections remained unchanged from those raised previously and addressed in the director's decision. Therefore, staff recommends that the commission deny the appeal and approve the Scappoose UGB amendment.

III. BACKGROUND

A. City and County Actions

The city made the final decision regarding adoption of an amendment to its UGB on April 18, 2011. This amendment expanded the UGB by approximately 380 acres, primarily to accommodate planned industrial growth for airport related employment in addition to planned commercial growth. In reaching this decision, the city updated its coordinated population forecast in the comprehensive plan, adopted an economic opportunities analysis (EOA), revised portions of the comprehensive plan regarding future commercial and industrial development, amended the comprehensive plan map, and updated its development code. Columbia County affirmed the decision on October 26, 2011. The city submitted the jointly approved decision to the department on February 8, 2012. A map of the UGB amendment approved by the city and county is included as Attachment C.

It should be noted that a local initiative to require voter approval of the UGB expansion decision by the city council was successful and the city council's decision to approve the UGB expansion was placed on a ballot for voter approval and held in September 2011. The county's public hearing process was continued, pending the outcome of the vote. The city's electorate voted to approve the UGB expansion, at which point Columbia County resumed public hearings.

Following the city's notice of decision on February 8, 2012 (initiating the 21-day objection period), the department received objections to the submittal from 1000 Friends of Oregon, Michael F. Sheehan, and a group of 35 individuals reiterating all of 1000 Friends of Oregon's objections. The department determined that all three objections were valid as set forth in OAR 660-025-0140.

The department reviewed the submittal and considered the objections. The department disagreed with the issues raised in the objections and issued Order 001816 on June 14, 2012 approving the submittal. On July 5, 2012, the department received a valid appeal of the department's order from Michael F. Sheehan and Pat Zimmerman. Pat Zimmerman was one of the 35 individuals who had signed the objection reiterating all of the 1000 Friends of Oregon's objections.

B. Major Legal and Policy Issues

The appellants reassert their objections to the city's decision, and claim that the city lacks adequate substantial evidence to support the UGB amendment. Alleged deficiencies include the

manner in which the city: forecasted employment land needs; allocated the employment forecast; determined needed site characteristics for employment uses; included area in the UGB for a runway extension and new airplane hangars; failed to consider certain industrially designated land already inside the UGB; and included land for a community college. All the objections were responded to in the director's decision issued June 14, 2012, approving the UGB amendment.

The department expects testimony from the city to explain whether a parcel of land committed to development was erroneously omitted from the land inventory of employment sites. If so, the commission will have to decide whether that omission is minor and technical in nature, or whether the decision should be remanded to the city.

IV. REVIEW CRITERIA, PROCESS & RECORD

A. Decision-making Criteria

The substantive criteria for this UGB amendment include Goal 14; OAR chapter 660, division 24; and Oregon Revised Statutes (ORS) 197.298. Some of these provisions include other goals and rules by reference.

Goal 14 provides, among other things:

Establishment and change of urban growth boundaries shall be based on the following:

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and (2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).

In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.

OAR chapter 660, division 24 provides guidance and requirements for completing the land need determination under Goal 14. OAR 660-024-0040(5) states that, for employment land, a city demonstrates compliance with Goal 14 need factors by showing compliance with Goal 9 and OAR chapter 660, division 9. Goal 9 requires that comprehensive plans provide opportunities for a variety of economic activities, based on inventories of areas suitable for increased economic growth taking into consideration current economic factors. The goal requires that comprehensive plans provide for at least an adequate supply of suitable sites for a variety of industrial and commercial uses, and limit incompatible uses to protect those sites for their intended function.

OAR chapter 660, division 9 implements Goal 9 and directs local governments to "link planning for an adequate land supply to infrastructure planning, community involvement and coordination among local governments and the state," and "to assure that comprehensive plans are based on information about state and national economic trends." OAR 660-009-0000. OAR 660-024-0040(5) states that employment land need may be based on an estimate of job growth over the

planning period. Local government must provide a reasonable justification for the job growth estimate, but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.

OAR chapter 660, division 24 provides direction about how to incorporate analysis and findings addressing Goal 9 during a UGB review. OAR 660-024-0040(1), in addition to reiterating the two criteria from Goal 14 quoted in the previous paragraph, states that the 20-year need determinations “are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.”

B. Procedural Requirements and Validity of Appeal

OAR 660-025-0150(6)(d) states that persons who filed a valid objection may appeal a director's approval or partial approval of a work task to the commission.

OAR 660-025-0150(6)(d) states that a person appealing the director’s decision must:

- (A) Show that the person participated at the local level orally or in writing during the local process;
- (B) Clearly identify a deficiency in the work task sufficiently to identify the relevant section of the submitted task and the statute, goal, or administrative rule the local government is alleged to have violated; and
- (C) Suggest a specific modification to the work task necessary to resolve the alleged deficiency.

OAR 660-025-0160(5) provides that the commission will hear appeals based on the record unless the commission requests new evidence or information.

OAR 660-025-0085(5)(c) states that oral argument is allowed from the local governments and those who filed an appeal. The local governments may provide general information on the task submittal and address those issues raised in the department review and appeal. Persons who submitted an appeal may address only those issues raised in their appeal. The commission may take official notice of certain laws, as specified in OAR 660-025-0085(5)(e).

OAR 660-025-0160(6) states that, in response to an appeal, the commission must issue an order that does *one or more* of the following:

- (a) Approves the [submittal];
- (b) Remands the [submittal] to the local government, including a date for re-submittal; [or]
- (c) Requires specific plan or land use regulation revisions to be completed by a specific date[.]

The department received one appeal from Pat Zimmerman and Mike Sheehan. The department has determined that the appeal is valid.

C. The Written Record for This Proceeding

1. This DLCD staff report
2. Appeal of director's approval order filed by Pat Zimmerman and Mike Sheehan, dated July 14, 2012 (Attachment B)
3. Order 001816, dated June 14, 2012 approving the submittal (Attachment A)
4. June 7, 2012 letter from city of Scappoose approving waiver of 120-day deadline pursuant to OAR 660-025-0150(3)
5. May 9, 2012 letter from city of Scappoose providing citations to locations in the record of the UGB submittal addressing those issues raised in objections
6. Letters of objection to the submittal (available at http://oregon.gov/LCD/pages/scappoose_ugb_amendment.aspx#Objections_for_State_Review)
 - A. 1000 Friends of Oregon
 - B. Michael F. Sheehan
 - C. Ad hoc group of 35 individuals
7. UGB amendment submittal including:
 - A. City of Scappoose Ordinance No. 816, with exhibits (available at http://oregon.gov/LCD/docs/general/scappoose_ugb/scapp_ugb_ordinance020812.pdf)
 - B. Columbia County Ordinance No. 2011-3, with exhibits (available on request)
 - C. City and county committee and commission meeting notices, materials, and minutes (available on request)
 - D. Other correspondence (available on request)

V. DEPARTMENT ANALYSIS

The department's review of the original decision and objections are contained in the director's report attached to Order 001816 (Attachment A). In the appeal of the director's order approving the submittal (Attachment B), Ms. Zimmerman and Mr. Sheehan reiterate their previous objections and therefore staff relies on the Director's Order 001816 to respond to the appeal.

In their first objection, Ms. Zimmerman and Mr. Sheehan raise an additional issue, that Scappoose violated Goal 1, Citizen Involvement, as part of Objection 1 of the appeal. There is no bar on an objector raising an objection before the Commission that was not raised at the local hearing, if the objector satisfies the requirements for submitting a valid objection contained in OAR 660-025-0150(6)(d). However, the substance of the objection, that the city did not adequately consider new information submitted between the time of the preparation of the

original Economic Opportunities Analysis and the city's final decision, remains unchanged. Thus the department's position on this issue also remains unchanged from the staff report.

A. Content of Appeal

The appellants identify 12 objections in their appeal which reiterate the 12 objections filed for the original decision and that are addressed in the director's order (Attachment A), except for the additional Goal 1 issue noted above.

B. Department Response to Appeal

The director's decision included a response to the same 12 objections that have been raised in the appeal. The appellants do not provide any additional information in their appeal to challenge the information the city relied on for its findings.

The director's report concluded that the actions of the city of Scappoose and Columbia County to amend the UGB to include an additional 380 acres for commercial, industrial and institutional uses, and related amendments, complies with the statewide planning goals, related statutes and implementing administrative rules, based on the findings and conclusions in that report and that the local decisions rely on an adequate factual base and are reasonable based on evidence in the whole record.

VI. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS

A. Recommendation

The department recommends that the commission deny this appeal and approve the city of Scappoose's UGB amendment.

B. Proposed Motion

Recommended Motion: I move that the commission deny the appeal and approve the city of Scappoose's UGB amendment based on the information contained in the director's report and argument at the hearing.

Alternative Motion: I move that the commission uphold the appeal and remand the city of Scappoose's UGB amendment for the city and Columbia County to [nature of additional work needed on remand].

ATTACHMENTS

- A.. Director's Approval Order 001816
- B. Appeal letter from Pat Zimmerman and Michael Sheehan
- C. Map of UGB amendment



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June 14, 2012

Scott Burge, Mayor
City of Scappoose
33568 E Columbia Avenue
Scappoose, Oregon 97056

Tony Hyde, Chair
Columbia County Board of Commissioners
230 Strand Street 331
St. Helens, Oregon 97051

Re: Approval of Scappoose Urban Growth Boundary Amendment (Order 001816)

On February 8, 2012 the city of Scappoose, on behalf of itself and Columbia County, submitted a decision to amend the urban growth boundary and related sections of the Scappoose comprehensive plan and implementing ordinances. I am pleased to inform you that the director of the Department of Land Conservation and Development has approved the submittal. This letter constitutes the order approving the submittal pursuant to OAR 660-025-0150(1)(a).

The department received three letters containing 12 objections to the submittal in response to the local government's notice of decision. Based on the department's analysis of Scappoose's submittal and substantial evidence in the record, the department finds that the city's submittal complies with relevant goal and rule requirements and is therefore approved.

Because the department received valid objections to the submittal, this order is subject to appeal to the Land Conservation and Development Commission as provided for in OAR 660-025-0150(6) and (7). Appeals of the director's decision must be filed in the department's Salem office within 21 days of this order. **The appeal deadline is July 5, 2012.** If no appeals are filed, this approval is final and the urban growth boundary amendment is deemed acknowledged.

Please contact Anne Debbaut, your regional representative, at (503) 804-0902 or anne.debbaut@state.or.us, if you have any questions or need further assistance.

Yours truly,

Rob Hallyburton
Community Services Division Manager

cc: John Hanken, Scappoose City Manager (e-mail)
Brian Varricchione, Scappoose Planning Services Manager (e-mail)
Todd Dugdale, Columbia County Land Development Services Director (e-mail)
Jeff Bennett, Jordan Ramis, PC (e-mail)
Objectors
DLCD staff (AD; TH; GH; LF (e-mail))

**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
REPORT ON THE CITY OF SCAPPOOSE
URBAN GROWTH BOUNDARY**

DLCD Order 001816

June 14, 2012

I. SUMMARY OF DECISION

The Department of Land Conservation and Development (department) finds actions of the city of Scappoose (hereafter, “the city”) and Columbia County to amend the Scappoose urban growth boundary (UGB) to include an additional 380 acres for commercial, industrial and institutional uses, and related amendments, complies with the statewide planning goals, related statutes and implementing administrative rules, based on the findings and conclusions contained in this report. The submittal is approved. See also section VI of this report.

II. REVIEW PROCEDURES AND CRITERIA

As set forth in Oregon Administrative Rule (OAR) 660-025-0175, a city with a population of 2,500 or more within its UGB that is amending the boundary to include more than 50 acres must submit its final decision to the department according to the requirements for a periodic review task submittal in OAR 660-025-0130 and 660-025-0140. Review and decision-making on the submittal must follow the procedures and requirements for review and decision of a work task submittal in OAR 660-025-0085, and 660-025-0140 to 660-025-0160.

A. Director Review

OAR 660-025-0150(1) provides that, in response to a submittal, the director may take action as follows:

- (a) Issue an order approving the completed work task;
- (b) Issue an order remanding the work task to the local government including a date for resubmittal;
- (c) Refer the work task to the commission for review and action; or
- (d) The director may issue an order approving portions of the completed work task provided these portions are not affected by an order remanding or referring the completed work task.

OAR 660-025-0150(9) states that the director’s standard of review is the same that for the commission as provided in OAR 660-025-0160(2), as follows:

- (a) For evidentiary issues, whether there is substantial evidence in the record as a whole to support the local government’s decision.

(b) For procedural issues, whether the local government failed to follow the procedures applicable to the matter before the local government in a manner that prejudiced the substantial rights of a party to the proceeding.

(c) For issues concerning compliance with applicable laws, whether the local government's decision on the whole complies with applicable statutes, statewide land use planning goals, administrative rules, the comprehensive plan, the regional framework plan, the functional plan and land use regulations. The commission shall defer to a local government's interpretation of its comprehensive plan or land use regulation in the manner provided in ORS 197.829 or to Metro's interpretation of its regional framework plan or functional plans. For purposes of this subsection, "complies" has the meaning given the term "compliance" in the phrase "compliance with the goals" in ORS 197.747.

A director's decision approving or partially approving the submittal may be appealed to the commission only by a person who filed a valid objection (OAR 660-025-0150). Appeals of a director's decision must be filed with the department's Salem office within 21 days of the date the director's action was mailed.

B. Review Criteria

The substantive criteria for this UGB amendment include Goal 14; OAR chapter 660, division 24; and Oregon Revised Statutes (ORS) 197.298. Some of these provisions include other goals and rules by reference.

Goal 14 provides, among other things:

Establishment and change of urban growth boundaries shall be based on the following: (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and (2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).

In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.

OAR chapter 660, division 24 provides guidance and requirements for completing the land need determination under Goal 14. OAR 660-024-0040(5) states that, for employment land, a city demonstrates compliance with Goal 14 need factors by showing compliance with Goal 9 and OAR chapter 660, division 9. Goal 9 requires that comprehensive plans provide opportunities for a variety of economic activities, based on inventories of areas suitable for increased economic growth taking into consideration current economic factors. The goal requires that comprehensive plans provide for at least an adequate supply of suitable sites for a variety of industrial and commercial uses, and limit incompatible uses to protect those sites for their intended function.

OAR chapter 660, division 9 implements Goal 9 and directs local governments to “link planning for an adequate land supply to infrastructure planning, community involvement and coordination among local governments and the state,” and “to assure that comprehensive plans are based on information about state and national economic trends.” OAR 660-009-0000. OAR 660-024-0040(5) states that employment land need may be based on an estimate of job growth over the planning period. Local government must provide a reasonable justification for the job growth estimate, but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.

OAR chapter 660, division 24 provides direction about how to incorporate analysis and findings addressing Goal 9 during a UGB review. OAR 660-024-0040(1), in addition to reiterating the two criteria from Goal 14 quoted in the previous paragraph, states that the 20-year need determinations “are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.”

III. BACKGROUND AND DESCRIPTION OF SUBMITTAL

The city made the final decision regarding adoption of an amendment to its UGB on April 18, 2011. This amendment expanded the UGB by approximately 380 acres to accommodate planned commercial and industrial growth. In reaching this decision, the city updated its coordinated population forecast in the comprehensive plan, performed an EOA, revised portions of the comprehensive plan regarding future commercial and industrial development, amended the comprehensive plan map, and updated its development code. Columbia County affirmed the decision on October 26, 2011. The city submitted the jointly approved decision to the department on February 8, 2012.

The city explored its options to fulfill employment needs and began preparation of an EOA in 2009. The employment land need identified in the EOA exceeded the employment land supply available within the city’s existing UGB.

Following a series of public hearings with the Scappoose Planning Commission and city council, the city council approved a UGB expansion of 380 acres to accommodate employment land. The city then submitted an application for the city’s adopted UGB expansion to Columbia County for approval and the county initiated public hearings.

A local initiative to require voter approval of the UGB expansion decision by the city council was successful. The city council’s decision to approve the UGB expansion was placed on a ballot for voter approval and held in September 2011. The county’s public hearing process was continued, pending the outcome of the vote. The city’s electorate voted to approve the UGB expansion, at which point Columbia County resumed public hearings. After holding several public hearings with the Columbia County Planning Commission and the board of county commissioners, Columbia County approved the UGB expansion of about 380 acres.

IV. OBJECTIONS AND DLCD RESPONSE

A. Objections Received

The department received objections from three parties during the objection phase of the review, which ended on February 29, 2012. Objections were received from the following parties:

1. 1000 Friends of Oregon
2. Michael F. Sheehan
3. Ad hoc group of 35 individuals

B. Validity of Objections

OAR 660-025-0140(2) provides that in order for an objection to be valid, it must:

- (a) Be in writing and filed no later than 21 days from the date the city mailed the notice;
- (b) Clearly identify an alleged deficiency in the submittal sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the task submittal is alleged to have violated;
- (c) Suggest specific revisions that would resolve the objection; and
- (d) Demonstrate that the objecting party participated at the local level orally or in writing during the local process.

The department received three letters of objection to the UGB amendment submittal. The department has analyzed the validity of each objection and all were determined to be valid. Therefore, all of the objections are addressed in subsection C, below.

C. Individual Objections and DLCD Responses

1. 1000 Friends of Oregon

1000 Friends submitted a letter containing 11 objections. Objections 1 through 5 allege deficiencies in the employment forecast generated by the city and used in the decision-making process on the UGB amendment. Objections 6 and 7 address how employment was allocated to zones within the UGB. Objection 8 alleges deficiencies with the findings and conclusions in the EOA regarding needed site characteristics for employment uses, specifically site size. Objections 9 and 10 challenge the findings and conclusions regarding the need for an airport expansion. Objection 11 alleges deficiencies in the industrial lands inventory used to support the EOA.

a. Objections 1–11, Goal 2, Substantial Evidence. All 11 objections wholly or in part rest on a contention that the decision violates the Goal 2 requirement that decisions amending a comprehensive plan be supported by an adequate factual base. The department shall address the Goal 2 allegations for all the objections together, and follow with a response to individual objections related to rule violations.

Employment land planning is guided by Goal 9 and OAR chapter 660, division 9. The intent is to ensure that communities have employment sites to provide adequate

opportunities for a variety of economic activities. One of the products of comprehensive planning under Goal 9 is the total land supply, generally expressed in suitable sites, but it could be an acreage figure.¹ The estimation of total land supply is the result of a series of policy choices and cannot be derived by applying a formula. A city must explore options and assemble the facts needed to sufficiently inform its policy choices.

Cities use an economic opportunities analysis (EOA) to explore and document the information, analyses and policy choices that determine the total land supply. A city uses an EOA to define community objectives, likely opportunities, suitable sites and adequate supply for its circumstances.

Although OAR 660-009-0015(1) requires that the review of trends be the principal basis for estimating future employment land uses, the rule does not specify or limit acceptable methods to determine employment land need. Trends are any variety of significant influences a city judges will affect its future; they are not limited to historical activity extrapolated into the future. It is up to local governments to assemble an adequate factual basis and select methods of analysis appropriate to its circumstances and community objectives. A city's planning efforts are sufficient to achieve compliance when it reviews a variety of trends that may influence its estimate of future employment land uses, defined the site types and site characteristics it will use, estimated the likely employment uses and number of sites it will need, assembled an inventory of existing employment land available for development, and adopted policies to implement its findings.

The record submitted with the UGB amendment shows that the city considered a variety of evidence and testimony to reach its conclusion. The department requested, and the city provided, an organized illustration of its evidentiary record. Refer to the Record Location Table in Attachment A. The first column shows the various documents and sources. The next five columns show the documents relied on in the decision-making process from the conclusion backward through the necessary components supporting that conclusion all the way to the community objectives that are the basis for the planning. The intervening columns point to record locations for the land need analysis, relevant and important evidence the city relied upon and consideration of other evidence.

In response to 1000 Friends' substantial evidence objections, the department's review considered the city's decision in light of the whole record. Where the evidence in the record is conflicting, if a reasonable person could reach the decision the city made in view of all the evidence in the record, the choice between the conflicting evidence belongs to the city. Because the administrative rule grants cities significant latitude to establish the employment land need with policy determinations that have very few specific requirements, it is correspondingly difficult to demonstrate that a rule has been

¹ OAR 660-009-0005(13) defines "total land supply" as: "the supply of land estimated to be adequate to accommodate industrial and other employment uses for a 20-year planning period. Total land supply includes the short-term supply of land as well as the remaining supply of lands considered suitable and serviceable for the industrial or other employment uses identified in a comprehensive plan. Total land supply includes both vacant and developed land." OAR 660-009-0005(1) defines that "developed land" as "non-vacant land that is likely to be redeveloped during the planning period."

violated or that the decision should be remanded. The city's decision must be one that a reasonable person could reach when the record is viewed in the whole.

The department finds that the UGB decision is based on an adequate factual base, and that the city and county properly considered the evidence in the whole record in making its decision. In each objection, 1000 Friends disagrees with the conclusion made by the local jurisdictions because it interprets the evidence differently. That does not establish a violation of Goal 2.

b. Objection 1, Employment Data. This objection is based on the fact that new employment data became available as the city's planning proceeded and states the city needed to use it. The objector contends the decision violates OAR 660-009-0010(5)² and Goal 2 because failure to use the latest data is inconsistent with the rule's requirement to use the "best available or readily collectable information" and does not provide an adequate factual base. A city is not required to restart its analysis each time new information becomes available. The department disagrees that the cited rule requires what the objector contends; the rule does not require or imply that studies must be amended to address data that becomes available in the middle of a study. See subsection IV.C.1.a regarding Goal 2. The city made reasonable conclusions based on data that was available at the time the study took place. This objection is denied.

c. Objections 2–4, Adequacy of Employment Forecast. These three objections contend that the EOA violates OAR 660-009-0010(5) (footnote 2), OAR 660-009-0015(1),³ and Goal 2 for various reasons. Objection 2 alleges that the EOA's employment forecast overestimates likely future employment because it assumes continuation of high growth rates experienced during a relatively short period. Objection 3 contends the EOA makes an unreasonable determination regarding the amount of regional employment growth Scappoose will capture. Objection 4 alleges deficiencies in the EOA's assumption that a UGB expansion will lead to employment growth beyond the historical trend.

OAR 660-009-0010(5) does not contain any requirements, so the EOA cannot fail to comply. This rule provides guidelines regarding "effort" in order to recognize variation

² OAR 660-009-0010(5) states: "The effort necessary to comply with OAR 660-009-0015 through 660-009-0030 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on national, state, regional, county, and local economic trends. A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division."

³ OAR 660-009-0015(1) states: "The economic opportunities analysis must identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends. This review of trends is the principal basis for estimating future industrial and other employment uses as described in section (4) of this rule. A use or category of use could reasonably be expected to expand or locate in the planning area if the area possesses the appropriate locational factors for the use or category of use. Cities and counties are strongly encouraged to analyze trends and establish employment projections in a geographic area larger than the planning area and to determine the percentage of employment growth reasonably expected to be captured for the planning area based on the assessment of community economic development potential pursuant to section (4) of this rule."

among jurisdictions and establish a threshold level. The objector has not contended that Scappoose’s planning efforts were inadequate. The department finds the EOA contains the “best available or readily collectable information” on employment trends and capture rate, and the objector has not cited a better source.

OAR 660-009-015(1) requires identification of employment uses expected to locate or expand in the area (in this case, the Scappoose UGB), based on an analysis of trends. The objections do not allege that the EOA fails to contain this information or that the information is deficient.

The objections do not explain why the alleged deficiencies in the employment forecast undermine the employment land needs analysis. Regarding objection 2, the EOA does not base the employment projection solely on the historic period the objection alleges. The 2003-2007 employment trends are reported, but there is no indication that the adopted forecast is a mere projection of this trend as the objector contends. The EOA states: “The projections are based on the current estimated total employment in Figure 24. From this starting point, the forecast utilizes the City of Scappoose historical growth rates by industry (Figure 25), interviews with State and local officials as well as the State of Oregon Region 1 projected growth rates by sector (Figure 25) to project employment through 2030.” Record at 94.

Regarding objection 3, the EOA does not use the employment forecast alone to calculate employment land need. It is only as part of the information leading up to a site needs based conclusion. Record at 21.

Regarding objection 4, the purpose of employment land planning is to identify opportunities, determine the types and characteristics of sites needed to attract employers, estimate at least an adequate number of sites, and to accommodate the needed number of suitable sites for the 20-year planning period. The city’s *intention* is to deviate from the historic trend by providing more employment for its citizens. See economics policy 4. Record at 142.

See subsection IV.C.1.a of this report regarding Goal 2.

Objections 2, 3, and 4 are denied.

d. Objection 5, Employment-Population Forecast Agreement. This objection contends the employment forecast in the EOA is inconsistent with the city’s adopted population forecast because the rates of increase are considerably different and the resulting jobs-per-resident ratio is uncommonly high. The objector contends this violates OAR 660-024-0040(1)⁴ and Goal 2. As previously indicated, the city does not use the employment

⁴ OAR 660-024-0040(1) states: “The UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.”

forecast as a sole determinate of land need. Record at 21. As is made clear in OAR 660-024-0040(5), proportionality is not required.⁵ The record includes an explanation of why the two forecasts are not parallel. Record at 359–362. The department finds this analysis adequate in light of not holding the city to an unreasonably high expectation regarding precision when the employment forecast wasn't the sole basis for determining land need. See subsection IV.C.1.a of this report regarding Goal 2. This objection is denied.

e. Objections 6 and 7, Allocation of Employment Forecast. These two objections are based solely on an alleged violation of Goal 2/substantial evidence. See subsection IV.C.1.a of this report regarding Goal 2. The department finds that the quantity of land affected by home-based businesses and “other services” to be inconsequential. These objections are denied.

f. Objection 8, Site Characteristics. This objection alleges that the EOA's findings regarding site characteristics and the need for large lots for employment violate OAR 660-009-0015(2),⁶ OAR 660-009-0005(11),⁷ and Goal 2. The specific allegation is that the record does not contain evidence or findings for the EOA's conclusions regarding demand for employment sites by parcel size. Site types and characteristics do not exist independent of the EOA. OAR 660-009-0015(2) grants latitude to the city to create site categories to suit its needs. Site characteristics may then be attached to the site categories provided they are typical and reasonably related to the use.

The objection states, “The record contains no explanation for how these figures were derived, and no substantial evidence demonstrating an actual need for large lots in any category.” 1000 Friends, February 23, 2012 at 22. To the contrary, Section VI of the EOA explains the assumptions regarding required site types and this analysis is supported by information in the technical appendix. Record at 103–131.

⁵ OAR 660-024-0040(5) states: “. . .the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but *Goal 14 does not require that job growth estimates necessarily be proportional to population growth.* (emphasis added)

⁶ OAR 660-009-0015(2) states: “The economic opportunities analysis must identify the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses. Cities and counties are encouraged to examine existing firms in the planning area to identify the types of sites that may be needed for expansion. Industrial or other employment uses with compatible site characteristics may be grouped together into common site categories.

⁷ OAR 660-009-0005(11) states: “‘Site Characteristics’ means the attributes of a site necessary for a particular industrial or other employment use to operate. Site characteristics include, but are not limited to, a minimum acreage or site configuration including shape and topography, visibility, specific types or levels of public facilities, services or energy infrastructure, or proximity to a particular transportation or freight facility such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes.”

OAR 660-009-0005(11) is a definition and contains no substantive criteria, so the EOA cannot be out of compliance with this rule section.

See subsection IV.C.1.a of this report regarding Goal 2.

This objection is denied.

g. Objection 9, Runway Extension. This objection asserts that Scappoose has failed to provide an adequate factual base to justify including 50 acres in the UGB for a future to a runway expansion area, and contends that this violates OAR 660-024-0040(1), Goal 14, and Goal 2. The objection refers to and includes the full text of the “2004 Airpark Master Plan Update for Scappoose Industrial Airport Plan” (Airpark plan).

The objection does not state how the UGB amendment violates the cited goals and rules, but the letter does address “need.” Goal 14 contains two “need factors”⁸ and OAR 660-024-0040(1) (footnote 4) provides additional detail on what must be addressed to establish need for a UGB expansion.

The objector notes that the Airpark plan does not include planned expansion of the runway. 1000 Friends, February 23, 2012 at 25. The planning period for the Airpark plan (2022) is not the same as the city’s economic development planning (2030), so the absence of a need demonstrated in the Airpark plan is not determinative.

The city concluded that there is a need for 110 acres for institutional sites, including 50 acres for a future runway extension. This need is established in the city’s EOA. Record at 104, 136-138, 262-263, 335, 1305, and 1316. See also Attachment A. The record contains a letter from the Port of St. Helens supporting the city plan to address the airpark’s future needs. Record at 335.

A city may plan for institutional uses under Goal 9 and OAR chapter 660, division 9. The department concludes that there is an adequate factual base in the record to establish a need for airport operations-related sites under Goal 9. Although the Airpark plan does not currently call for a runway extension, there is evidence in the record for the need. Because the EOA and Airpark plan have different planning periods, they do not create conflicting provisions within the city’s comprehensive plan.

This objection is denied.

⁸ “Establishment and change of urban growth boundaries shall be based on the following: (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and (2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).

“In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. . . .”

h. Objection 10, Hangar Facilities. This objection asserts that Scappoose has failed to provide an adequate factual base to justify including 40 acres inside the UGB for a future hangar facilities, and that this violates Goal 14, OAR 660-024-0040(1), and Goal 2.

The city concluded that there is a need for 110 acres for institutional sites, including 40 acres for hangars. This need is established in the city's EOA under Goal 9. See Record at 104, 136-138, 262-263, 335, 1305, and 1316, and Attachment A. The runway and hangar analysis are co-located in the record. The objector cites the Airpark plan and notes that it does not include planned additional hangar facilities. 1000 Friends, February 23, 2012 at 25. As noted in the previous section, the Airpark plan was completed for a different time period than the UGB amendment, so it cannot be solely relied upon for airport and related land need analyses.

A hangar is not solely an air transportation facility operated only by an airport, but can be, and in this case is proposed as a through-the-fence employment site related to the institutional airpark operated by the Port of St. Helens. The additional capacity is, therefore, a component of the city's economic development strategy, not simply a function of airport needs.

The department concludes the city established a need for the land for additional hangar facilities based on adequate evidence. This objection is denied.

i. Objection 11, Employment Land Inventory. This objection relates to the included inventory of vacant and developed employment land in the EOA. The objector asserts that the employment land inventory does not provide an adequate factual basis to exclude five lots from the inventory of vacant employment land and four lots from the inventory of developed lands likely to redevelop during the planning period. The objector contends this violates OAR 660-009-0015(3), OAR 660-024-0050(1) and (4), Goal 14, and Goal 2.

OAR 660-009-0015(3) requires an inventory of vacant and developed lands within the planning area designated for industrial or other employment use. For the purpose of inventories, OAR 660-009-0005(1) defines "developed land" as non-vacant land that is likely to be redeveloped during the planning period. No other definition or criteria are provided, so a city may use reasonable criteria of its choosing to identify these lands. The objection notes that the city's inventory assumed that sites larger than five acres with only farm or residential improvement would be available for redevelopment. 1000 Friends, February 23, 2012 at 30. The department notes that this analysis determined that small sites with improvements, and larger sites with more significant improvements than a house or a farm, would not be considered as likely to redevelop during the planning period. The department concludes that this analysis is reasonable and complies with the rule.

OAR 660-009-0005(14) defines vacant land.⁹ As noted immediately above, OAR 660-009-0015(3) requires an inventory of land designated for employment uses. However, the

⁹ OAR 660-009-0005(14) states: "'Vacant Land' means a lot or parcel: (a) Equal to or larger than one half-acre not currently containing permanent buildings or improvements; or (b) Equal to or larger than five acres where less than one half-acre is occupied by permanent buildings or improvements."

existing land supply determination is different for employment land than it is for residential land. For residential lands, the buildable lands inventory concept defines the existing land supply. For employment, the inventory of land currently designated for employment is only the first step toward determining whether the land supply is adequate. The second step is to eliminate existing sites that do not meet the site criteria attached to the needed site types. OAR 660-009-0025. This second step, screening, prevents cities from being limited to an inventory of sites that are not viable for expected employment opportunities. This is a deliberate feature of land need analysis procedures.

The objection points to sites on Map 4 of appendix 1. Record at 265. The department notes that this map is the map of suitable land after both step 1 (the inventory) and step 2 (site suitability) have been applied. It is not merely the inventory of land currently designated for employment. The objection does not explain the analysis after the application of site suitability criteria. Nevertheless, the department requested and the city provided a table of record locations to explain the analysis of existing lands. See Attachment A.

The department concludes that the city conducted extensive analysis leading up to its findings, and that substantial evidence exists in the record to support its decision. This objection is denied.

2. Michael F. Sheehan

Mr. Sheehan submitted a letter that reiterated all of 1000 Friends of Oregon's objections plus one additional objection related to a 20-acre site for a community college. See subsection IV.C.1 of this report for the department's response to 1000 Friends' objections. The objector asserts that Scappoose failed to provide an adequate factual base to justify including 20 acres inside the UGB for a future community college facility.

The city concludes that there is a need for 110 acres for institutional sites, including 20 acres for a community college facility. This need is established in the city's EOA under Goal 9. The department requested and the city provided a table of record locations to explain its analysis. The record contains testimony to the need and required site characteristics. Record at 1465, 2020, 2027, and 2097-2101. See also Attachment A. The department concludes that it is reasonable to find an opportunity and need exists for a community college-type workforce training facility at an industrial airpark provided the city relied on substantial evidence in the record. The department concludes that the city relied on testimony of economic development and other public officials for that evidence. Record at 963, 1465, 1520, 2020, 2027, 2098, and 2100.

The department concludes that there is an adequate factual base in the record to establish a site need for a community college-type training institution under Goal 9. This objection is denied.

3. Ad hoc group.

A letter signed by 35 people reiterated all of 1000 Friends of Oregon's objections. See subsection IV.C.1 of this report for the department's response to 1000 Friends' objections.

V. DLCD Review

All of the objections addressed in Section IV of this report relate to the need for additional land in the UGB. The department's review found no compliance issues related to land need not addressed above. The decision on the location of the amended boundary is also subject to review for compliance with requirements found in Goal 14 and ORS 197.298. The department reviewed the submittal and found the decision complies with the relevant criteria.

VI. OVERALL CONCLUSIONS AND DECISION

The city of Scappoose and Columbia County jointly adopted amendments to the Scappoose Comprehensive Plan and submitted them to the department for review in the manner provided for periodic review. The submittal consists of the following:

1. Amendments to the Scappoose urban area comprehensive plan
 - a. Economy chapter, including a new Economic Opportunities Analysis (EOA) and Airport Employment plan map designation and updated goals and policies;
 - b. Public Facilities and Services policies;
 - c. Urban Growth Boundary chapter, including goals and policies;
 - d. The UGB location;
 - e. Plan map designations;
2. A new Airport Employment Overlay Zone; and
3. Findings of fact and conclusions.

The department finds actions of the city of Scappoose and Columbia County to amend the Scappoose UGB to include an additional 380 acres for commercial, industrial and institutional uses, and related amendments, complies with the statewide planning goals, related statutes and implementing administrative rules, based on the findings and conclusions contained in this report. The local decisions rely on an adequate factual and are reasonable based on the evidence in the whole record.

All objections to the submittal are denied. The submittal is approved.

ATTACHMENT

- A. Record locations chart

Applicable documents	Substantial evidence - land need				Inventory	Coordination	Runway extension area	Community college area	
	City's land need conclusion and findings. Typically they are in the ordinance, but often appear elsewhere, too.	Land need analysis	Relevant and important evidence used in the analysis to support the analysis to support the conclusion	Identification and evaluation of relevant evidence that may undermine or suggest another conclusion, if any. Do not include that evidence proposing different opinions, preferences or community objectives	Community objectives	Analysis of sites that were included and excluded from the inventory of employment land inside the current UGB	Analysis for any required findings and the relationship between the city plan, the airport plan and airport operations	Analysis for any required findings regarding the runway extension area	Analysis for any required findings regarding the community college expansion area
City of Scappoose Council Findings	14-17, 20-23	25-28, 30-35		23, 45	14-15, 44-45, 53, 55-56	24-25	14, 17-18, 21, 25, 28-30, 39-41, 45-46, 49, 53-55	16, 21, 25, 26, 27, 30	12, 18, 27, 30
City of Scappoose Economic Opportunities Analysis		92-104	105-131				90-104	70, 90, 103, 104	70, 103-104, 112, 136
Amendments to existing sections of the Scappoose Comprehensive Plan							138, 143, 149	136, 138	
Airport Employment Comprehensive Plan Designation							152-154	152	151, 154
Airport Employment Overlay Zones							156-158		157, 160
Vacant and Potential Redevelopment Lands		254-260	254-260			254-260			
Summary of Scappoose Land Need & Supply Issues		261-264	261-264			261-264	262	262-263	262-263
Map 4, Suitable Employment lands		265	265			265			
Scappoose UGB Alternatives Recommendation					267			269	
Scappoose Airport Land Use Concept Plan							334	334	334
5/18/10 Letter from Port of St. Helens							335	335	
3/1/11 Letter from Johnson Reid		359-363	359-363	359-363					
Council Resolution establishing EOA Advisory Committee							396		
12/8/08 EOA Advisory Committee minutes								401	
2/24/09 EOA Advisory Committee minutes		404, 407			405				
5/5/09 EOA Advisory Committee minutes						410			
1/26/10 EOA Advisory Committee minutes		416-418, 420-422			416	422-423	419, 422		416-417
3/2/10 EOA Advisory Committee minutes		426-427			434				
4/6/10 EOA Advisory Committee minutes					454-455				
5/18/10 EOA Advisory Committee minutes							471-475	471,473	
9/9/10 Scappoose Planning Commission minutes		711-712		701, 708, 711-712					696
9/9/10 Letter from Lisa Smith				728-729					
9/23/10 Scappoose Planning Commission minutes		749-750, 752		749-750			752-757, 784	752-756, 784	757-759, 784
9/17/10 Response memorandum from Winterbrook Planning		793-795		793	791		794-796	794-796	795
9/14/10 Letter from Johnson Reid		798-800		798-800					
10/14/10 Scappoose Planning Commission minutes							855-857		
10/28/10 Scappoose Planning Commission minutes							886		905
10/7/10 Letter from Johnson Reid		878-879							
10/21/10 memorandum from Winterbrook Planning		918-919					919		
12/6/10 City Council minutes				971-972			956, 959, 961-962	968	963
12/3/10 Letter from 1000 Friends of Oregon				987-1002					
12/6/10 Letter from Lisa Smith				1053					
12/3/10 Letter from CalPortland					1056				
1/3/11 Letter from Michael Sheehan				1211-1212					
2/7/11 City Council minutes		1238-1242		1238-1240				1249-1250	1250-1251
1/10/11 Letter from Winterbrook Planning		1287, 1289		1287, 1289, 1291	1291	1289	1287		
1/7/11 Letter from Johnson Reid		1293-1301		1293-1301					
1/28/11 staff response		1304-1305		1304-1305			1307	1305	
1/28/11 City Attorney memo on UGB legal issues		1311-1315		1311-1315		1314	1316-1317	1316	1314
1/28/11 City Attorney memo on Hillsboro Airport Overlay Zones							1318		
3/3/11 staff response		1331-1332							
3/1/11 Letter from Johnson Reid		1333-1337		1333-1337					
Columbia County Board of Commissioners Findings of Fact	1457-1459, 1463, 1469			1457-1458, 1503	1451, 1462, 1467, 1469	1460, 1470	1488, 1494	1458, 1469, 1471, 1494	1450, 1458, 1463-1465
6/6/11 County Planning Commission minutes		1519					1522		
7/27/11 County Board of Commissioners minutes					1624		1624	1624	
7/27/11 Written testimony from Scappoose Mayor					1696-1699				
7/25/11 Letter from Columbia County Economic Team					1704				
7/27/11 Letter from Michael Sheehan				1715-1716					
7/27/11 Letter from 1000 Friends of Oregon				1729-1740					
8/1/11 Letter from Ed Freeman									2020-2021
3/22/11 St. Helens Chronicle article									2027
8/16/11 Letter from Johnson Reid				2073-2082	2082				

ATTACHMENT B

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July 4, 2012

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Sent via email to larry.french@state.or.us; rob.hallyburton@state.or.us, July 4, 2012

Re: Appeal of DLCD Order 001816: Approval of Scappoose UGB Amendment

On June 14, 2012, DLCD issued Order 001816 approving all parts of the Scappoose UGB Amendment, Ordinance 816 dated April 18, 2011.

Mike Sheehan and Pat Zimmerman appeared at multiple City and County hearings and submitted written testimony at multiple hearings (Rec. 721,7251206, 1211,1263,1716,1726,etc.). This document is an appeal of DLCD's Approval Order. It incorporates and restates the attached Objections filed with DLCD by them and 1000 Friends, and points out problems with the Department's Order.

In the following, "Objection" refers to the numbered objections submitted by 1000 Friends, Feb. 23, 2012 and an Objection submitted by Michael Sheehan, Feb. 27, 2012; "Order" refers to DLCD's Order 001876 mailed June 14, 2012.

Introduction

In February of 2012 a number of people filed objections to the UGB expansion proposal adopted by the City of Scappoose. These included Pat Zimmerman, Michael Sheehan, 1000 Friends and a number of others.

The EOA and other reports the city relied upon in making its decision were prepared by consultants which the city contended were not working for the city and were purportedly being paid by the developer who owns more than three quarters of the lands at issue. The reports prepared by the consultants justified inclusion in the Scappoose UGB of all or almost all of the lands proposed for inclusion by the developer.

The objections filed by Zimmerman, Sheehan, 1000 Friends and others challenged the factual basis for bringing into the city the large amount of land previously acquired by the major developer and

proposed for inclusion in the UGB. On June 14, 2012 the DLCD issued Order 001876 dismissing each and every one of the twelve objections filed. These Objections are attached and part of this Appeal.

What follows is an appeal of the Department's decision dismissing all the objections in their entirety. Each objection is set forth below, the basis of the challenge is explained, and the remedy requested is set forth.

Objection 1: Base Year Employment

The EOA's use of 2007 employment projections violates OAR 660-009-0010(5): "A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information". This Goal 9 Rule repeatedly says the estimates must be "reasonable". OAR 660-025-160(2)(a) requires that the Commission determine whether "there is substantial evidence in the record as a whole to support the local government's decision." Further, the decision violates Goal One, Citizen Involvement.

There are dueling charts and tables around this issue. But these facts are indisputable:

1. The final version of the EOA uses the 2003-2007 boom years to project Scappoose employment growth of 7.6% every year through 2030. (Rec. 93,95) However, the original EOA presented to the city's Planning Commission forecasted a growth rate of only 6.7% (Rec. 550).
2. The Scappoose City Council requested an update to the employment forecast on Feb. 9, 2011 (Rec. 1331). At that time, current 2008-2018 employment forecasts from the Oregon Employment Dept. were available and had been submitted as testimony at a public hearing before the Council. (Rec. 1009)
3. In response to the City Council's request both staff and the consultants submitted additional testimony, including a revised employment forecast rate, new employment tables and discussion. (Rec. 1331, 1333) They did not, however, use the current employment forecasts which were both readily collectible and best available.

Use of outdated OED forecasts to calculate base year employment increased the land need by up to 20% in some categories of employment.¹

In the Order, much has been made of the multiple factors and "significant latitude" allowable in projecting employment. But even it admits that "OAR 660-009-0015(1) requires that the review of trends be the principal basis for estimating future employment land uses". (Order, pg. 5)

Further, the Order says that "The city made reasonable conclusions based on data that was available at the time the study was published". (Order, pg. 6) This is simply not true. The Council asked for better information in Feb. 2011, when updated data was available, and did not receive it as described above.

The Order contends that the original publication date of the EOA (Feb. 2010, Rec.492), was the final, unalterable word on this issue. "...the rule does not require or imply that studies must be amended to

¹ See attached 2/23/12 1000 Friends objections, page 3

address data that becomes available in the middle of a study...The city made reasonable conclusions based on data that was available at the time the study took place”. (Order, pg. 6) But the Order’s portrait of a static EOA that did not change at all during the public process is erroneous. The city’s own consultants submitted new information after the study was completed, and those consultants also made revisions to the EOA during the public hearing process. As explained above, the employment forecast itself, which is the driver of the land need calculations, was revised. There is no reason that the city could not have made the required corrections to the base year calculation while it was making the other revisions.

There are also many good reasons why a city must consider new evidence gathered during the public process. Goal One, the foundation of Oregon Land Use Planning says: “...[citizens must] be involved in all phases of the planning process.” The department’s Order dismisses all citizen input and participation because it contends that preliminary studies do not have to be amended to address public testimony, no matter what is learned. Multiple testifiers submitted current, documented data. They were ignored and the Order supports this action, saying that “the rule does not require ... that studies must be amended to address data that becomes available”. (Order, pg. 6) If citizen’s submittal of relevant data is irrelevant, what of Goal One?

The department’s conception of the planning process would allow local governments to prepare deeply flawed documents, and then ignore anything submitted into the record by claiming that the information presented by the public was not known to the study’s authors at the time the original version was prepared. Such a policy would render citizen’s input moot and irrelevant, and would encourage flawed decision-making.

Remedy: Remand the EOA with instructions to recalculate the baseline employment forecast using current (2010 – 2011) data.

Objection 2: Historical Growth Trends

The EOA violates OAR 660-009-0010(5), OAR 660-009-0015(1), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because the employment forecast is based on short-term boom years growth rates despite longer-term historical trends that are much lower.

The Order denying this Objection states: “Regarding Objection 2, the EOA does not base the employment projection solely on the historic period the objection alleges. The 2003-2007 employment trends are reported, but there is no indication that the adopted forecast is a mere projection of this trend as the objector contends.” (Order, pg. 7)

However, the Order’s contention (pg. 7) that the employment projections are valid because they are based on something other than the historical data presented in Table 25 is false. Page 27 of the EOA states “the historical growth rates and the state’s growth projections outlined in Figure 25 are used as baseline estimates to forecast the rate of employment growth by industry in this analysis.” Figure 25 “Historical Growth and Anticipated Regional Growth” shows 2003 – 2007 Average Annual Growth Rates for Scappoose and Region 1. (Rec. 93) The EOA itself directly contradicts the Order’s contention.

The EOA, quoted in the Order, then notes “From this starting point, the forecast utilizes the City of Scappoose historical growth rates by industry (Figure 25), interviews with State and local officials as well as the State of Oregon Region 1 projected growth rates by sector (Figure 25) to project employment through 2030”. (Rec. 94) As explained in more detail in the attached 1000 Friends objections, the actual

historical growth rates of both Scappoose and Region 1 do not support the city's employment forecast decision.

The EOA does not contain any explanation as to what evidence was gained in the "interviews with State and local officials" nor does it explain why that evidence supports such profound deviations from the actual historical local and regional growth trends. An unsupported contention that undocumented interviews with State and local officials contravenes the data presented in the EOA's own tables is not "substantial evidence."

Remedy: Remand the EOA with instructions to revise the employment forecast downward in light of the most current (2011) Scappoose employment data and Portland MSA longer-term trends.

Objection 3: Regional Growth and Scappoose Capture Rates

The EOA violates OAR 660-009-0010(5), OAR 660-009-0015(1), Goal 2, adequate factual base, Goal 2, coordination, and is not supported by substantial evidence in the whole record, because it fails to make a reasonable determination of the expected regional growth Scappoose could capture, and because it improperly relies on capture of growth planned to occur within other jurisdictions.

The department's Order has little to say on this Objection. In total it says: "The EOA does not use the employment forecast alone to calculate employment land need. It is only as part of the information leading up to a site needs based conclusion. Record at 21". (Order, pg. 7) But neither the EOA itself nor the department's Order explain what "site needs based conclusion" means. Furthermore, there is ample evidence that the employment forecast is the sole driver of the land need calculations.

The consultants create the land need figure from the employment projection using a series of spreadsheets. For example, Rec. 121-125 contains the five spreadsheets for the industrial land need determination. There is no consideration of a "site needs approach," only a straightforward calculation of needed acreage from the employment forecast. Specifically, using the industrial land need determination as an example:

Step 1 copies the employment forecast from EOA Figure 26 (Rec. 95), uses an outside study to predict what percentage of each employment sector will use industrial space and applies that percentage, yielding the number of industrial jobs per sector. (Rec. 121)

Step 2 distributes those industrial jobs by building type (warehouse, general or tech/flex), and then calculates a weighted average of the space needed per job, for each sector. (Rec. 122)

Step 3 converts the space needed per job to the total space needed per sector. (Rec. 123)

Step 4 calculates the weighted floor area ratios per sector, by referring to an outside study. (Rec. 124)

Step 5 calculates total land need per sector, using the conclusions of Step 3 and Step 4. (Rec. 125)

Step 5's total of 217.9 acres of industrial land need (the Medium Growth Scenario) exactly matches the net industrial acres shown in the EOA's Figure 27 (Rec. 98). There is absolutely no evidence that any other factors, beyond the employment forecast and the simple parameters within the EOA's spreadsheets, played a role in determining the land need.

1000 Friends' 6-page testimony supporting this Objection is compelling and extensively documented. We restate all of those arguments in support of this appeal.

Remedy: Remand the EOA with instructions to revise the employment forecast downward, in light of the OED and Portland MSA employment forecasts, and the actual capture rates Scappoose has achieved.

Objection 4: Effect of UGB Expansion on Scappoose Growth Potential

The EOA violates OAR 660-009-0010(5), OAR 660-009-0015(1), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it wrongly assumes that the proposed UGB expansion will cause a substantial increase in employment growth, beyond historical trends.

First, the department's Order repeats the erroneous claim that the employment forecast is not the sole determinate of land need, and improperly dismisses the objection based on this claim without addressing the substantive issues raised.

This objection deals with a "chicken and egg" issue. Will the increase in available industrial lands result in massive, unprecedented growth in employment?

The city's UGB expansion application contends that "The Council finds the employment growth figures reasonable in light of local historical growth trends, the regional context of the employment projection, and increased employment opportunities near the airport as a result of the proposed UGB expansion" (Rec. 23).

"Local historical growth trends" have been dealt with above. "Regional context of the employment projection" will be discussed below. Both are fraught with incomplete and erroneous data, negating their contribution to this issue.

"Increased employment opportunities near the airport as a result of the proposed UGB expansion" is left as the sole argument for expanding the UGB.

The problem with this argument is that there are already around 150 acres of industrial zoned, fully serviced (water, sewer, power, roads) land within the existing UGB next to the airport that has been vacant for many years. This land has been vacant through both boom and bust economic cycles. It has not been developed and no jobs have been created. There is no difference between the existing and proposed industrial lands, except perhaps ownership. Johnson Reid, consultants on this project, agree: "The availability of land doesn't necessarily bring jobs..." (Rec 1293)

Again, the Order dismisses this objection with few words, in this case circular: "The city's *intention* is to deviate from the historic trend by providing more employment for its citizens" (Order pg. 7). Yes, they so intend, but there is no evidence in the record that these intentions are feasible, or that adding land correlates to adding jobs. The city's "good intentions" are analogous to a person intending to lose 100 pounds in 30 days; while the desire may be earnest, that does not mean the hoped for results are feasible. It is not within the city's power to simply "decide" to have a radically higher long-term jobs growth rate than it has ever experienced before.

Remedy: Remand the EOA with instructions to revise the employment forecast substantially downward, in accordance with Scappoose’s historic economic growth patterns, which are the best indicators of the city’s long-term economic prospects, given the lack of evidence to the contrary.

Objection 5: The EOA’s Employment Forecast is Dramatically Inconsistent With the Relevant Population Forecasts for Scappoose Without Adequate Justification: The EOA violates OAR 660-024-0040(1), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because the employment forecast is inconsistent with the adopted population forecast.

The Department’s Order p.8 cites OAR 660-024-0040(5) for the proposition that “proportionality is not required” between the EOA’s employment forecast and the population forecast for Scappoose. Yet this has to be taken in context with OAR 660-024-0040 (1) “The UGB *must* be based on the adopted 20 year population forecast . . .” The reasonable reading of 0040(1) and 0040(5) taken together is that the greater the divergence between the population forecast and the employment forecast, the stronger the justification has to be.

LCDC has made this clear in its order on the Woodburn UGB expansion:

“The more a city’s land need for employment based on its analysis of economic opportunities and sites diverges from what would be predicted based solely on forecasted population and employment growth and employee-per-acre ratios, the more thoroughly the city will need to substantiate its economic opportunities analysis and resulting site needs.” LCDC Approval Order 11-WKTASK-001802, March 16, 2011.

The justification referred to by the Department in this case is to a Johnson Reid letter to the city. (Rec. 359-60). This letter defends the consultants’ wildly divergent employment forecast (7.6% p/a, i.e. doubling every ten years) versus the population growth rate of 2.0% per annum, by pointing out that this will happen to Scappoose “*in light of* the City’s geographic position within the Portland (OR)–Vancouver (WA) (PMSA).” (emphasis added). (Rec.359).

Yet Scappoose has always been located in the same location relative to Portland and Vancouver and has never had long term employment growth rates such as the ones put forth by the consultants.

Note also that a further justification set forth in the same Johnson Reid letter is that “Metro . . . has modeling that anticipates a substantial share (25%) of projected new employment growth will locate outside of the UGB they control, primarily to satellite communities such as Scappoose, North Plains, Newberg.” (Rec.359).

Note that there is no cite to what the “modeling” is that Metro “has.” No explanation of the assumptions used in the model. No suggestion as to what the model says specifically about Scappoose other than the “such as.”

Looking at the other side we see that using the consultant's figures for job growth will mean that Scappoose will go from 2,425 jobs in 2010 with a population of 6,680 (0.36 jobs per resident) to a community in 2030 with 10,492 jobs with 10,022 residents. To have this happen 2.4 jobs would need to be created for every new resident coming to Scappoose. And of the workers holding the 10,492 jobs in Scappoose (keeping the same ratio of jobs to population) 64% (i.e. $1 - 0.36 = 0.64$) = 6,700 would have to be commuters living elsewhere.

Place this in the larger context of the UGB proposal. Virtually all the lands proposed to be brought into the UGB had already been purchased by a major Portland developer. The funds to pay the consultants who prepared the EOA were apparently provided by the same developer. In order to justify the developer's investment, the numbers would have to be sufficient to justify bringing the lands acquired into the UGB. Also, except for several minor exceptions, the lands involved are adjacent to the Scappoose Airport with their proposed use to be airport related.

In sum, the justification for the divergence of the employment forecast from the adopted population forecast for Scappoose is very thin and lacks credibility while at the same time the divergence between the employment and jobs forecast is very large, requiring an especially clear and credible explanation.

Remedy: Remand the EOA with instructions to revise the employment forecast downward to correlate with a jobs-per-resident ratio that is no higher than the current Portland MSA ratio of 0.43, unless additional evidence is provided that substantiates a higher ratio.

Objection 6: Jobs on Residential Land and Objection 7: "Other Services" Jobs

The EOA violates Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it assumes that no new jobs will locate in residential areas, despite the inclusion of home business workers in the employment forecast, and because it assumes that 60% of the Other Services category of jobs will site on industrial land, despite evidence in the record that most of these jobs will site on non-industrial land.

These two Objections deal with the consultant's errors in determining how much and what type of land is needed for various classes of projected employment.

The department's Order denies these objections with one sentence: "The department finds that the quantity of land affected by home-based businesses and "other services" to be inconsequential". (Order pg. 8) The numbers argue otherwise.

Each kind of job – Home businesses, commission workers, hair salons, dog groomers, car washes, Laundromats, etc. – is assumed to require a set amount of space (acreage) depending on the underlying zoning of the land. The EOA justifies the desired 380 acre UGB expansion by translating various categories of space-utilizing employment into needed acreage.(Rec. 122)

The problem arises in the consultants' identification of jobs that they claim will need the industrial land in the proposed UGB expansion.

Specifically, they claim that all jobs not tracked through unemployment insurance (not “covered” employment) will locate on industrial or commercial land. This is nonsense, since according to the EOA, the non-covered employment includes all self-employed, sole-proprietors, commission workers, etc. The consultants increase the baseline 2007 employment by 777 jobs (32.1%), from 1,641 to 2,418 by including these workers. (Rec. 92 – 93) They then carry this increase through to their projected 2010-2030 increase in total employment of 8,068 jobs in Scappoose. (Rec. 95) This is a claim that 2,590 non-covered jobs (32.1%) will be located on industrial/commercial land.

Columbia County has a high proportion of home businesses, off the books work and other jobs not included in unemployment data. These jobs nearly always are located on residential land. By pretending that all of these jobs will locate on industrial land to be included in the UGB, the consultants have substantially inflated the employment predictions and hence, required acreage. If even 10% of Scappoose’s total jobs were home-based, that would represent an overestimation of more than 800 jobs requiring new employment land. At 20 employees per acre, that would be an overestimation of about 40 acres of UGB expansion. This is hardly “inconsequential.”

A second problem is the consultant’s allocation of a group of jobs categorized as “Other Services” by government agencies. The EOA presumes that 60% of jobs in this sector will require industrial land, but as explained in detail in the attached 1000 Friends objections, it is most likely that only 20% of these jobs would locate on industrial land – that is about 1/3 as many as claimed. The choice of whether to site these businesses on office versus industrial land is important, because the assumed job density for Other Services jobs on office land is 38 jobs per acre, almost twice the 18.5 jobs per acre density of Other Services jobs on industrial land.²

The EOA predicts a total of 1,481 new Other Services jobs (Rec. 69) and assumes that about 900 of these will need industrial land. As explained above, the evidence shows that only 1/3 of these would actually locate on industrial land. The EOA should be corrected to reclassify about 600 jobs as commercial instead of industrial. The practical effect of such a change would be a reduction in land need of about 16 acres (16 acres for commercial vs. 32 acres for industrial). Again, this is not “inconsequential.”

Remedy: Remand the EOA with instructions to determine the portion of the employment forecast that is due to home occupations, and revise the land need analysis to reflect that these jobs will not locate on commercial or industrial land. Remand the EOA with instructions to either demonstrate that the number of Other Services jobs assumed to need industrial land is supported by substantial evidence, or revise the calculations according to an analysis of the expected land needs of these businesses.

Objection 8: Claim with Respect to Needed Sites: The EOA violates OAR 660-009-0015(2), OAR 660-009-0005(11), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because there is no explanation of how the lot size site

² Per Exhibit 1.01 (Rec. 117) in Technical Appendix E to the EOA, Medium Scenario, 593 Other Services jobs are expected on office land. Exhibit 1.03 (Rec. 119) allocates 15.6 acres for these jobs, resulting in a gross job density of 38 jobs per acre. Exhibit 1.05 (Rec. 121) shows that another 889 Other Services jobs are expected on industrial land. According to Exhibit 1.09 (Rec. 125), these jobs will require 48.0 acres of land, for a gross job density of 18.5 jobs per acre. See also the chart on page 31.

characteristics were derived, and there is no substantial evidence demonstrating a need for large lots in any category.

The EOA claims that large tracts of land in the 10 to 50 acre range have to be added to the UGB.

When this issue was raised at the local level, by pointing out that EOA Exhibit 1.11 explicitly showed **zero need** for office or industrial parcels over 49,800 square feet, the EOA's consultant author responded by modifying the EOA by excising EOA Exhibit 1.11. A substitute analysis was never provided.

The Department rejects this objection on the grounds that "Section VI of the EOA explains the assumptions regarding required site types and this analysis is supported by information in the technical appendix." Rec. at 103-131.

Yet while section VI of the EOA provides a lot of general information about "development pattern types" and "FAR" ratios etc. it provides no information at all to explain or justify the claim that there is a need in Scappoose for large parcels in the 10 to 50 acre range. Similarly, while the materials in Record pages 103-131 cited by the Department provide a lot of general information on employment and businesses, they provide no information at all explaining or justifying the need for the three large industrial lot sizes averaging in the 10 to 50 acre range set forth in Figure 33 (Record 103).

Remedy: Remand the EOA with instructions to either remove the claimed need for 10+ acre sites, or provide additional evidence that supports the claimed need.

Objection 9: Scappoose Airport Runway Expansion: The EOA violates OAR 660-024-0040(1), Goal 14, Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it includes 50 acres for a runway expansion despite the adopted Airport Master Plan's conclusion that no runway expansion is needed during the 20 year planning period.

The proposed runway extension involves adding a major piece of property to the UGB. The Airport Master Plan is clear that there is no need for any extension of the runway. Nor is there any other evidence in the record justifying this major addition to the UGB.

The Department dismisses the objection on the grounds that "the objection does not state how the UGB amendment violates the cited goals and rules, but the Order does address "need."

Yet OAR 660-024-0040(1), as referred to in line 1 of the objection, clearly says,

"The UGB must be based on the adopted 20 year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed . . . public facilities . . . over the 20 year planning period consistent with the land need requirements of Goal 14 and this rule."

The EOA sets forth that the 50 acre parcel for an expansion of the runway is needed, without stating the basis for that determination, especially in light of the fact that the Airport Master Plan says it is not needed. The Department's decision refers to six pages in the record where the "need" for the 50 acres to be brought into the UGB is supposedly manifested. A review of these cites show no explanation of the need for the land to be brought into the UGB.

Record 104 (last ¶) simply mentions that there was a proposal to extend the runway "during the process."

Record 136 is a table which has a single line that says "Runway Extension 50 acres" but provides no justification.

Record 138 mentions that the Port is considering extending the runway, "potentially amounting to an additional 20% to 30% increase in length" but provides no explanation or justification of why the city has a "need" for the 50 acres to be brought into the UGB. Runways don't have to be in UGBs.

Record 261 tells us, "The draft Johnson-Reid EOA shows a need for the following employment categories," and then on the next page lists "Runway Extension – reserve approximately 50 contiguous acres."

Record 335 is a letter from the Port of St. Helens (owners of the airport) saying they support the work on the EOA and that "the plan is a good start in addressing some of the Port's concerns regarding additional land for a future runway extension at the airport and additional land needs for aviation related growth." But nothing on the "need" for the runway extension. And if the Port believes there is a need for the runway extension, how can it be that their own Airport Master Plan clearly states,

"The facility needs evaluation, which was completed earlier in this chapter, indicates that the runway's current length of 5,100 feet is sufficient throughout the planning period and will not consider additional runway length for the existing or forecast fleet mix." (Airport Master Plan p.3-14).

Record 1305 is part of a city staff report. It doesn't say anything about the city's "need" for the 50 acres in the UGB. It does say, however, "Staff recommends that the land south of the runway be included in the UGB regardless of whether the runway is extended or not, for the simple fact that inclusion in the UGB would allow the land to be annexed and thus subject to the City's land use regulations."

Record 1316 is a page in another city staff report. The page contains no need justification for inclusion of the land for a runway expansion in the UGB.

Thus there doesn't appear to be any need established for inclusion of the 50 acres in the UGB, other than the city's interest in having control over the property as a general matter. Record 1305. And the Airport Master Plan explicitly says there is no need for such an expansion.

Moreover, it should be noted, a speculative letter of support from the Port about a possible runway expansion, that doesn't include actual evidence of a bona fide 20 year need, does not prove a need. In order for a runway extension to occur, the master plan must be updated, it must include a forecast of future operations, the FAA must approve the whole thing, and it must survive a land use process including possible appeals. It is by no means proven that a runway expansion is needed. In fact, the actual planning process associated with a master plan update may again conclude that NO extension is needed.

Remedy: Remand the EOA with instructions to remove the 50 acres for runway expansion from the claimed land need.

Objection 10: 40 Acres for Additional Hangars: The EOA violates OAR 660-024-0040(1), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it includes 40 acres for airplane hangar expansion that is intended to serve beyond the airport's 20 year planning period.

The Department dismisses the objection on the grounds that "The need is established in the City's EOA under Goal 9" citing the record at 104, 136-138, 262-263, 335, 1305, and 1316.

OAR 660-024-0040(1), as referred to in line 1 of the objection, clearly says,

"The UGB must be based on the adopted 20 year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed . . . employment . . . and public facilities . . . over the 20 year planning period consistent with the land need requirements of Goal 14 and this rule."

The Airport Master Plan clearly shows that the 40 acres to the east of the runway proposed to be brought into the UGB by the EOA for hangar space are beyond the "need" set forth in the airport's 20 year planning period.

The Department again relies on the same six pages in the record where the "need" for the 40 acres to be brought into the UGB is supposedly manifested. A review of these cites show no demonstrated need for the 40 acres to be brought into the UGB.

Record 104 (last ¶) simply mentions the phrase "40-acres reserved for new Port hangar space" but provides no showing of "need."

Record 136 is a table which has a single line that says “Hangar Reserve 40 acres” but provides no justification. Other than this single line on Record 136, there is no mention or explanation of the need for this additional 40 acres for future hangars in Record 136-38.

Record 262 just mentions 40 acres for hangar reserves. No explanation of “need.”

Record 263 is a table that has one mention of “40 Acres Hangars” but that is the extent of the discussion or explanation.

Record 335 is the letter from the Port with a seven word reference to “additional land needs for aviation related growth” but no mention at all of any need for 40 acres for hangars.

Record 1305 is a page in a city staff report and makes no reference at all to 40 acres for hangars.

Record 1316 is a page in another city staff report and makes no reference at all to the hangar issue.

Thus there doesn’t appear to be any need established for inclusion of the 40 acres in the UGB.

Moreover, DLCD claims that the hangars might be employment space, so that a need for airport uses doesn’t have to be established. But then if that’s the case, then the amount of OTHER employment land needs to be reduced, or else the city is double counting—given that it has already provided enough other land for 100% of the forecasted jobs . . . so the hangars isn’t needed for any of those jobs.

Remedy: Remand the EOA with instructions to remove the 40 acres for hangar expansion from the claimed land need.

Objection 11: The EOA violates OAR 660-009-0015(3), OAR 660-024-0050(1) and (4), Goal 14, Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because its inventory fails to include all of the serviceable, industrially designated land already inside the UGB.

The DLCD Order includes an extensive table of land inventory record citations as part of their response to this Objection. (Order, following pg. 12) Oddly, the table column labeled “Identification and evaluation of relevant evidence that may undermine or suggest another conclusion” goes on to say “Do not include that evidence proposing different opinions, preferences or community objectives”. (There is a separate column for community objectives).

Perhaps inadvertently, at least three of the cited record items do contain “different opinions (and) preferences”. Written testimony from Lisa Smith on Sept. 9, 2010 contains an analysis of vacant and redevelopable land already in the UGB (Rec. 721 – 722). A further analysis, also from Lisa Smith, was submitted at the City Council public hearing on Dec. 6, 2010 She includes a list by tax lot of 152 acres currently in the UGB that were deemed “unsuitable” by the consultants but which are either vacant or redevelopable. (Rec. 1054 – 1056)

At Record 1211 - 1218, a letter submitted to a City Council hearing on Jan. 3, 2011 by Mike Sheehan brings up several issues around the selection and exclusion of suitable lands. He includes a map showing the location of erroneously excluded lands (Rec. 1226) Also in the Record, but not included in the Order's chart, is testimony submitted by Pat Zimmerman on Jan. 3, 2011. (Rec. 1206 – 1208) It contests the criteria by which lands were excluded from the usable inventory. She points out that ALL of the land that was excluded from the consultant's inventory of suitable lands has been placed in an Enterprise Zone. Since there are stringent restrictions on how many acres of land can be put in a Zone, the city and county would not include land not usable for development. The consultants have excluded lands that are in fact suitable for industrial and commercial development by the county and city's own criteria.

A memo submitted to DLCD by the City's lawyers (Jordan Ramis, May 9, 2012) attempts to dismiss this 1000 Friends objection by saying "Th(e) annotated map and accompanying objections were not provided in any recognizable form...during the public review process...1000 Friends asserts that 160 acres should be added to the industrial lands inventory based on an objection that was never presented...". As shown above, this is not true: at least four written submissions as well as verbal explanations relating to this Objection were provided as early as September 2010.

Finally, the Jordan Ramis letter also concedes that the city may have erred in excluding up to 54 acres of land that was classified as developed but which is actually still vacant. It is difficult to understand why the department's Order defends a decision that the city itself has conceded was flawed.

Remedy: Remand the EOA with instructions to either include areas A through I in the inventory of vacant and re-developable industrial land, or provide additional evidence and findings clearly demonstrating why these lands cannot accommodate any new industrial development.

Objection filed by Mike Sheehan: 20 Acres for a Possible Community College Facility: The EOA Violates OAR 660-024-0040(1), Goal 14, Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it includes 20 acres for a community college expansion without evidence that a bona fide need exists.

"The UGB must be based on the adopted 20 year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed . . . public facilities . . . over the 20 year planning period consistent with the land need requirements of Goal 14 and this rule."

The UGB expansion proposal includes 20 acres for a 20 acre PCC facility adjacent to the SE corner of the airport property. The record contains a letter from property owner Airpark Development, stating they have "**structured** a preliminary agreement with PCC for the purchase of 20 acres for a new "Columbia County Center" for the college. (Record 2020). (Emphasis added).

Yet the record does not appear to contain any evidence to confirm Airpark Development's claim, despite requests from the public for a letter from PCC stating they had definite plans to site a college there. (Record 700, 732). It is also unclear whether the "preliminary agreement" is binding

on PCC or merely tentative. Actual purchase may be dependent on future study and decision making by PCC.

There is also no evidence in the record quantifying the actual 20 year need for regional educational facilities. No school master plans are referenced. No evaluation of expected area PCC student growth is provided. There is no information about the remaining capacity in PCC's existing facilities. And PCC has a history in Columbia County of closing local facilities. Therefore there is insufficient evidence to conclude that additional land is needed for a regional educational facility within the next 20 years.

The Department dismisses the objection on the grounds that "the record contains testimony as to the need and required site characteristics." Citing Record 1465, 2020, 2027, and 2097-2101. And further that, "The department concludes that the city relied on testimony of economic development and other public officials for that evidence." Citing Record 963, 1465, 1520, 2020, 2027, 2098, and 2100.

Yet a review of these cites show no demonstrated need for this 20 acre parcel:

Record 963 are comments by Senator Betsy Johnson before a city council meeting in 2010. In her testimony she says there is a very real possibility of a community college presence near the airport and that the chairman of the PCC board has reassured her of their commitment to come to Scappoose.

What the presence would be and **when** it would come about are not mentioned. Nor is there anything to demonstrate the "need."

Record 1465 is part of Columbia County's findings on the UGB expansion. Finding 14 simply tells us what Appendix 5 says:

"Appendix 5 of PA 11-01 identifies a 20-acre site that is large enough to support a future PCC institutional use within the Scappoose Airport Land Use Concept Plan. **The exact location of this institutional use may change within this future Airport Employment (AE) zoned area.** This criterion has been satisfied." (Emphasis added).

Record 1520 is part of the proceeding before the Columbia County Planning Commission. The only reference to the PCC 20 acres is the following:

"Commissioner Lee asked about Finding No. 14 – how does it relate to OAR 660-009-0025. Debbie explained that the cities and counties can authorize institutional uses on privately owned land as demonstrated in the NE Expansion Area's proposal for a future Portland Community College campus."

Record 2020-1 is a two page letter from Airpark Development LLC, the owner of the bulk of the land involved in the expansion, giving his view of what may happen on the land:

“Airpark development has structured a preliminary agreement with PCC for the purchase of 20 acres for a new “Columbia County Center” for the college. The 20 acres is to be located within the area now being considered for inclusion into the UGB, on the east side of the airport runway. The college classrooms and facilities would have all of the public services required of such a structure, on the 20 acres. PCC is eager to provide the citizens of Columbia County with a general studies program at this location.” (Emphasis added).

Additionally, we are in a preliminary agreement with PCC to also purchase approximately 285 additional acres adjacent to the 20 acres, **which will remain outside the proposed UGB boundary**. This property, which will continue to fall under Columbia County jurisdiction, is proposed for what I generally will label a regional safety training center. However, it could be much more than that if the aspirations of many come to fruition. (Emphasis added).

The 20 acre location is important to PCC **because of its proximity to the larger training site**. PCC aspires to provide a certificate program for para-professionals, including training in emergency preparedness, homeland security and incident command. PCC currently operates fire training, criminal justice and EMS/EMT programs at their Cascade Campus, which has become overcrowded. **The big picture envisions a possible western United States headquarters for an “Emergency Management Institute.” This vision is entirely possible at the airport location, given broad based support and political will.** (Emphasis added).

Record 2027 is newspaper article from the St. Helens Chronicle relating primarily to the possible purchase of the 280 acres outside the proposed UGB for a police training academy.

“PCC has said that it has the funds to purchase the land, but not the funds necessary to develop the training center. . . . The 280 parcel lies entirely outside the proposed UGB, but adjoins the 20 acre parcel, McEwen said. **Buildings on the 20 acre parcel would provide classroom and support services for the 280 acre training site. . . . McEwen stressed the Portland Police Bureau is not currently active in the purchase process, but added, ‘It takes someone to take a tangible first step.’**” (Emphasis added).

Record 2097-2101 is the agenda of the Columbia County Board of Commissioners meeting on October 26, 2011. There is no mention at all of the proposed inclusion of the 20 acre parcel in the UGB in this document, much less any discussion of the need for the 20 acres.

Thus the information referred to by the Department to justify dismissing the objection is almost all speculative about what the 20 acres could be used for—from a general studies program (but then why place it on the southeast corner of the airport very close to the runway—a dangerous and very noisy area with a large number of planes coming in and going out at close to ground altitudes?), a training site for para-professionals, a police training facility, or even some sort of homeland security center.

Note that the developers would like to tie the sale of the 20 acres to something else on an adjacent 280 parcel to be used for a police or national security facility. And note that Record 1460 cited by the Department, tells us that, **“The exact location of this institutional use may change within this future Airport Employment (AE) zoned area.”** (Emphasis added). So the use is hypothetical, the location of any such use is hypothetical, and no need has been shown, just various possibilities of what may happen on this 20 acre parcel or perhaps somewhere else around the airport if the developers’ dreams come true.

Note also the references to the larger 280 acre parcel (east of the 380 acre parcel currently being proposed for inclusion in the UGB) not being proposed to be included in the UGB. If that parcel can be developed as some kind of police or national security training facility without being in the UGB then where is the “need” to have the 20 acre parcel, also slated as a training facility, within the UGB?

In conclusion, there is no analysis or factual justification of the need for this 20 acre parcel to be included in the UGB.

Remedy: Remand the EOA with instructions to remove the 20 acres from the claimed land need.

CONCLUSION

We respectfully ask that you remand this decision with direction to require the actions specified under each Remedy.

Thank you for consideration of our comments.

Pat Zimmerman and Mike Sheehan



1000 Friends Objections

February 23, 2012

Larry French
Department of Land Conservation and Development
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Sent via e-mail to larry.french@state.or.us

Re: Scappoose Ordinance 816

The following are objections to Scappoose Ordinance 816, adoption date April 18, 2011. This ordinance: a) adopts a Scappoose population forecast, b) adopts the *City of Scappoose Economic Opportunities Analysis (EOA)* dated January 10, 2010, c) makes numerous revisions to Scappoose's land use code and comprehensive plan, and d) expands the Scappoose UGB by 378 acres. The ordinance was co-adopted by Columbia County on October 26, 2011, via the county's Ordinance 2011-3. The notice of adoption was sent to DLCD on February 8, 2012.

1000 Friends of Oregon appeared at the Scappoose City Council hearing on January 3, 2011, and also submitted written comments at the city and county level (Rec. 985, 1260, 1729).

These objections are divided into the following sections:

- I. EMPLOYMENT FORECAST
 - Base Year Employment – Objection 1
 - Historical Growth Trends – Objection 2
 - Regional Growth and Scappoose Capture Rate – Objection 3
 - Effect of UGB Expansion on Scappoose Growth Potential – Objection 4
 - Consistency with Population Forecast – Objection 5
- II. ALLOCATION OF EMPLOYMENT FORECAST
 - Jobs on Residential Land – Objection 6
 - “Other Services” Jobs – Objection 7
- III. SITE CHARACTERISTICS – Objection 8
- IV. AIRPORT EXPANSION
 - Runway – Objection 9
 - Hangars – Objection 10
- V. INDUSTRIAL LAND INVENTORY – Objection 11
- VI. CONCLUSION

I. EMPLOYMENT FORECAST

Introduction.

According to the *EOA*, page 32 (Rec. 98):

“Demand for industrial and office commercial land is a direct function of employment growth in industrial sectors that occupy this type of space. As a result, the projections of industrial and office demand are based on forecasted employment growth by industrial sector within the City of Scappoose.”

Accordingly, the *EOA*'s 20-year employment forecast forms the foundation of the commercial and industrial employment land need analysis; Exhibits 1.01 through 1.09 (Rec. 117-125) directly convert the employment forecast to land demand using a series of mathematical functions. We do not object to this forecast-based approach, which is consistent with OAR 660-009-0015(2)'s requirement that “[t]he economic opportunities analysis must identify the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses.” (emphasis added)

However, we do object to the employment forecast itself. The unreasonably high forecast taints all work built upon it, including the land need analysis and UGB expansion. While Scappoose expects only 3,421 new residents over the next 20 years, the *EOA* predicts 8,068 new jobs. Public testimony has pointed out the implausibility of such an outcome, which would require 2.4 new jobs for every new resident, children, the aged and the disabled included. Currently, there is only 0.36 job for every Scappoose resident. While we understand the city's desire to grow more jobs, the *EOA* must be based on facts and reasonable. Otherwise, adverse consequences will include dis-investment in existing lands inside the UGB, unnecessary expenditures of scarce resources to provide services to land that is not needed, and loss of productive farmland.

The *EOA* is plainly unreasonable when evaluated under many other relevant metrics. For example, the *EOA* claims that Scappoose, with just 0.3% of the total population in the 7-county Portland Metropolitan Statistical Area (MSA), will capture over 7% of all the manufacturing jobs created in entire MSA over the next 20 years. The *EOA* assumes Scappoose's job growth will greatly exceed established historical trends, by proposing growth rates that are:

- 377% of the actual 2003-2009 Scappoose manufacturing growth rate (11.7% vs. 3.1%)
- 543% of the actual 1990-2010 Portland MSA total jobs growth rate (7.6% vs. 1.4%).
- 640% of Scappoose's current MSA total jobs capture rate (1.6% vs. 0.25%)
- 3,650% of Scappoose's current MSA manufacturing capture rate (7.3% vs. 0.2%)

Despite these anomalies, the city believes its employment forecast is reasonable. According to the *City of Scappoose City Council Findings (Findings)*, page 18 (Rec. 23), “The Council finds the employment growth figures reasonable in light of local historical growth trends, the regional context of the employment projections, and increased employment opportunities near the airport as a result of the proposed UGB expansion.” We object to each of these three flawed rationales for the forecast, for reasons discussed in detail below under Objections 2, 3 and 4. Objection 1 relates to errors in determining Scappoose's current

baseline employment; Objection 5 identifies inconsistencies between the employment forecast and the population forecast.

Base Year Employment.

Objection 1: The EOA violates OAR 660-009-0010(5) and Goal 2, adequate factual base, by failing to utilize current data to determine the 2010 baseline employment in Scappoose.

The EOA starts with baseline Scappoose employment data from 2007³, and then makes adjustments to bring the total forward to 2010. The EOA’s Figure 24 shows these adjustments, which include an average decrease of 1.7% per year for manufacturing jobs, apparently based on the 2007-2009 countywide employment trend. (Rec. 93)

However, 2009 data are available for Scappoose (Rec. 1748-9). Current data must be used to derive the 2010 jobs estimate, according to OAR 660-009-0010(5), which requires the use of "the best available or readily collectable information." The 2007 and 2009 data as supplied by the Oregon Employment Department (OED) are reproduced below, along with resulting 2007-2009 AAGRs⁴ for the OED data, and 2007-2010 AAGRs assumed by the EOA:

Table 1.

Covered Employment in Scappoose Urban Growth Boundary (UGB)				
Sector	2007	2009	Actual AAGR 2007-2009 ⁵	EOA’s AAGR 2007-2010 ⁶
Agriculture, Forestry, Fishing and Hunting	c	c		
Construction	71	56	-11.2%	-3.1%
Manufacturing	206	177	-7.3%	-1.7%
Wholesale and Retail Trade	406	395	-1.4%	reported separately
Transportation, Warehousing, and Utilities	64	69	3.8%	1.1%
Information	54	55	0.9%	-0.2%
Financial Activities	49	71	20.4%	-0.3%
Professional and Business Services	81	69	-7.7%	-0.2%
Education and Health Services	362	385	3.1%	1.1%
Leisure and Hospitality	221	213	-1.8%	-0.3%
Other Services	79	98	11.4%	2.0%
Public Administration	48	46	-2.1%	0.7%
Total*	1,641	1,634	-0.2%	0.1%

c - data is suppressed to maintain confidentiality; distributed to other sectors
 * - Total does include employment in Agriculture, Forestry, Fishing and Hunting
 Source: Oregon Employment Department, QCEW
 Provided by: Charlie Johnson, Senior Economic Analyst, (503) 947-1268

Although the EOA’s assumed overall job AAGR of 0.1% is close to the -0.2% actual AAGR, for most individual job categories, the EOA’s 2007-2010 AAGRs are not consistent with what has actually

³ The EOA states the data is from 2006, but the consultant later acknowledged this was error; 2007 data was used. See Johnson Reid letter dated 8/16/11, page 5 (Rec. 2077): “the EOA refers to 2006 as the base year multiple times...the reference to ‘2006’ is an error in the text. The numbers...are from the year 2007...”

⁴ AAGR means “average annual growth rate”

⁵ Computation: (2009 jobs/2007 jobs)^(1/2) - 1

⁶ See EOA Figure 24 (Rec. 93)

happened, as demonstrated by the OED data. For example, while the *EOA* assumes job losses for manufacturing since 2006 were only 1.7% per year, the actual decrease in manufacturing jobs from 2007 to 2009 was much higher: 7.3% per year. Similar problems are evident in construction (-3.1% vs. -11.2%), finance (-0.3% vs. +20.4%), and other services (+2.0% vs. +11.4%).

If not corrected, these discrepancies will be transmitted through the entire planning period, and the 20-year land need will be overestimated by the same percentage as the base year overestimation. For example, if the 2007 manufacturing jobs are adjusted by the *EOA*'s assumed rate of -1.7% per year, the baseline 2010 manufacturing jobs total is 218. If adjustment is made using the actual rate of -7.3% per year, the baseline 2010 manufacturing jobs total is 183. This is about a 20% difference, and will result in a 2030 manufacturing jobs total – and associated land need – that is also about 20% higher. Such substantial differences cannot be ignored, and should be corrected.

Again, it is immaterial that the overall 2007-2010 job growth rate assumed by the *EOA* is close to the actual rate; the rates for individual job categories must also be correct. This is because the different business types demand different land and building types. For example, if financial services jobs are underestimated by 20%, while manufacturing jobs are overestimated by 20%, this will translate into an improper surplus of industrial land coupled with a shortage of commercial land. The overall amount of land need might also be skewed, because, for example, financial services can and generally do locate in multi-story office buildings, while some industrial uses require single-story buildings and use more land.

The manufacturing portion of Scappoose's forecast is particularly important, since it is the driver of the remainder of the employment forecast. Pages 3 and 4 of the March 1, 2011 Johnson Reid letter explain that for every 500 manufacturing jobs, an additional 821 jobs are created (Rec. 1335-6). Thus, the 1,755 new manufacturing jobs projected by the *EOA* will result in 2,882 additional jobs; together these comprise 4,637 jobs, or 60% of the total new jobs forecast. If the baseline manufacturing jobs total is inflated by 20%, it could therefore translate into an improper overage of almost 1,000 additional jobs.

The author of the *EOA*, Johnson Reid, has suggested that since 2009 employment data was not yet available when they began work on the *EOA* in May 2009, the city and county are not obligated to revise the *EOA* in light of the 2009 data. However, the *EOA* was not completed until January 10, 2011, nearly two years after the consultants started their project; it should have been obvious to the consultants that changed circumstances were likely, and the *EOA* should have been updated prior to finalization. Further, it is to be expected that public hearings will reveal new data and information that may lead to revisions in a draft proposal; that is a primary purpose of Goal 1, Citizen Involvement. It is not reasonable to conclude that only the data known to the consultants, potentially years before the public has an opportunity to provide input, should be considered.

Remedy: Remand the *EOA* with instructions to recalculate the baseline 2010 employment estimate using the OED's 2009 employment data for Scappoose.

Historical Growth Trends.

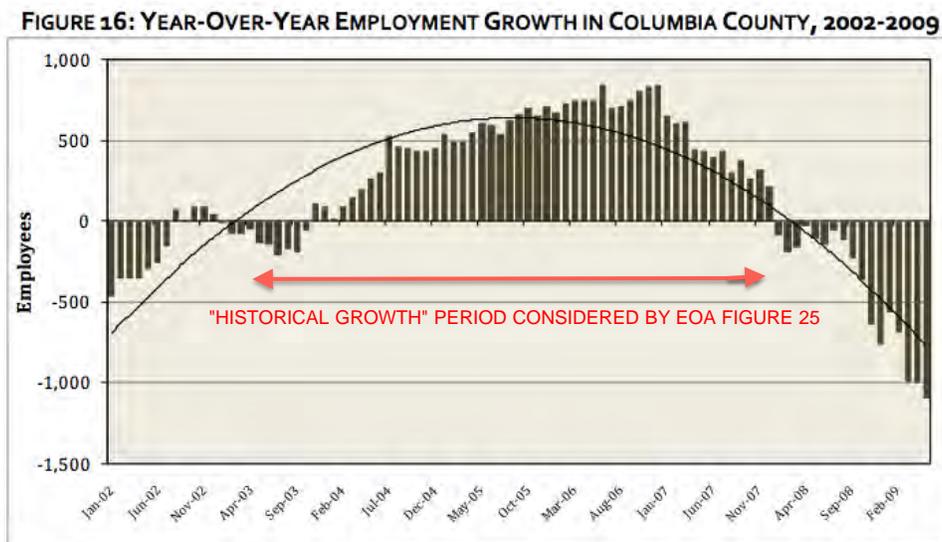
Objection 2: The EOA violates OAR 660-009-0010(5), OAR 660-009-0015(1), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because the employment forecast is based on short-term boom-years growth rates despite longer-term historical trends that are much lower.

As previously discussed, page 18 of the *Findings* states, “The Council finds the employment growth figures reasonable in light of local historical growth trends, the regional context of the employment projections, and increased employment opportunities near the airport as a result of the proposed UGB expansion.” (Rec. 23, emphasis added)

According to OAR 660-009-0015(1), “The economic opportunities analysis must identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends. This review of trends is the principal basis for estimating future industrial and other employment uses...” The trend analysis should include a comprehensive examination of historical growth rates, and indeed, the *EOA* purports to do that.

Page 27 of the *EOA* states "the historical growth rates and the state’s growth projections outlined in Figure 25 are used as baseline estimates to forecast the rate of employment growth by industry in this analysis." (Rec. 93) However, closer inspection reveals that the "historical growth rates" used in the *EOA* are not bona-fide long-term trends, but rather are just the economic boom years of 2003-2007. These years are not valid indicators of future long-term trends, not only because four years is a very short period of time, but also because the economic conditions during that period were unusual and are not likely to be repeated.

At the top of page 11, the *EOA* states, "Oregon experienced exceptional employment growth between mid- 2003 and 2007." (Rec. 77) This four-year boom period is clearly seen on the *EOA*’s Figure 16, page 18, which is reproduced below. The *EOA* fails to consider the negative growth periods that bracket the 2003-2007 boom, focusing instead on just those four years.



SOURCE: Oregon Employment Department

As previously noted, 2008 and 2009 OED employment data is available for Scappoose, and should have been considered by the *EOA* (Rec. 1748-9). While the 2003-2009 time period is also not truly “long term,” because it contains both economic boom and bust periods, it is more capable of informing a 20-year forecast than the incomplete 2003-2007 data.

As shown in Table 2 below, there are significant differences between the 2003-2007 trends reported in the *EOA* and the 2003-2009 trends supplied by the OED. The overall 2003-2009 job growth rate is only 60% of the 2003-2007 rate, and the 2003-2009 manufacturing job growth rate is only 35% of the 2003-2007 rate. The fluctuations in Scappoose job growth rates during the 2003-2009 period underscore the importance of looking broadly at historical trends, and not zeroing in on unusual periods of job growth or losses when gathering information for long-term forecasts. This is especially true in small job markets such as Scappoose, where the addition or loss of a dozen jobs can represent 10-20% of the entire job market in that sector.

Table 2.

Covered Employment in Scappoose Urban Growth Boundary (UGB)				
Sector	2003	2009	2003-2009 AAGR	2003-2007 AAGR (per EOA)
Agriculture, Forestry, Fishing and Hunting	c	c		-
Construction	66	56	-2.7%	5.6%
Manufacturing	147	177	3.1%	9.0%
Wholesale and Retail Trade	342	395	2.4%	Reported separately
Transportation, Warehousing, and Utilities	48	69	6.2%	7.6%
Information	25	55	14.0%	-4.2%
Financial Activities	53	71	5.0%	5.9%
Professional and Business Services	73	69	-0.9%	15.8%
Education and Health Services	337	385	2.2%	1.8%
Leisure and Hospitality	161	213	4.8%	9.6%
Other Services	47	98	13.0%	13.3%
Public Administration	40	46	2.4%	5.7%
TOTAL	1,339	1,634	3.4%	5.6%

c - data is suppressed to maintain confidentiality; distributed to other sectors

* - Total does include employment in Agriculture, Forestry, Fishing and Hunting

Source: Oregon Employment Department, QCEW

Provided by: Charlie Johnson, Senior Economic Analyst, (503) 947-1268

Another job estimation tool is the U.S. Census Bureau’s “On The Map” tool; it has Scappoose employment data going back to 2002. While the data inputs driving this tool are different than those used by the Oregon Employment Division, the trends reflected are similar. A printout generated by the tool⁷ corroborates the OED’s 2003-2009 trends; the data are summarized in the below Table 3. First, over the longer term, overall job growth is less than half the 2003-2007 trend. Second, over the longer term, manufacturing jobs were shed overall, despite a very high growth rate from 2003-2007.

Table 3.

⁷ “Scappoose UGB Employment Per U.S. Census ‘On The Map’ Tool 2002-2009” (Rec. 1750-4)

	2002	2009	AAGR 2002-2009	2003	2007	AAGR 2003-2007
per EOA Estimate						
Total Jobs (covered)	no data	no data	no data	no data	1,641	5.6%
Manufacturing Jobs	no data	no data	no data	no data	206	9.0%
per US Census Tool						
Total Jobs	1,345	1,576	2.3%	1,356	1,638	4.8%
Manufacturing Jobs	191	172	-1.5%	196	259	7.2%

Perhaps the best proof that it is inappropriate to rely on the 2003-2007 boom years for long-term forecasting is the profound difference between the actual Region 1 2003-2007 growth rates and the OED's Region 1 forecast for 2008-2018 (Rec. 1009). The below Table 4 contains a tabulation of the actual 2003-2007 AAGRs and the forecasted AAGRs, for both Region 1 as a whole (as forecasted by OED), and for Scappoose (as forecasted by the *EOA*). Also shown is the percentage that the forecasted AAGRs bear to the 2003-2007 actual AAGRs; this demonstrates the relationship between the two.

Table 4.

	REGION 1 ACTUAL 2003-2007 AAGR#	OED's REGION 1 FORECAST 2008-2018 AAGR*	2008-2018 AAGR as percentage of 2003-2007 AAGR	SCAPPOOSE ACTUAL 2003-2007 AAGR#	<i>EOA</i> 's SCAPPOOSE FORECAST 2010-2030 AAGR ^ψ	2010-2030 AAGR as percentage of 2003-2007 AAGR
OVERALL	2.8%	0.9%	31%	5.6%	7.6%	136%
Construction	7.4%	0.8%	10%	5.6%	4.7%	84%
Manufacturing	0.3%	-0.6%	from gain to loss	9.0%	11.7%	130%
Wholesale Trade	6.0%	1.0%	16%	8.5%	8.5%	100%
Retail Trade	2.1%	1.2%	59%	3.9%	6.1%	156%
T.W.U.	0.6%	0.5%	82%	7.6%	9.4%	124%
Information	-0.2%	-0.3%	50% loss	-4.2%	0.5%	from loss to gain
Financial Activities	2.2%	0.8%	35%	5.9%	5.9%	100%
Professional & Business	7.0%	1.5%	21%	15.8%	12.8%	81%
Education & Health	2.7%	2.7%	98%	1.8%	4.4%	244%
Leisure & Hospitality	3.8%	1.1%	30%	9.6%	6.7%	70%
Other Services	4.0%	0.7%	17%	13.3%	10.7%	80%
Public Administration	2.4%	0.6%	24%	5.7%	5.7%	100%

As reported by *EOA*'s Figure 25 (Rec. 95)

*OED forecast: $(\%Change + 1)^{(1/10)} - 1$ (Rec. 1009)

As reported by *EOA*'s Figure 25 (Rec. 93)

^ψ As reported by *EOA*'s Figure 26 (Rec. 95)

Note that in every category of employment, the OED's forecasted 2008-2018 AAGR is less than the actual 2003-2007 AAGR, in many cases markedly so. For example, the 0.8% AAGR forecasted rate for construction is only 10% of the actual 7.4% AAGR seen from 2003-2007. Manufacturing went from a 0.3% per year increase during 2003-2007 to a forecasted 0.6% per year loss of jobs over the coming decade. This demonstrates that professional state forecasters do not rely on the 2003-2007 growth rates as indicators of future long-term trends. That would not be a professionally acceptable methodology.

The right side of the chart shows how the *EOA*'s long-term forecast compares with the actual Scappoose job growth from 2003-2007. In contrast to the OED's forecast, the *EOA* carries forward the boom-years growth rates to the long term forecast. In most categories, Scappoose's 20-year forecast is either equal to the 2003-2007 actual growth rate, or is even higher, in some cases markedly so. Only in a few sectors is the long-term forecast AAGR lower than the 2003-2007 AAGR, and even then the reduction from the boom-years

rate is not nearly as great as in the OED's forecast. For example, the OED forecasts construction growing at only 10% of the boom-years rate, while the *EOA* forecasts construction growing at 84% of the boom-years rate. OED's overall Region 1 job growth rate for 2008-2018 is only 31% of that seen from 2003-2007. By comparison, the *EOA* predicts that Scappoose's future growth will be 136% of that seen during 2003-2007, some of the best years on record.

The *EOA*'s reliance on the 2003-2007 boom years is error; an inquiry into longer-term trends is needed to inform a 20-year forecast. Since there are no available employment data specific to Scappoose prior to 2002,⁸ it is necessary to examine the long-term trends in a larger geographic area. Page 28 of the *EOA* states that "Scappoose is highly influenced by Portland economic trends," so consideration of the long-term Portland MSA historical job growth rate is a relevant and important inquiry (Rec. 94). In 1990, there were 726,818 jobs in the Portland MSA.⁹ In 2010, there were 965,500 jobs,¹⁰ yielding a 1.4% AAGR from 1990-2010.¹¹ By contrast, the *EOA* predicts a 7.6% AAGR for Scappoose. This is not reasonable; moreover, the conclusion lacks substantial evidence.

To summarize, the *EOA* forecasts an overall jobs growth rate that is 543% of the actual 20-year Portland MSA growth rate (7.6% vs. 1.4%). The *EOA* also forecasts a manufacturing growth rate that is 377% of the actual Scappoose 2003-2009 manufacturing jobs growth rate (11.7% vs. 3.1%). These extreme deviations from established trends were made without adequate analysis, explanation, or evidentiary support.

The *EOA*'s overreliance on the 2003-2007 boom years, combined with its failure to give comparable weight to 2002, 2008 and 2009 Scappoose data and longer-term Portland MSA data, is contrary to OAR 660-009-0010(5), which requires use of "the best available or readily collectable information."

OAR 660-009-0015(1) requires that a valid trend analysis be the primary means of estimating future employment uses. The *EOA*'s approach violates Goal 2's requirement for an adequate factual base for this trend analysis; a reasonable fact finder would not discount relevant long-term trends, and rely instead on a four-year period recognized by the *EOA* as "exceptional" to determine a 20-year forecast.

Remedy: Remand the *EOA* with instructions to revise the employment forecast downward, in light of the 2002, 2008 and 2009 Scappoose employment data and Portland MSA longer-term trends.

⁸ According to OED staff, see email from Charles Johnson (Rec. 1748)

⁹ See page 119 from the September 2009 Metro document "20 and 50 year Regional Population and Employment Range Forecasts." (Rec. 1758)

¹⁰ See "Portland-Vancouver-Hillsboro MSA Annual Average Nonfarm Employment." (Rec. 1760)

¹¹ Calculation: $(965500/726800)^{(1/20)}-1 = 1.4\%$

Regional Growth and Scappoose Capture Rate

Objection 3: The *EOA* violates OAR 660-009-0010(5), OAR 660-009-0015(1), Goal 2, adequate factual base, Goal 2, coordination, and is not supported by substantial evidence in the whole record, because it fails to make a reasonable determination of the expected regional growth Scappoose could capture, and because it improperly relies on capture of growth planned to occur within other jurisdictions.

As previously discussed, page 18 of the *Findings* states, “The Council finds the employment growth figures reasonable in light of local historical growth trends, the regional context of the employment projections, and increased employment opportunities near the airport as a result of the proposed UGB expansion.” (Rec. 23, emphasis added) Page 17 of the *Findings* notes, “...much of Scappoose’s potential is due to external factors related to its proximity to the Portland metro area and Hillsboro.” (Rec. 22)

Goal 9 encourages analysis of regional trends. OAR 660-009-0015(1) notes that cities are “strongly encouraged to analyze trends and establish employment projections in a geographic area larger than the planning area and to determine the percentage of employment growth reasonably expected to be captured for the planning area....”

However, despite the decision’s clear reliance on regional trends, the *EOA* does not make a reasonable, realistic correlation between the various regional employment forecasts and the *EOA*’s very ambitious assumptions. For example, OED’s Region 1 forecast (Rec. 1009) projects a 0.9% region-wide employment growth rate; the *EOA* assumes a 7.6% Scappoose employment growth rate. On page 28, the *EOA* dismisses this discrepancy, claiming that “[i]t could also be argued that it is inappropriate to apply Region 1 forecasts to the City of Scappoose....Scappoose is highly influenced by Portland economic trends and it is far more appropriate to consider Scappoose’s future employment growth in terms of expected Portland area trends...” (Rec. 94) The implication is that the Portland employment projections are much higher than the Region 1 forecast, thus justifying the *EOA*’s radical departure from the reasonable Region 1 forecast.

However, the *EOA* does not actually provide the Region 2 Portland-area forecast; a participant later supplied it.¹² The below table demonstrates a high degree of correlation between the OED’s Region 1 and Region 2 forecasts, as well as with the longer-term 7-county Portland MSA forecast prepared by Metro. In many sectors, the Portland-area Region 2 forecast is actually lower than the Region 1 forecast, such as construction, retail, education & health, and financial. If anything, the Region 2 and Portland MSA forecasts provide substantial evidence that the *EOA*’s forecast is unreasonably high.

Table 5.

¹² See Record 1009-11

	OED's REGION 2 FORECAST 2008-2018 AAGR*	OED's REGION 1 FORECAST 2008-2018 AAGR*	PORTLAND MSA "LOW" FORECAST 2010-2030 AAGR#	PORTLAND MSA "HIGH" FORECAST 2010-2030 AAGR#	EOA's SCAPPOOSE FORECAST 2010-2030 AAGR
OVERALL	1.0%	0.9%	1.5%	1.9%	7.6%
Construction	0.2%	0.8%	-0.3%	2.1%	4.7%
Manufacturing	-0.3%	-0.6%	0.1%	0.9%	11.7%
Wholesale Trade	1.0%	1.0%	1.7%	1.7%	8.5%
Retail Trade	0.7%	1.2%	0.6%	1.1%	6.1%
T.W.U.	0.5%	0.5%	2.0%	2.0%	9.4%
Information	0.4%	-0.3%	2.0%	2.6%	0.5%
Financial Activities	0.4%	0.8%	1.8%	2.0%	5.9%
Professional & Business	1.6%	1.5%	1.9%	2.8%	12.8%
Education & Health	2.0%	2.7%	2.8%	3.0%	4.4%
Leisure & Hospitality	1.1%	1.1%	1.8%	1.9%	6.7%
Other Services	0.7%	0.7%	2.7%	3.0%	10.7%
Public Administration	0.9%	0.6%	0.9%	0.9%	5.7%

* OED forecast: $(\%Change + 1)^{(1/10)} - 1$ (Rec. 1009-11)
See "Metro Forecast Compilation" (Rec. 1763)

There are significant differences between the overall AAGRs of the two OED forecasts, which are 0.9% and 1.0% per year, and the 7.6% per year Scappoose forecast in the *EOA*. This is about 8 times the rate predicted by OED for either Region 1 or 2. The differences in certain employment classifications are even higher. For example, while the OED predicts an annual loss of manufacturing jobs in both Regions 1 and 2, the *EOA* predicts an 11.7% per year increase. The OED's forecasts have historically been on the high side;¹³ the record contains no evidence that the current OED forecast is unreasonably low, or that such a large departure from the current OED forecast is warranted.

There are also significant differences with Metro's 20-year forecast. Even under Metro's most optimistic "High" scenario, the proposed Scappoose AAGR is 4 times the high-end forecasted rate for overall job growth in the Portland MSA (7.6% vs. 1.9%). The proposed manufacturing rate is 1,300% of the Portland MSA's high-end rate (11.7% vs. 0.9%). Again, the decision does not allege that Metro's forecast is incorrect, nor does it provide evidence that Scappoose's growth rates will be that much higher.

After 1000 Friends of Oregon initially objected to the proposed 7.6% overall growth rate, consultant Johnson Reid wrote a letter dated March 1, 2011, which is attached to the decision as Appendix 7B (Rec. 359), and which is quoted on page 18 of the *Findings* (Rec. 23) as follows:

"As a stand- alone estimate, ignoring the City's regional context, we would agree that this rate of growth would be implausible to assume. The projections are defensible though in light of the City's geographic position within the Portland- Vancouver Principal Metropolitan Statistical Area (PMSA)."

The letter goes on to say that it is reasonable to assume that over the next 20 years, Scappoose will capture 1.7% of the roughly 500,000 jobs added to the Portland MSA. However, no evidence is provided that this is

¹³ See "Forecasting a Long Term Trend: Historical Analysis of the Oregon Employment Department's 10-year Industry Employment Projections" prepared by OED, dated June 2011 (Rec. 1764-5)

feasible or reasonable. It appears the tacit argument is that since there is a large reservoir of job growth in the Portland MSA, the small amount of jobs that would need to come to Scappoose in order to achieve the proposed 7.6% growth rate isn't enough to be worth arguing about. When considered in a vacuum, 1.7% might seem like a small, achievable number. However, that figure looks different when considered in the context of Scappoose's small size compared to the entire Portland MSA, which has over 2 million residents:

Table 6.

	2010 Population
Portland MSA ¹⁴	2,226,000
Portland MSA Outside Metro Boundary ¹⁵	890,400
Scappoose ¹⁶	6,680

Scappoose comprises just 0.3% of the Portland MSA's population, yet the EOA assumes it will capture 1.7% of the MSA's jobs. Scappoose makes up 0.8% of the population located within the MSA, but outside the Metro boundary, yet "[t]he employment forecast in the EOA reflects a 7.0% to 9.5% share of the growth assumed to be captured outside of the Metro UGB."¹⁷ Evidence is lacking for these claims.

Evaluation of actual Scappoose capture rates shows that the EOA's assumptions go far beyond historic trends, and are not realistic, especially for manufacturing. The EOA claims that Scappoose, despite comprising only 0.3% of the total population in the Portland MSA, will capture over 7% of all the manufacturing jobs created in the MSA over the next 20 years. As shown below, this capture rate is 35 times higher than Scappoose has currently achieved.

Table 7.

	2010 Actual	2030 Projected	2010-2030 Growth (computed)
Portland MSA Total Jobs	965,500 ¹⁸	1,475,900 ¹⁹	510,400
Scappoose Total Jobs	2,425 ²⁰	10,493 ²¹	8,068
Scappoose Total Jobs Capture Rate	0.25%		1.6%
Portland MSA Manufacturing Jobs	106,700 ²²	130,800 ²³	24,100
Scappoose Manufacturing Jobs	215 ²⁴	1,970 ²⁵	1,755
Scappoose Manufacturing Jobs Capture Rate	0.20%		7.3%

It is doubtful that the other communities in the Portland MSA would agree with the EOA's unspoken claim

¹⁴ 2010 Census (Rec. 1766)

¹⁵ 40% of Portland MSA total, per page 101 of Metro's "2009 – 2030 Urban Growth Report" (Rec. 1747)

¹⁶ PSU estimate (Rec. 1767)

¹⁷ March 1, 2011 letter from Johnson Reid (Rec. 359), also quoted in *Findings*, page 18 (Rec. 23)

¹⁸ See "Portland-Vancouver-Hillsboro MSA Annual Average Nonfarm Employment" (Rec. 1760)

¹⁹ See Record 1758-9, "Base" scenario, Q4 option. However, the medium growth scenario may be too high, since the actual Portland MSA 2010 employment of 965,500 is closer to the "Low" 2010 jobs figure (926,200) than it is to the "Base" 2010 figure (1,040,100).

²⁰ According to the EOA, Figure 26. As discussed in Section I above, we contend this figure is too high. (Rec. 95)

²¹ Ibid.

²² "Portland-Vancouver-Hillsboro MSA Annual Average Nonfarm Employment" (Rec. 1760)

²³ Page 120, "20 and 50 year Regional Population and Employment Range Forecasts," Q4 option (Rec. 1759)

²⁴ According to the EOA, Figure 26 (Rec. 95)

²⁵ Ibid.

that they will not grow as quickly because Scappoose will siphon off a much larger share of the total Portland MSA manufacturing jobs than in past years. Other cities in the Portland MSA, such as Newberg, have aggressive job creation programs and clearly intend to vigorously compete for their share of Portland MSA job growth.

The *EOA* does not acknowledge the magnitude of the job shift from other, competing communities that would have to occur for its ambitious predictions to come true. The following chart compares the difference between Scappoose’s actual and projected capture rates for overall job growth and for the manufacturing subset. Even when examining only the portion of the Portland MSA job growth that is expected to locate outside the Metro boundary, the *EOA* still projects a manufacturing capture rate for which there is no evidentiary basis: 19 times higher than the current capture rate.

Table 8.

	2010 Actual	2010-2030 Growth
Portland MSA Total Jobs Outside Metro	193,100 ²⁶	132,704 ²⁷
Scappoose Total Jobs	2,425	8,068
Scappoose “Outside” Total Jobs Capture Rate	1.3%	6.1%
Portland MSA Manufacturing Jobs Outside Metro	21,340 ²⁸	9,176 ²⁹
Scappoose Manufacturing Jobs	215	1,755
Scappoose “Outside” Manufacturing Jobs Capture Rate	1.0%	19.1%

Significantly, Table 8’s analysis is consistent with Metro’s expectation that outlying areas will experience higher manufacturing capture rates than in the past. Despite the fact that areas outside the Metro boundary currently hold just 20% of the total manufacturing jobs in the Portland MSA, it is expected that these outside areas will capture roughly 43% of future Portland MSA industry. This does mean more jobs for outlying areas such as Scappoose, but not nearly to the level envisioned by the *EOA*. The above Table 8 uses this higher 43% capture rate to compute the number of Portland MSA jobs available to outside areas, not the current 20% rate. However, even with this increase, Scappoose would have to capture a share of these “outside jobs” that is least 19 times larger than it has to date. There is a lack of substantial evidence supporting this conclusion.

As previously discussed, the manufacturing portion of Scappoose’s forecast should be examined closely, since it is the driver of the remainder of the employment forecast, according to the March 1, 2011 Johnson Reid letter (Rec. 1335-6). If Scappoose adds “outside” manufacturing jobs at the same capture rate it enjoys now, 1.0%, this would yield about 92 new jobs by 2030, a realistic increase of at least 43% from current levels. However, the *EOA* claims Scappoose will add 1,755 new manufacturing jobs, 19 times as many as could be expected based on current “outside” MSA capture rates. This is not reasonable.

The decision attempts to justify the excessively large forecast with a claim that growth currently planned to

²⁶ 20% of total, per page 34 of Metro’s “2009-2030 Urban Growth Report.” (Rec. 1745)

²⁷ 26% of total, *Ibid.*, page 33 (assumed average of “Low” and “High” capture rates). (Rec. 1744)

²⁸ 20% of total, *Ibid.*, page 34. (Rec. 1745)

²⁹ 43% of total, *Ibid.*, page 33 (assumed average of “Low” and “High” capture rates). (Rec. 1744)

occur inside the Metro UGB will instead occur in Scappoose, because Metro will fail to expand its UGB to accommodate future industrial demand. Page 18 of the *Findings* states:

"If the Metro area does not expand its UGB, the implication for Scappoose is that there will be some spillover demand for large industrial sites within the UGB, giving Scappoose an opportunity to capture considerable spillover growth from the Portland metro area. As Scappoose is not part of Metro's jurisdiction, but is part of the Portland regional economy, the City is well placed to provide the large land types that Metro has limited." (Rec. 23, emphasis added)

Page 17 of the *Findings* claims "Metro's recently prepared Urban Growth Report and associated research reveal an undersupply of large industrial lots in the Metro region." (Rec. 22) However, this is not actually true in all categories. The below table, taken from page 86 of the referenced Metro *Urban Growth Report 2009-2030*, shows that in fact there is an oversupply of large lots in the 25-50 acre range, even under the "high growth" scenario (Rec. 1746).

Table 32: Comparison of large lot supply and the demand range (2010 to 2030) with no tax lot assembly assumption
Source: Metro, based on local review, 2009

Lot size (acres)	Lots available	High growth lot demand	Low growth lot demand
25 to 50	37	27	17
50 to 100	9	16	11
100 plus	4	5	5

Despite Metro's oversupply of between 10 and 20 lots in the 25-50 acre range, the *EOA* claims that this "shortage" will cause Scappoose to experience unprecedented growth. After 1000 Friends of Oregon initially objected to the *EOA*'s characterization of the Metro land supply, Johnson Reid responded with a letter on January 7, 2010, stating the following:

"Part of the disparity between the EOA and the Metro UGR cited is in how buildable industrial land is quantified. Much of the Metro area's remaining large lot supply is severely constrained from a development perspective, and while counted towards meeting requirements it is effectively not available to the market. As an example, Metro's large-lot inventory includes sites such as West Hayden Island, which likely has a decade of entitlement work before any industrial use can be considered, and allowable uses will likely be very limited." (Rec. 1296)

Even if this conclusory statement is accepted as true, it does not prove that Metro will fail to serve these lands during its 20-year planning period. It is normal for some land in a 20-year supply to be unserved at the beginning of the 20-year period. It is immaterial that West Hayden Island may take a decade to come online, when Metro's planning horizon extends to 2030. The land that Scappoose proposes to bring into the UGB is also unserved, and may remain so for quite some time.

In addition, the condition of Metro's land supply has already been factored into forecasted capture rates, as discussed above. Metro believes that areas outside the Metro boundary will capture 43% of future manufacturing growth, despite a current share of only 20%. This change may well be due to the concerns

Johnson Reid expressed about the quality of Metro's land supply. However, as detailed by the above Table 8, even assuming this dramatic increase in manufacturing job capture by outlying areas, Scappoose would still need to attract a 1,900% larger share of this "outside" growth than it has in the past. This is not a reasonable assumption, and lacks substantial evidence to support it.

It is also not reasonable to assume that Metro will fail to remedy any bona fide land shortages that develop. In fact, after Scappoose adopted the *EOA*, the Metro Council approved a UGB expansion in Hillsboro of over 300 acres, specifically for large-lot industrial development (Rec. 2033-72). Metro is required by law to evaluate its UGB every 5 years. If Metro identifies a need for additional large lots, additional UGB expansions will likely occur over the next 20 years.

The *EOA* is based on what may happen "if the Metro area does not expand its UGB." But that is not what has actually happened, and that assumption is not a reasonable basis for planning. LUBA has held that if a city located outside the Metro UGB wishes to plan to capture growth currently anticipated to occur within the Metro UGB, then it must specifically coordinate that desire with Metro and the affected units of government within the Metro UGB. *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372 (1994). That has not occurred in this case; Scappoose therefore may not assume it will capture any part of the employment growth planned to occur inside the Metro UGB.

To summarize, the *EOA*'s forecast claims that Scappoose, with just 0.3% of the total population in the Portland MSA, will capture over 7% of all the manufacturing jobs created in the 7-county MSA over the next 20 years. The *EOA* assumes that Scappoose employment will grow at:

- 760% of OED's Region 1 & 2 forecasted total jobs growth rate (7.6% vs. 1.0%)
- 400% of the Portland MSA's forecasted "high range" total jobs growth rate (7.6% vs. 1.9%)
- 1,300% of the MSA's forecasted "high range" manufacturing growth rate (11.7% vs. 0.9%)
- 640% of Scappoose's current MSA total jobs capture rate (1.6% vs. 0.25%)
- 3,650% of Scappoose's current MSA manufacturing capture rate (7.3% vs. 0.2%)
- 469% of Scappoose's current MSA "outside" total jobs capture rate (6.1% vs. 1.3%)
- 1,910% of Scappoose's current MSA "outside" manufacturing capture rate (19.1% vs. 1.0%)

These extreme deviations from adopted regional forecasts and established capture rate trends were made without adequate analysis, explanation or evidentiary support. In addition, the decision violates Goal 2's coordination requirements because it assumes that Scappoose will capture growth currently planned to occur inside the Metro UGB, and possibly other jurisdictions as well, without coordinating with those jurisdictions.

OAR 660-009-0015(1) requires that a valid trend analysis be the primary means of estimating future employment uses. When cities choose to analyze and rely upon regional trends, as Scappoose has done, the rule further directs cities to "determine the percentage of [regional] employment growth reasonably expected to be captured for the planning area...."

The *EOA*'s approach violates Goal 2's requirement for an adequate factual base for this regional trend analysis; a reasonable fact finder would not assume that Scappoose's future capture rates will be many times higher than they currently are, based on the information in the whole record.

Remedy: Remand the *EOA* with instructions to revise the employment forecast downward, in light of the

OED and Portland MSA employment forecasts, and the actual capture rates Scappoose has achieved.

Effect of UGB Expansion on Scappoose Growth Potential.

Objection 4: The *EOA* violates OAR 660-009-0010(5), OAR 660-009-0015(1), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it wrongly assumes that the proposed UGB expansion will cause a substantial increase in employment growth, beyond historical trends.

As previously discussed, page 18 of the *Findings* states, “The Council finds the employment growth figures reasonable in light of local historical growth trends, the regional context of the employment projections, and increased employment opportunities near the airport as a result of the proposed UGB expansion.” (Rec. 23, emphasis added) Put differently, the *Findings* assume that the high forecast is justified because Scappoose is being “held back” by a lack of serviced industrial land; once more land is added to the UGB, employment growth will increase far beyond historic levels. According to page 17 (Rec. 22):

“The ability of Scappoose to attract employers depends on its ability to provide basic urban infrastructure to sites meeting the following criteria:

- Large acreage, best if a mix of sizes is available, ranging from 50 to 200 acres
- Flat topography
- Regular shape, such as a square or rectangle
- No environmental contamination
- Free of wetlands
- Industrially zoned
- Direct access to Highway 30, along an uncongested road with no tight turns
- Direct freight rail access
- Airport”

The *EOA*'s foundational assumption is that once Scappoose adds land meeting these criteria, industrial growth will take off, resulting in growth rates much higher than the city has ever experienced. However, there is already a substantial amount of industrial and commercial land in Scappoose that is sitting unused, despite having nearly all of these special qualities. Per the *Findings*, page 13, “...more than half of Scappoose's existing employment sites are serviced and ready for development in the short-term,” and “...private landowners are actively marketing several parcels inside the UGB.” (Rec. 18)

The below charts are taken from page 4 of the January 14, 2010 Winterbrook Planning memo titled "Scappoose Draft Vacant and Potential Redevelopment Lands," which is attached to the decision as Appendix 1 (Rec. 257).

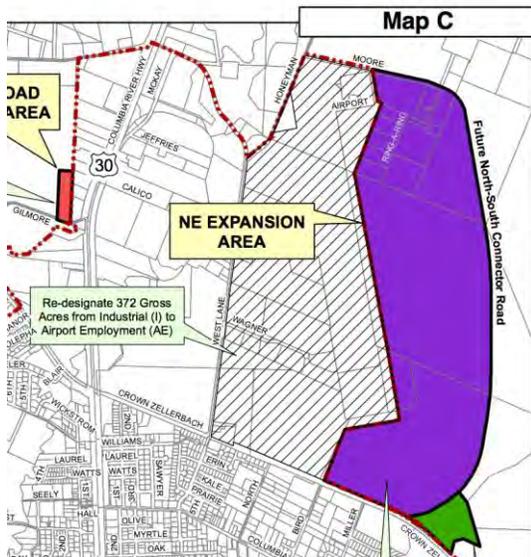
Table 6: Industrial Vacant and Developed (Redevelopable) Land Supply

Size	Number of Tax Lots	Total Topo-Suitable Acres
1 to 5 Acres	3	9
5 to 20 Acres	5	54
20 to 40 Acres	1	30
40 Acres +	1	60
Totals	10	153

Table 7: Commercial and Developed (Redevelopable) Land Supply

Size	Number of Lots	Total Topo-Suitable Acres
1 to 5 Acres	15	14
5 to 20 Acres	3	17
20 to 50 Acres	0	0
50 Acres +	0	0
Totals	18	31

The following map on the left is taken from the decision’s Map C (Rec. 253). The aerial photo is taken from the Winterbrook inventory, attached as Appendix 1 to the decision, Map 4 (Rec. 265).



The area with black hatching on the left map is the existing industrial area proposed for continued use as airport-related employment land (the proposed expansion area is solid purple). The aerial map on the right shows this same area, with vacant industrial land outlined in purple. Re-developable industrial land is shown with purple hatching. It also appears that there is another large unused industrial area just north of the 60-acre parcel, which for unknown reasons was not counted by the Winterbrook inventory. As shown on Figures 1-4 of the *Scappoose UGB Infrastructure Report*, Appendix 3 to the decision, water, sewer, storm drainage and major collector street infrastructure already serve this entire area (Rec. 308-311). The area also has direct access to the airport.

The record shows there are ample building opportunities in every category of industrial land, and also quite a bit of commercial land. Of particular interest is the vacant 60-acre industrial site, which is unconstrained and in a single ownership. The site, along with most of Scappoose’s other industrial sites, is ready to

develop, yet stands unused. It is also large, flat, regularly shaped, free of wetlands, and has direct access to Highway 39 and the airport – the same characteristics the *EOA* claims are needed to attract industry.

As shown by the above Winterbrook charts, there are at least 153 acres of serviced industrial land (we believe the total is actually higher, as discussed in Section IV below). At the *EOA*'s average industrial density of 14.3 employees per acre,³⁰ this land would accommodate 2,188 new industrial jobs, more than ten times the number of industrial jobs currently located in Scappoose. Most of this land is held in large lots, including one 30-acre parcel, and one 60-acre parcel. And again, all of this land is already served with collector roads and utilities, according to the city's own planning documents.

This large supply of serviced, available land is evidence that Scappoose is not being “held back” by lack of raw land. It is not reasonable to conclude that adding more of this same kind of land to the UGB would materially increase historical business development or job creation rates. The *Findings*' conclusion that there will be “increased employment opportunities near the airport as a result of the proposed UGB expansion” is unfounded.

Remedy: Remand the *EOA* with instructions to revise the employment forecast substantially downward, in accordance with Scappoose's historic economic growth patterns, which are the best indicators of the city's long-term economic prospects, given the lack of evidence to the contrary.

Consistency with Population Forecast.

Objection 5: The *EOA* violates OAR 660-024-0040(1), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because the employment forecast is inconsistent with the adopted population forecast.

OAR 660-024-0040(1) provides in part: “The UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule.”

The adopted 20-year population forecast³¹ provides a 2030 forecast for Scappoose of 10,022, an increase of 3,342 people from the 2010 population of 6,680. Despite this modest population increase, the *EOA* predicts a 2030 job total of 10,492, an increase of 8,067 new jobs from the 2010 total of 2,425 jobs.³²

In order for the proposed employment forecast to occur, 2.4 new jobs would need to be created for every new resident – children, the aged and the disabled included (8,067 new jobs for 3,342 new residents). This seems highly improbable; currently, there is only 0.36 job for each Scappoose resident (2,425 existing jobs for 6,680 existing residents).

The ratio of jobs-per-resident is a common measure of employment density. Most urban areas have considerably fewer jobs than residents, since many people cannot work due to age, disability, life situation, or other factors. The below Table 9 compares three jobs-per-resident ratios: the Portland MSA, Scappoose

³⁰ *EOA* page 31 (Rec. 97)

³¹ Columbia County Ordinance 2009-7, co-adopted by the challenged decision (Rec. 215)

³² According to the *EOA* page 29, Figure 26 (Rec. 95)

in 2010, and Scappoose in 2030 under the county-adopted population forecast and the proposed employment forecast.³³

Table 9.

	Population	Jobs	Jobs-Per-Resident
Portland MSA 2010 Actual	2,226,000	965,500	0.43
Scappoose 2010 Actual	6,680	2,425	0.36
Scappoose 2030 Forecast	10,022	10,492	1.05

The data show that the current jobs-per-resident ratio in Scappoose is 0.36 – somewhat less than the 0.43 ratio seen in the Portland MSA as a whole. There is no evidence to support that in 20 years, Scappoose’s ratio will undergo a dramatic change from 0.36 to 1.05 jobs-per-resident.

Instead of providing evidence that the shift in jobs-per-resident ratio was reasonable, the *EOA*’s authors claimed that they expected Scappoose to grow much faster than predicted by the adopted population forecast: "employment growth is expected to outpace population growth considerably based on two factors: reliance on a modest population growth forecast, and the City’s strong economic growth policies...based on the actual historical growth rate in Scappoose, there is reason to conclude that the coordinated projection may be somewhat low." (Rec 799-800)

It is instructive to calculate the population growth Scappoose would have to experience, in order to keep its jobs-per-resident ratio within actual observed limits while also fulfilling the proposed employment forecast. Even at the higher Portland MSA average ratio of 0.43 jobs-per-resident ratio, it would require a 2030 Scappoose population of 24,400 people.³⁴ This is a population increase of 17,720 new residents, more than five times the modest increase of 3,342 people predicted by the adopted 2030 population forecast.

This large inconsistency between the adopted population forecast and the proposed employment forecast means that the UGB evaluation does not comply with OAR 660-024-0040(1)'s requirement that "[t]he UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030." While there is no requirement that population and employment forecasts match each other in growth rates, there must be evidence to support both forecasts and any deviation. As the Land Conservation and Development Commission stated in its order concerning the City of Woodburn’s UGB expansion:

“The more a city’s land need for employment based on its analysis of economic opportunities and sites diverges from what would be predicted based solely on forecasted population and employment growth and employee-per-acre ratios, the more thoroughly the city will need to substantiate its economic opportunities analysis and resulting site needs.”³⁵

The city’s decision fails to meet LCDC’s standard.

³³ Data taken from this letter’s Tables 6 and 7, and Record 97 and 95.

³⁴ 10,492 jobs for 24,400 residents = 0.43 jobs-per-resident

³⁵ LCDC Approval Order 11-WKTASK-001802, March 16, 2011.

Remedy: Remand the *EOA* with instructions to revise the employment forecast downward to correlate with a jobs-per-resident ratio that is no higher than the current Portland MSA ratio of 0.43, unless additional evidence is provided that substantiates a higher ratio.

II. ALLOCATION OF EMPLOYMENT FORECAST

Jobs on Residential Land.

Objection 6: The *EOA* violates Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it assumes that no new jobs will locate in residential areas, despite the inclusion of home business workers in the employment forecast.

Page 26 of the *EOA* notes that OED employment data reports “covered employment” only, those jobs tracked through unemployment insurance (Rec. 92). The *EOA* states that “[b]ecause this data omits a significant portion of the workforce who are not covered (i.e. sole-proprietors, self-employed, commission workers) the estimates must be revised to reflect true employment. Estimates from the Bureau of Economic Analysis (BEA) indicate that in 2006 [sic]³⁶ covered employment accounted for approximately 67.9% of total employment in Columbia County, with individual estimates reported by broad sector.” Accordingly, the *EOA* increased the OED-reported 2007 employment levels from 1,641 jobs to 2,418 jobs.

The problem arises because the *EOA* fails to later take into account that some of the forecasted future jobs will locate on residential land. If the *EOA* is going to make the assumption that one-third of all jobs are sole-proprietors, self-employed, or commission workers, then that assumption must be carried through the land need analysis. The *EOA* wrongly assumes that all new jobs will need industrial or commercial land, with no new jobs located in residential areas, despite the inclusion of home workers in the employment forecast. This is an internal inconsistency that overestimates the overall land need.

After this concern was raised at the local level, the *EOA*’s author responded that “[t]he *EOA* analysis adjusts the ‘covered employment’ numbers to estimate non-covered employment as well, such as sole proprietorships and the self employed. Not all of these are home occupation businesses.”³⁷ We agree that “not all” of the non-covered jobs are home occupations. However, implicit in the consultant’s response is an admission that some of them are; these should be properly accounted for by assuming those jobs will locate on residential land.

Remedy: Remand the *EOA* with instructions to determine the portion of the employment forecast that is due to home occupations, and revise the land need analysis to reflect that these jobs will not locate on commercial or industrial land.

“Other Services” Jobs.

Objection 7: The *EOA* violates Goal 2, adequate factual base, and is not supported by substantial

³⁶ As previously discussed, the correct year is 2007. See Johnson Reid letter dated 8/16/11, page 5: “the *EOA* refers to 2006 as the base year multiple times...the reference to ‘2006’ is an error in the text. The numbers...are from the year 2007...” See also footnote 2 to Figure 23 that accompanies the quoted text, which confirms the data are from 2007 (Rec. 2077).

³⁷ See January 7, 2010 letter from Johnson Reid, page 6.

evidence in the whole record, because it assumes that 60% of the Other Services category of jobs will site on industrial land, despite evidence that most of these jobs will site on non-industrial land.

In Exhibit 1.05 in Technical Appendix E to the *EOA*, the “Other Services” sector accounts for the second largest total number of new jobs allocated to industrial land, comprising 889 of the 3,112 new industrial jobs (Rec. 121). This number is so high because the *EOA* presumes that 60% of jobs in Other Services sector will require industrial land.

However, allocating 60% of the Other Services jobs to industrial land is not reasonable because that sector consists primarily of businesses that do not use industrial land. The OED Region 1 employment forecast and detailed breakout for Other Services (Rec. 1016-18) show that regionally, most employment growth in this sector is expected in businesses that generally prefer a non-industrial location.

Of the new jobs expected in the OED’s Region 1 forecast for the Other Services category, 1,300 are “personal and laundry services” such as hair salons, dog groomers, photofinishing, dry cleaners, etc. There is no evidence that these businesses need industrial locations; if they need good visibility and convenient access for customers, they may locate primarily in commercial areas. Region-wide, another 1,500 jobs are with “membership associations and organizations” such as churches, advocacy groups, and business associations like the Chamber of Commerce. These are office jobs. Together, these two categories comprise almost 60% of the new Other Services jobs forecasted by OED for Region 1.

The remaining 2,000 Other Services jobs in the Region 1 forecast involve “repair and maintenance.” Of these, about half are automotive maintenance, and most of the others are repair shops for household items like shoes, garden equipment, electronics and furniture. There is no evidence that these jobs need industrial locations. Even quasi-industrial uses like auto repair may prefer a commercial location with good visibility. A reasonable assumption might be that no more than half of these 2,000 jobs would use industrial land.

Summing together the three sub-categories of Other Services land, it appears that up to 3,800 of the total Other Services jobs in Region 1 may site on non-industrial land, roughly 80%, and the remaining 1,000 jobs will site on industrial land, roughly 20%. The *EOA*, by contrast, assumes that in Scappoose, 60% of the Other Services jobs will instead site on industrial land – three times the reasonable assumption based on Region 1 data.

The choice of whether to site these businesses on office versus industrial land is important, because the assumed job density for Other Services jobs on office land is 38 jobs per acre, almost twice the 18.5 jobs per acre density of Other Services jobs on industrial land.³⁸

Remedy: Remand the *EOA* with instructions to either demonstrate that the number of Other Services jobs assumed to need industrial land is supported by substantial evidence, or revise the calculations according to an analysis of the expected land needs of these businesses.

³⁸ Per Exhibit 1.01 (Rec. 117) in Technical Appendix E to the *EOA*, Medium Scenario, 593 Other Services jobs are expected on office land. Exhibit 1.03 (Rec. 119) allocates 15.6 acres for these jobs, resulting in a gross job density of 38 jobs per acre. Exhibit 1.05 (Rec. 121) shows that another 889 Other Services jobs are expected on industrial land. According to Exhibit 1.09 (Rec. 125), these jobs will require 48.0 acres of land, for a gross job density of 18.5 jobs per acre. See also the chart on page 31.

III. SITE CHARACTERISTICS

Objection 8: The EOA violates OAR 660-009-0015(2), OAR 660-009-0005(11), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because there is no explanation for how the lot size site characteristics were derived, and there is no substantial evidence demonstrating a need for large lots in any category.

The EOA's Figure 33 lists the amount of each type and size of site supposedly needed through 2030 (Rec. 103). A portion of this figure is reproduced below; this objection pertains to the site types marked in red.

Figure 33: Demand Projections for Office and Industrial Sites (2015-2030)

Demand Projections			
	Typical Acreage	Sites	Gross Acres
Office (3,445+)	Large	1	14.5
	Medium	1	9.7
	Small	11	56.3
	Total		
Industrial (1,950)	Large	0	0.0
	Medium	4	25.8
	Small	6	6.3
	Total		
Industrial (7,800)	Large	2	107.6
	Medium	1	35.0
	Small	7	51.1
	Tech/Flex	2	21.5
	Airpark Emp.	11	53.8
	Total		

The record contains no explanation for how these figures were derived, and no substantial evidence demonstrating an actual need for large lots in any category. Page 16 of the Findings includes a conclusory statement that site characteristics are “based on Johnson Reid’s expertise...” but does not cite any evidence that supports Johnson Reid’s conclusions (Rec. 21). LUBA has held that unsupported expert opinion does not constitute evidence.³⁹

Instead, the record contains substantial evidence that there is in fact no need for any lots over 5 acres in both the industrial and office categories. The following chart is taken from page 39 of the EOA, where it is described as identifying "archetypal site requirements" for small, medium and large office and industrial businesses (Rec. 105). Note that these classifications for office and industrial building site sizes and needed acreage ranges correlate exactly with the more detailed breakouts found on pages 41-45 (Rec. 107-11).

³⁹ *Palmer v. Lane County*, 29 Or LUBA 436 (1995).

	Building Size/SF	Typical Acreage Ranges
OFFICE		
Large	60,000-500,000+	3.5-20
Medium	12,000-70,000	0.5-3.0
Small	400-13,000	0.12-3.0
INDUSTRIAL		
Large	90,000-750,000+	20-200+
Medium	25,000-100,000	4.0-25
Small	500-30,000	0.5-5.0
COMMERCIAL		
Large	45,000-500,000+	7.0-100
Medium	12,000-50,000	3.5-15
Small	0.5	0.5-5

The data needed to translate this chart into Scappoose-specific land needs is found in Exhibit 1.11 of the Technical Appendix to the original *EOA*, in a table titled "Projected Distribution of Demand By Size of Space, Scappoose, Oregon." (Rec. 608) It is reproduced below. Note that there is no demand shown from industrial users needing more than 19,800 square feet of space. Instead, the entire Scappoose demand is from users that, according to the above chart, typically need only small industrial sites of 0.5 to 5.0 acres. Similarly, Exhibit 1.11 demonstrates that there is no need for office sites larger than 3.0 acres, because there is no projected demand from firms needing more than 49,800 square feet of space.

**EXHIBIT 1.11
PROJECTED DISTRIBUTION OF DEMAND BY SIZE OF SPACE
SCAPPOOSE, OREGON
2010-2030**

Medium Growth	Net New Demand for Space (SF)	Distribution of Need by Firm Size/Space Required (SF) 3/								
		Under 800	800-1,800	1,800-3,800	3,800-9,800	9,800-19,800	19,800-49,800	49,800-100,000	Over 100,000	
Office Demand 1/										
	2010 - 2015	119,184	41,442	20,977	28,782	16,425	1,232	10,325	0	0
	2015 - 2020	182,285	63,383	32,084	44,021	25,121	1,884	15,791	0	0
	2020 - 2025	285,325	99,212	50,220	68,905	39,322	2,949	24,718	0	0
	2025 - 2030	456,376	158,689	80,326	110,213	62,895	4,717	39,536	0	0
	2008-2028	1,043,169	362,726	183,607	251,921	143,763	10,782	90,370	0	0
	Share:		34.8%	17.6%	24.1%	13.8%	1.0%	8.7%	0.0%	0.0%
Industrial Demand 2/										
	2010 - 2015	241,064	59,238	23,071	46,589	82,538	29,629	0	0	0
	2015 - 2020	394,268	96,885	37,733	76,198	134,993	48,459	0	0	0
	2020 - 2025	647,823	159,193	62,000	125,201	221,807	79,623	0	0	0
	2025 - 2030	1,068,956	262,680	102,304	206,590	365,999	131,384	0	0	0
	2008-2028	2,352,110	577,996	225,108	454,578	805,337	289,095	0	0	0
	Share:		24.6%	9.6%	19.3%	34.2%	12.3%	0.0%	0.0%	0.0%

Taken together, these two tables show that the *EOA* itself demonstrates no need for industrial or office sites larger than 5 acres. This evidence is in direct conflict with the *EOA*'s unsupported conclusion that large tracts of land must be added to the UGB to provide 10- to 50-acre sites.

When this issue was raised at the local level, the *EOA*'s author responded by excising the above Exhibit 1.11 from the *EOA*, claiming it was "erroneous." (Rec 1299) However, no other evidence was supplied to explain the need for the 10- to 50-acre sites. Further, the *EOA*'s remaining exhibits still correlate perfectly with the excised Exhibit 1.11. For example:

Net New Office Demand shown on excised <i>EOA</i> Exhibit 1.11 (Rec. 608)	1,043,169 sf
Net New Office Demand shown on remaining <i>EOA</i> Exhibit 1.02 (Rec. 118).....	1,043,169 sf
Net New Industrial Demand shown on excised <i>EOA</i> Exhibit 1.11(Rec. 608).....	2,352,110 sf
Net New Industrial Demand shown on remaining <i>EOA</i> Exhibit 1.07 (Rec. 123).....	2,352,110 sf

The purpose of the excised Exhibit 1.11 was to break down office and industrial land demand according to the space requirements of the expected new businesses. Significantly, despite the removal of this analysis on the claim that it was "erroneous," no revised analysis was submitted. The lack of countervailing evidence, combined with the exact correlation between the removed material and the remaining exhibits, provides strong evidence that the excised Exhibit 1.11 was not truly "erroneous."

One may wonder whether the *EOA*'s proposal to add large parcels to the UGB is based on a plan to provide small sites within larger "office park" or "industrial park" models. However, there is no identified need for either industrial or office business parks in the *EOA*. The *EOA* does discuss an "Airpark Business Park" model, but 53.8 acres for this use are already provided as a separate land need, per Figure 33 (Rec. 103). There is a claimed need for five additional large sites, in addition to the 53.8-acre airpark development, without any evidence that these sites are needed for office and/or industrial parks, or for any other uses.

Even if there were an established need for large office or industrial parks, this would still not warrant narrowing the focus of UGB expansion locations solely to large parcels. The typical reason for including a large site in a UGB expansion is because a single large user requires this. Business and industrial parks are very different, and typically are made up of many lots clustered together. These developments are akin to residential subdivisions, in that they are often planned as one project, but ultimately are sold off piecemeal to unrelated parties. Clustering for a business or industrial park can be done on a site made up of smaller parcels, and so would not trigger the need to add large parcels to the UGB.

Finally, the *EOA*'s discussion titled "Factors That Affect Site Selection" on page 48-50 is not material to Scappoose's situation (Rec. 114-6). Johnson Reid evaluated a "small sample" of lead sheets from "fairly large employers" that "do not represent a comprehensive review of all recruitments" and that "do not show site requirements for all firms..." (pg 48) In other words, the samples evaluated were narrowed to include only large manufacturers requiring large sites, and the results are not representative of a valid cross-section of the potential market for sites.

In addition, many of these firms had requirements that Scappoose cannot meet, and are therefore unsuitable comparisons. For example:

Rail. Some firms needed rail, however, the *EOA* does not provide any rail served sites. Others cannot be close to rail due to vibration; however, rail is in close proximity to the proposed UGB expansion area.

I-5 Access. Some firms needed to be within 5 miles of I-5; Scappoose is much farther away.

Electricity. “Many of the firms have large electricity demands.” We could find no evidence in the record that Scappoose’s infrastructure is suitable for these businesses.

Water. Some firms had very high water needs. We could find no evidence in the record that Scappoose’s infrastructure is suitable for these businesses; indeed, the infrastructure analysis attached to the decision as Appendix 3 shows that Scappoose does not have the ability to provide more than minimal water and sewer services to new employers (Rec. 282-317).

Due to the narrow sampling and failure to exclude employers who would not consider Scappoose since their specific needs cannot be met, the “Factors That Affect Site Selection” discussion is merely a hypothetical analysis of a narrow subset of large manufacturers who have shopped the entire state of Oregon for large sites. It is statistically invalid and cannot form an accurate basis for determining specific large lot land needs in Scappoose.

Remedy: Remand the *EOA* with instructions to either remove the claimed need for 10+ acre sites, or provide additional evidence that supports the claimed need.

IV. AIRPORT EXPANSION

The *EOA*’s Figure 33 lists a 50-acre expansion for extension of the airport’s runway, and a 40-acre expansion for additional public hangar space (Rec. 103). A portion of this figure is reproduced below.

Public Uses	Special Uses		
	Hangar Reserve	1	40.0
	Runway Extension	1	50.0
	PCC Campus	1	20.0
	SubTotal	3	110.0

We object to inclusion of both the 50 acres for future runway extension and the 40 acres for future public hangar expansion, because the airport’s adopted master plan does not show that there is a bona fide need for these facilities within the 20-year planning period.

Runway.

Objection 9: The *EOA* violates OAR 660-024-0040(1), Goal 14, Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it includes 50 acres for a runway expansion despite the adopted airport master plan’s conclusion that no runway expansion is needed during the 20-year planning period.

There is no evidence to support the claimed need; the 2004 *Airpark Master Plan Update for Scappoose Industrial Airpark (Airpark Plan)* concludes there is no need for runway expansion. Portions of the plan are included in the record; we have attached the entire plan for convenience. Page 3-14 states, “The facility needs evaluation...indicates that the runway’s current length of 5,100 feet is sufficient throughout the planning period and will not consider additional runway length for the existing or forecast fleet mix.” We

can find nothing else in the record or findings that establishes a bona fide need for a runway expansion.

Remedy: Remand the *EOA* with instructions to remove the 50 acres for runway expansion from the claimed land need.

Hangars.

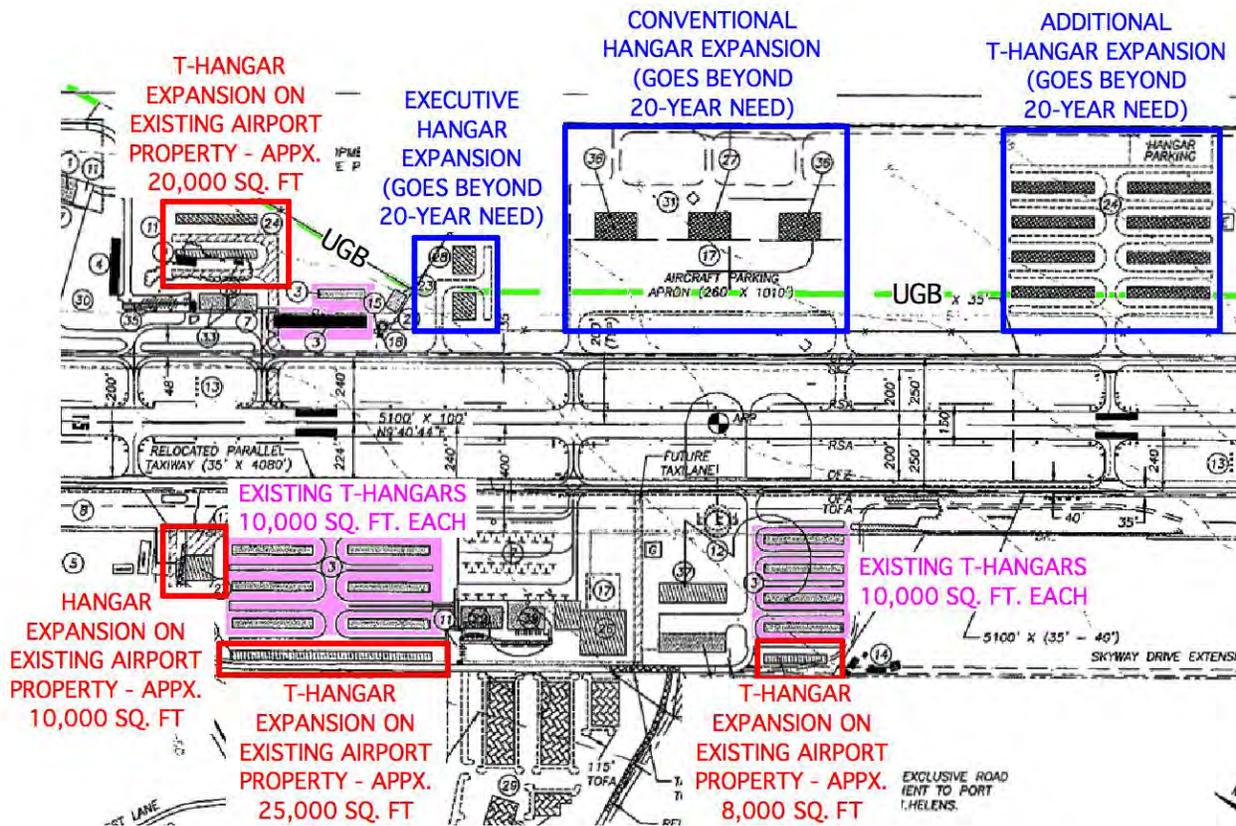
Objection 10: The *EOA* violates OAR 660-024-0040(1), Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it includes 40 acres for airplane hangar expansion that is intended to serve demand beyond the airport’s 20-year planning period.

The *Airpark Plan* relies on a 20-year forecast that predicts based aircraft will increase from 140 to 195 planes, an increase of 39% over the planning period.⁴⁰ Hangar space must be provided for a portion of these based aircraft; the 20-year requirements are shown in the *Airpark Plan’s* Table 3D on page 3-11, reproduced below. Note that there is no need shown for additional executive hangar space, and a slight decrease in the need for conventional hangar space. The only need shown is for additional T-hangar space, and some associated maintenance area. Over the 20-year planning period, the overall need for hangar space increases by about 52,000 square feet.

		Future Requirements				
		Currently Available	Current Need	Short-Term	Intermediate Term	Long-Term
Aircraft to be Hangared			130	144	158	181
T-hangar Positions			120	128	138	152
Executive Hangar Positions			5	8	9	13
Conventional Hangar Positions			5	8	11	16
Hangar Area Requirements (s.f.)						
T-hangar Area		129,900	141,600	149,000	160,100	176,000
Executive Hangar Area		31,200	13,200	20,400	21,600	30,000
Conventional Hangar Area		40,800	12,000	20,400	27,600	40,800
Total Maintenance Area		30,300	26,000	28,500	31,400	37,000
Total Hangar Area (s.f.)		232,200	192,800	218,300	240,700	284,300

Section 4 of the *Airpark Plan* contains a map titled “Airport Layout Plan” which details planned improvements. Below is an annotated clipping from the Layout Plan showing just the hangar improvements. Identification of each improvement was done using the included key (not shown on the clipping). Approximate sizes of the improvements were identified using references found on page 3-16 and the included scale (also not shown). Red portions show hangars that will be located inside the current airport boundary (and UGB). Blue portions show hangars that would be located outside the UGB.

⁴⁰ See Table 2H on Page 2-13 of the *Airpark Plan*. This forecast was also approved by the Federal Aviation Administration and the Oregon Department of Aviation; see page 2-1.



The combined capacity of the red-labeled hangars is approximately 62,000 square feet – more than is needed to meet the identified 20-year demand. What, then, is the purpose of the blue-labeled improvements? The *Airpark Plan* explains that in fact, the hangar construction laid out in the plan is intended to provide additional capacity, above and beyond that required to meet the 20-year need.⁴¹

Many of the blue-labeled hangars provide additional executive and conventional space, but as noted above, there is actually no additional need for either of these over the entire 20-year period. There is also no need for the blue-labeled T-hangar space, because T-hangar space needs can be fully met on land already inside the UGB, via the red-labeled improvements. We can find nothing in the record that establishes a bona fide need for the blue-labeled hangars expansions. We are unsure that even the red-labeled hangars are truly needed; comparison of the Layout Plan and the aerial photo attached to the decision as Appendix 1, Map 4

⁴¹ As noted earlier, the *Airpark Plan* relies on a 20-year forecast that predicts based aircraft will increase from 140 to 195 planes, an increase of 55 planes over the planning period. However, the hangar improvements are actually based on a much higher, speculative growth scenario that envisions an increase to 309 planes – an increase of 169 planes, more than three times as many as the adopted 20-year forecast predicts. See *Airpark Plan* page 3-16: “While the proposed hangar developments for Scappoose Industrial Airpark exceed the projected demand in the long term, additional factors were considered. For instance, the selected forecast, which was a mid-range forecast, assumes 195 based aircraft by the end of the planning period. However, the high end of projected based aircraft was also examined and yields as many as 309 based aircraft by the end of the planning period, which would warrant additional aircraft storage.” Since this high-end growth scenario is not the *Airpark Plan*’s selected forecast, it does not represent the actual 20-year need. There is also no evidence that actual growth at the airport since adoption of the *Airpark Plan* has exceeded the adopted forecast.

shows that to date, the airport has declined to construct any of the new T-hangars described in the *Airpark Plan* (Rec. 265).

Although the *Airpark Plan* considers additional improvements that might be needed under an alternate growth scenario that greatly exceeds the adopted 20-year based aircraft forecast, the UGB cannot be expanded to accommodate those additional contemplated improvements. UGB expansions must be based on identified 20-year needs.⁴²

Remedy: Remand the *EOA* with instructions to remove the 40 acres for hangar expansion from the claimed land need.

V. INDUSTRIAL LAND INVENTORY

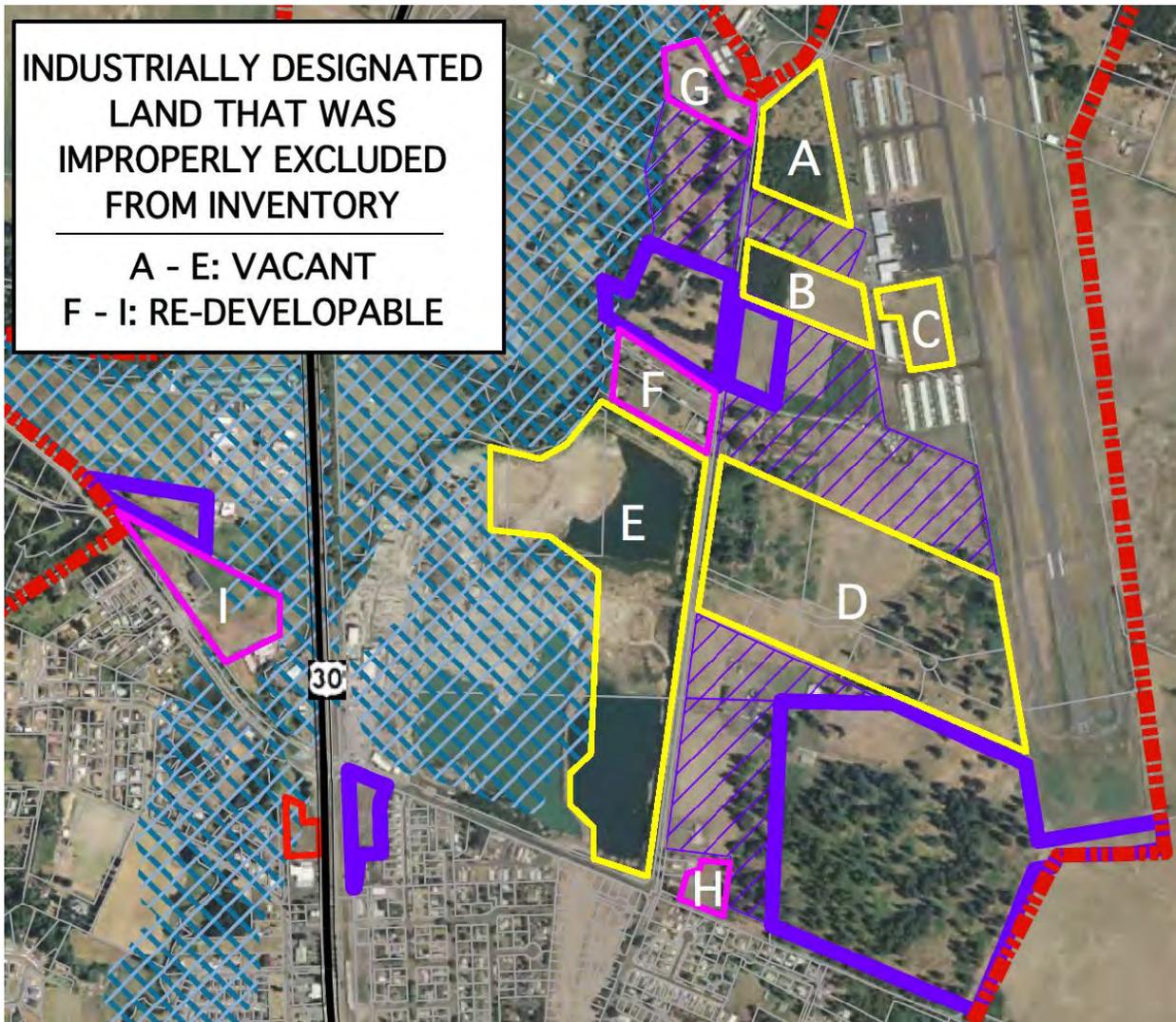
Objection 11: The *EOA* violates OAR 660-009-0015(3), OAR 660-024-0050(1) and (4), Goal 14, Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because its inventory fails to include all of the serviceable, industrially designated land already inside the UGB.

The below aerial photo is taken from the January 14, 2010 Winterbrook Planning memo titled "Scappoose Draft Vacant and Potential Redevelopment Lands," which is attached to the decision as Appendix 1, Map 4 (Rec. 265). It illustrates the *EOA*'s inventory of vacant and re-developable industrial sites: vacant land outlined in purple, and re-developable land denoted with purple hatching. Together, ten sites totaling 153 acres were inventoried.

The photo is also annotated with yellow borders around five areas (labeled A through E) that we contend should have been included in the vacant industrial land inventory, and with pink borders around four areas (labeled F through I) that we contend should have been included in the re-developable industrial land inventory. The improperly excluded areas appear to contain at least 130 acres of serviceable, industrially designated land.

⁴² OAR 660-024-0040(1) provides in part: "The UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule." The term "public facilities," as it is used in Goal 14, includes transportation facilities. *Concerned Citizens v. Jackson County*, 33 Or LUBA 70 (1997).

Additionally, OAR 660-024-0040(7) provides in part: "The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Goals 11 and 12, rules in OAR chapter 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768." OAR 660-013-0040(5)(a) and (b) require that expansion of existing airport uses be based on "the projected needs for such uses over the planning period" and "economic and use forecasts supported by market data."



All of these areas are inside the UGB, are designated for industrial use, and are already served with water, sewer, storm drainage and major collector street infrastructure.⁴³

The decision does not explain why vacant areas A through E should be excluded from inventory. The *Airpark Plan* specifically designates area A for development as an industrial park;⁴⁴ it designates Area C for expansion of existing private businesses.⁴⁵ Areas B and D contain several large, serviced industrial parcels.

⁴³ See Figures 1-4 of the *Scappoose UGB Infrastructure Report*, Appendix 3 to the decision (Rec. 308-311).

⁴⁴ From page 3-17 of the *Airpark Plan*: “Immediately adjacent to Scappoose Industrial Airpark, the Port of St. Helens owns approximately 20 acres of land that has been identified as having potential for expanded business development. ***A Master Plan for Scappoose Airpark’s Industrial Business Park was completed by CIDA in April 2001 and outlined a number of alternatives. The selected plan (Plan G)...was accepted by the Board of Commissioners and the Port of St. Helens *** As shown on Exhibit 3C, Plan G proposes a number of buildings for industrial use...” The referenced Exhibit 3C, and the Layout Plan in Chapter 4, both show the entire Area A covered with future industrial buildings.

⁴⁵ The *Airpark Plan*’s Layout Plan shows this area designated for expansion of Oregon Aero and Sherpa Aircraft.

Area E is in the process of being reclaimed; the northern pond is already filled in and there is no evidence to indicate that the remainder will not be reclaimed as well, within the 20-year planning period. Below is an aerial photo of Area E (Rec. 827).



Developed areas F through I were also excluded without adequate reasons. Page 3 of the Winterbrook memo attached to the decision as Appendix 1 states, “Winterbrook assumed that non-vacant Industrial tax lots 5 acres or larger, with residential or farm improvements, would qualify as likely to redevelop during the planning period.” (Rec. 256) But this is not a valid screening test to determine the likelihood of re-development. Size alone is not sufficient to dismiss developed parcels without further explanation.

In fact, Winterbrook’s re-development test is almost identical to the definition of “vacant land” under OAR 660-009-0005(14)(b): “Equal to or larger than five acres where less than one half-acre is occupied by permanent buildings or improvements.” It is apparent from the above aerial photo that areas F through I are only sparsely developed with improvements. Winterbrook’s analysis method likely misidentifies land as re-developable that is actually “vacant” under Goal 9, while failing to identify re-developable land that is in parcels smaller than five acres.

Under OAR 660-009-0005(1), "Developed Land" is “non-vacant land that is likely to be redeveloped during the planning period.” Additional analysis, such as an evaluation of the age, extent, type and value of the improvements, is needed before conclusions may be drawn about the redevelopment potential of the parcels in areas F through I. Depending on the outcome of such an analysis, these areas may be found likely to re-develop over the 20-year planning period.

Remedy: Remand the *EOA* with instructions to either include areas A through I in the inventory of vacant and re-developable industrial land, or provide additional evidence and findings clearly demonstrating why these lands cannot accommodate any new industrial development.

VI. CONCLUSION

We respectfully ask that you remand this decision with direction to:

- Recalculate the baseline 2010 employment estimate using current data.
- Revise the employment forecast downward, in light of:
 - a) Previously unconsidered 2002, 2008 and 2009 Scappoose employment data
 - b) Portland MSA historic trends
 - c) OED and Portland MSA employment forecasts
 - d) Historical Scappoose employment capture rates
 - e) Existing vacant industrial land capacity in Scappoose
 - f) Conflict between employment forecast and adopted population forecast
- Properly account for home occupations.
- Properly allocate Other Services jobs to commercial and industrial land categories.
- Remove claimed need for 10+ acre sites, or provide additional evidence to support.
- Remove the 50 acres for runway expansion from the claimed land need.
- Remove the 40 acres for hangar expansion from the claimed land need.
- Include areas A through I in the inventory of vacant and re-developable industrial land, or provide evidence that these lands cannot accommodate any new industrial development.

Thank you for consideration of our comments.

Sincerely,



Mia Nelson
for 1000 Friends of Oregon
220 East 11th Avenue, Suite 5
Eugene, OR 97401

Attachment: 2004 Airpark Master Plan Update for Scappoose Industrial Airpark

cc: Anne Debbaut, DLCD, anne.debbaut@state.or.us
Brian Varricchione, City of Scappoose, brianvarricchione@ci.scappoose.or.us

MICHAEL F. SHEEHAN
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SCAPPOOSE, OREGON 97056
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February 27, 2012

*Sent via e-mail to larry.french@state.or.us
And by first class mail on February 27, 2012*

Larry French
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301

Re: Scappoose Ordinance 816

Dear Mr. French:

The following are my objections to Scappoose Ordinance 816, adoption date April 18, 2011. This ordinance: a) adopts a Scappoose population forecast, b) adopts the *City of Scappoose Economic Opportunities Analysis (EOA)* dated January 10, 2010, c) makes numerous revisions to Scappoose's land use code and comprehensive plan, and d) expands the Scappoose UGB by 378 acres. The ordinance was co-adopted by Columbia County on October 26, 2011, via the county's Ordinance 2011-3.

I testified orally and in writing during the proceedings leading to adoption of this ordinance, including but not limited to the following: a) the Scappoose Planning Commission hearings held on September 9 and September 23, 2010, b) the Scappoose City Council hearings held January 3 and April 4, 2011, c) the Columbia County Planning Commission hearing on June 6, 2011, and d) the Columbia County Board of Commissioners hearing on July 27, 2011 (Rec. 2274-5).

In addition to reiterating all of the objections and remedies listed on the 1000 Friends of Oregon objections dated February 23, 2012, I make the following additional objection:

The *EOA* violates OAR 660-024-0040(1), Goal 14, Goal 2, adequate factual base, and is not supported by substantial evidence in the whole record, because it includes 20 acres for a community college expansion without evidence that a bona fide need exists.

OAR 660-024-0040(1) provides in part: "The UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities,

streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule.”

The UGB expansion proposal includes 20 acres for a new campus for Portland Community College (PCC). The record contains a letter from property owner Airpark Development, stating that they have “structured a preliminary agreement with PCC for the purchase of 20 acres for a new ‘Columbia County Center’ for the college.” (Rec. 2020)

I am not sure this is true, since the record does not appear to contain any corroborating evidence to confirm Airpark Development’s claim, despite requests from the public for a letter from PCC stating that they had definite plans to site a college here, and general skepticism regarding the claimed need (Rec. 700, 732). It is also unclear that the “preliminary agreement” referenced by Airpark Development is binding on PCC, or merely tentative. Actual purchase may be dependent on future study and decision-making by PCC.

However, even if it were proven that PCC has made a binding commitment to purchase this land, this would not establish that the site is needed to meet a genuine 20-year need for educational facilities. An institution may choose to consider property acquisitions for facilities that serve needs beyond the 20-year horizon.

The proposal makes no effort to quantify the actual 20-year need for regional educational facilities. No school master plans are referenced. No evaluation of expected PCC student growth is provided. There is also no information about the remaining capacity in PCC’s existing facilities. Therefore, there is insufficient evidence to conclude that additional land is needed for a regional educational facility within the next 20 years.

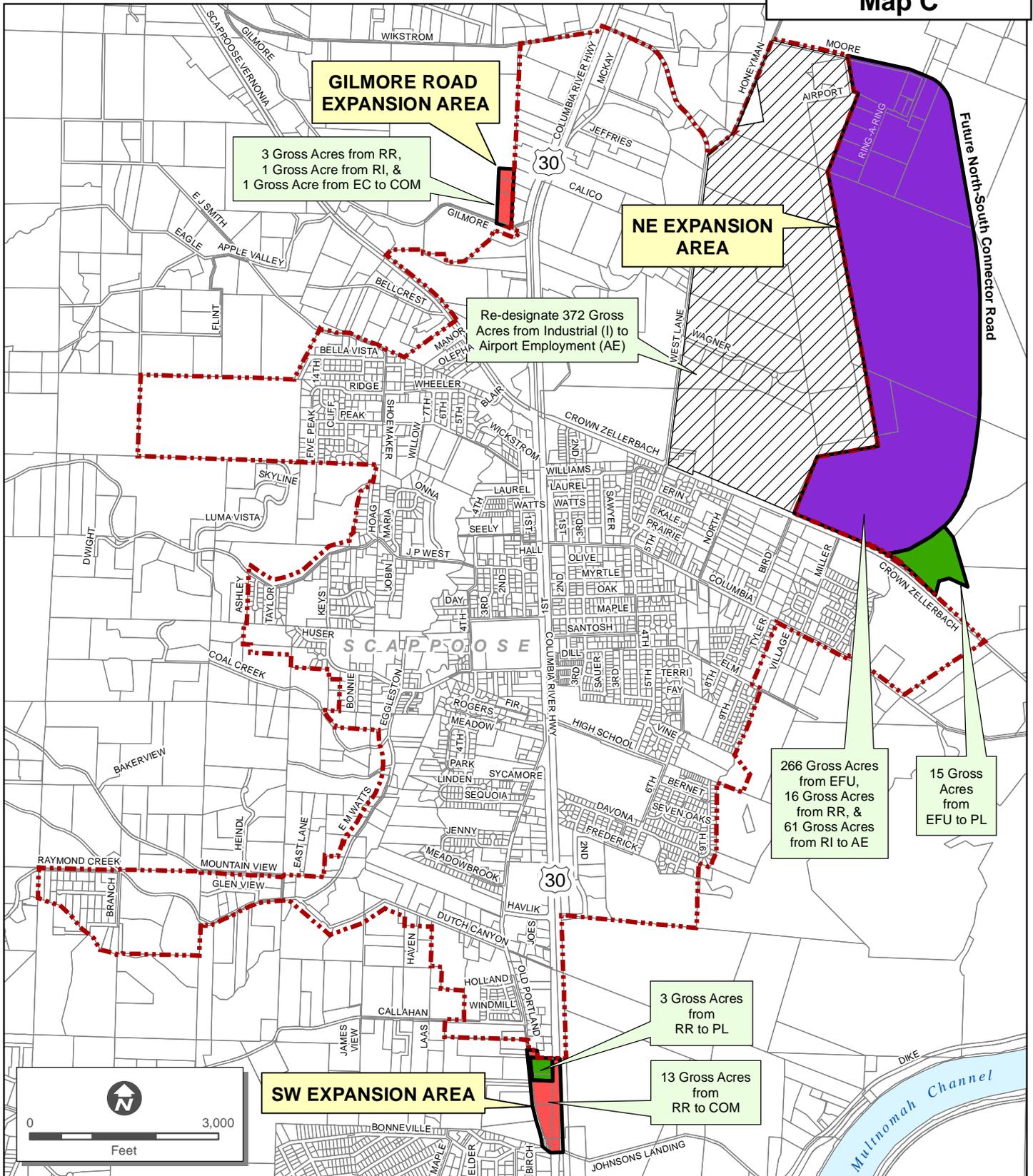
Remedy: Remand the *EOA* with instructions to remove the 20 acres for school expansion from the claimed land need, or provide additional evidence that clearly demonstrates the need.

Thank you for consideration of my comments. Please feel free to give me a call if you have questions.

Yours truly,

Michael F. Sheehan

cc: Anne Debbaut, DLCD, anne.debbaut@state.or.us
Brian Varrichionne, City of Scappoose, brianvarricchione@ci.scappoose.or.us
Todd Dugdale, Columbia County, todd.dugdale@co.columbia.or.us



CITY OF SCAPPOOSE

Urban Growth Boundary Amendment & Comprehensive Plan Amendment

- Legend**
- Existing Urban Growth Boundary (UGB)
 - Airport Employment within Existing UGB
 - UGB Expansion
 - Tax Lot

- Comprehensive Plan Designation**
- Airport Employment
 - Commercial
 - Public Lands