



# Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



September 28, 2010

Carlotta Collette, Acting Council President  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Lynn Peterson, Chair  
Clackamas County Board of Commissioners  
2051 Kaen Road  
Oregon City, OR 97045

Jeff Cogen, Chair  
Multnomah County Board of Commissioners  
501 SE Hawthorne Blvd.  
Portland, OR 97214

Tom Brian, Chair  
Washington County Board of Commissioners  
155 North First Avenue MS-21  
Hillsboro, OR 97124

**RE: LAND CONSERVATION AND DEVELOPMENT COMMISSION  
CONSIDERATION OF METRO URBAN AND RURAL RESERVES**

Dear Council President and Commission Chairs:

Enclosed is the department's report and recommendation concerning the consolidated submittal of urban and rural reserves by Clackamas, Multnomah, and Washington counties and Metro. This matter is scheduled to be heard by the Land Conservation and Development Commission (LCDC) beginning on October 19, 2010 in the Council Chambers at the Metro Regional Center, 600 NE Grand Avenue, Portland, Oregon. The estimated start time for the hearing is 2:30 p.m. on the 19<sup>th</sup>, and the hearing is expected to continue through October 22, 2010 at the same location.

Commission rules allows the local governments that submitted the decisions and persons who filed objections to those decisions to file written exceptions to the enclosed report. The exceptions must be filed with DLCD within 10 days from the date this report is mailed. This means that written exceptions to the report must be *received* by DLCD at its Salem office by 5:00 p.m. on **October 8, 2010** (see OAR 660-025-0160(4)).

LCDC will make a final decision on the submittals based on the written record (unless the commission requests new evidence or information). Oral argument will be allowed at the hearing, but it will be limited to the counties, Metro, and those who filed valid objections (see OAR 660-025-0085 and OAR 660-025-0160).

In order to complete the hearing in the available time, the time for argument will be limited. The hearing will be conducted according to the schedule described below. Specific amounts of times for argument on each objection will be set in order to stay within this schedule. To complete the argument and make its decisions, the commission may alter these times.

Tuesday (2:30 p.m. estimated start time)

1. Presentation of Staff Report (2:30 to 2:45)
2. Argument on the Validity of Certain Objections (see chapter IX of the staff report) (2:45 to 3:45)
3. Opening Statements (3:45 to 5:00) – opening statements are *optional*; they are *not* for parties to argue about objections; they are for the local governments to provide a brief overview of their decisions, and for the objectors to provide a brief description of their interest(s) in the decisions. New evidence that is not already in the record will be allowed *only* if the commission requests it. Times will be limited to fit within the schedule. Metro will have a maximum of 15 minutes, and the counties each will have a maximum of ten minutes to provide an overview of their decisions. The remainder of the time will be split between those who request making an opening statement.

Wednesday (8:00 a.m. to 5:00 p.m.)

**Argument: For each issue, argument will start with the objector(s), followed by Metro (for urban reserve issues) and/or the applicable county(ies) (for issues 4.E through 4.G, and 5.A through 5.C., below). Only one representative for each party will be allowed to argue, and objectors are limited to arguing only those issues raised in their own objections. The Commission will reserve approximately ten minutes at the end of each issue area for questions.**

4. Argument on General Objections (see chapters VI and VII of the staff report)
  - A. General Goal, Statute, and Rule Issues (8-10 a.m.)
  - B. Amount of Urban Reserve Land (10-12 a.m.)
  - C. Employment Land/Goal 9 (1-2:15 p.m.)
  - D. Population and Employment Forecasts (2:15-3 p.m.)
  - E. Foundation Farmland as Urban Reserves (3-5 p.m.)

Thursday (8:00 a.m. to 5:00 p.m.)

4. Argument on General Objections (*continued*) (see chapters VI and VII of the staff report)
  - F. Clackamas County Rural Reserves – Generally (8-8:30 p.m.)
  - G. Washington County Rural Reserves – Generally (8:30-9:30 p.m.)

5. Argument on Area-Specific Objections (see chapter VIII of the staff report)
  - A. Clackamas County (9:45-11:00)
  - B. Multnomah County (11:00-11:45)
  - C. Washington County (12:30-5:00)

Friday (8:30 a.m. to 3:00 p.m.)

9. Commission Deliberation and Decisions

**Note: The commission may elect to ask further questions of the parties as it deliberates to a decision on Friday.**

- cc. John VanLandingham, LCDC Chair (by email)  
Objectors (by email and mail)  
Local government contacts (by email and mail)





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September 28, 2010



**TO:** Land Conservation and Development Commission  
Portland Metro Area Urban and Rural Reserve Objectors

**FROM:** Richard Whitman, Director  
Rob Hallyburton, Planning Services Division Manager  
Jennifer Donnelly, Metro Area Regional Representative

**SUBJECT: Agenda Item 7, October 20-22, 2010, LCDC Meeting**

## **DEPARTMENT'S REPORT ON THE OBJECTIONS TO PORTLAND METRO AREA URBAN AND RURAL RESERVE DESIGNATIONS**

### **I. AGENDA ITEM SUMMARY**

#### **A. Type of Action and Commission Role**

The matter before the Land Conservation and Development Commission (LCDC or “the Commission”) includes amendments to the Clackamas, Multnomah, and Washington county comprehensive plans and the Metro Regional Framework Plan and Urban Growth Management Functional Plan to designate urban and rural reserves in the tri-county metropolitan area using the process authorized by the Oregon legislature in 2007 (SB 1011). These urban and rural reserves are reviewed by LCDC “in the manner provided for periodic review.” This item is before the Commission as a referral from the Director of the Department of Land Conservation and Development (DLCD, or “the Department”). This is a review on the record submitted by Metro and the three counties. The purpose of the hearing is to review the objections, the Department’s report responding to those objections, hear argument from the parties, and decide what action to take in response to the objections.

The Commission may do one or more of the following:

- (a) Approve the submittal;
- (b) Remand the submittal, or a portion of the submittal 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 Jennifer Donnelly, DLCD Regional Representative, at (971) 673-0963, or [jennifer.donnelly@state.or.us](mailto:jennifer.donnelly@state.or.us).

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## II. SUMMARY OF RECOMMENDED ACTION

For the reasons described in its report, below, the Department recommends that the Commission deny the objections and approve the submittal. While these urban and rural reserves guide where the Portland region may grow (and where it will not) over the next fifty years, it is important to understand that these decisions do *not* commit particular lands to urban development. That will occur only if and when Metro is able to justify an urban growth boundary expansion under other applicable law.

It is also important to understand that the process and criteria set by the Oregon legislature for designating urban and rural reserves is unlike any other large-scale planning exercise previously carried out in Oregon. With two exceptions, the Department believes that the statutes and rules that guide this effort replaced the familiar standards-based planning process with one based fundamentally on political checks and balances, together with factors that local governments are required to consider in making their decisions. The two exceptions, where the legislature and the Commission have set general standards for reserves are in terms of the overall amount of urban reserves, which must be based on forecasted population and employment growth (ORS 195.145(4)) and the commission's articulation of the purpose of reserves: "a balance in \* \* \* urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the regions for its residents." OAR 660-027-0005(2).

The result is that, in the Department's opinion, the region has substantial discretion in determining the *location* of urban and rural reserves – the framework that will guide *where* the region will grow over the next fifty years *if* the region shows that its needs for housing and employment require additional lands beyond the current urban growth boundary.

Rural reserves in the Portland metro region will provide the long-term certainty about stability of uses that our agricultural and forest industries need to make significant capital investments. They also will help shape the region and protect the landscapes and natural features that define it.

Urban reserves will enable communities in the regional and their partners in the private sector and government to plan for efficient improvements to our roads, other transportation systems, sewer and water systems, creating the foundation for great communities that can sustain long-term job creation and provide needed housing.

The Department carefully reviewed each of the objections from each of the 46 parties who filed in response to the Metro and county submittals. There are several areas where the parties made persuasive policy arguments, and there are a few areas where there may be close legal questions concerning the decisions under review. Nevertheless, in the Department's opinion, Metro and the counties have considered what they were required to consider, and have adequately explained their decisions. Their decisions are based on

substantial evidence in the record as a whole. As a result, and for the reasons set out in detail below, the Department recommends that the Commission approve the designations of urban and rural reserves in the Portland metro area as submitted by Metro and the three counties.

### **III. BACKGROUND**

#### **A. Purpose of Urban and Rural Reserves**

The purpose section of the Oregon Administrative Rule (OAR) regarding urban and rural reserves in the Portland Metro area (OAR 660-027-0005(2)) states:

Urban reserves designated under this division are intended to facilitate long-term planning for urbanization in the Portland metropolitan area and to provide greater certainty to the agricultural and forest industries, to other industries and commerce, to private landowners and to public and private service providers, about the locations of future expansion of the Metro Urban Growth Boundary. Rural reserves under this division are intended to provide long-term protection for large blocks of agricultural land and forest land, and for important natural landscape features that limit urban development or define natural boundaries of urbanization. The objective of this division is a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region for its residents.

Under ORS 195.143, the designation of urban and rural reserves in the Portland metro region is a cooperative process, where Metro designates urban reserves and the counties designate rural reserves. The authority provided by statute for designating reserves in this way is dependent on Metro and the counties agreeing on both the urban and rural reserve designations. Metro explains its purpose for the urban reserves as follows:

The Regional Framework Plan calls for long-range planning to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities. It is the purpose of Title 11 to guide such long-range planning for urban reserves and areas added to the UGB. It is also the purpose of Title 11 to provide interim protection for areas added to the UGB until city or county amendments to land use regulations to allow urbanization become applicable to the areas. Metro R. at 8

The counties define their intent for rural reserves as follows:

Rural Reserve areas are intended to provide long-term protection for large blocks of agricultural land and forest land, and for important natural landscape features that limit urban development or define natural boundaries of urbanization.  
CC Rec. at iv.

Rural reserves are intended to provide long-term protection of agricultural and forest land and landscape features that enhance the unique sense of place of the region. (Multnomah Co. Ordinance 1161, Policy 6-A)

Rural reserves are areas outside the Regional Urban Growth Boundary (UGB) that provide for the long-term protection of agriculture, forestry and/or important natural landscape features. (WC Rec. at 9549)

### **B. Local Actions**

Metro's final decision to designate urban reserves in the three-county region was made on June 3, 2010. Multnomah, Clackamas and Washington counties made their final decisions to designate rural reserves in their counties, respectively, on May 13, 27 and June 15, 2010.

The four governments submitted their decisions to the Department on June 23, 2010. Together, these decisions establish a system of urban and rural reserves in the three-county region to guide long-term planning to the year 2060. The decisions designate 28,615 acres of urban reserves to accommodate urban growth to 2060, and 266,954 acres of rural reserves to protect agricultural land, forest land and important natural landscape features from urbanization for 50 years. The decisions include changes to the comprehensive plans (of the counties) and the regional framework plan (of Metro), including the adoption of plan maps that depict the urban and rural reserves.

### **C. Major Legal and Policy Issues**

The decisions by the three counties and Metro involve issues related to the amount and location of the reserve areas, leading to four general issues:

1. Amount of urban reserve land
2. Location of urban reserves
3. Amount of rural reserve land
4. Location of rural reserves

An additional issue stems from requirements regarding planning and zoning within reserve areas. The criteria from statute and administrative rule relating to each of these issues are listed in the following section of this report.

## **IV. REVIEW CRITERIA, PROCESS & RECORD**

### **A. Decision-making Criteria**

ORS 195.137–195.145 provides the statutory authorization for rural reserve designation and authorization for a process to designate urban reserves that is unique to this region. These statutes also provide criteria regarding:

1. Amount of urban reserve land<sup>1</sup>
2. Location of urban reserves<sup>2</sup>
3. Location of rural reserves<sup>3</sup>

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<sup>1</sup> ORS 195.145(4): “Urban reserves designated by a metropolitan service district and a county pursuant to subsection (1)(b) of this section must be planned to accommodate population and employment growth for at least 20 years, and not more than 30 years, after the 20-year period for which the district has demonstrated a buildable land supply in the most recent inventory, determination and analysis performed under ORS 197.296.”

<sup>2</sup> ORS 195.145(5): “A district and a county shall base the designation of urban reserves under subsection (1)(b) of this section upon consideration of factors including, but not limited to, whether land proposed for designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:

- “(a) Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;
- “(b) Includes sufficient development capacity to support a healthy urban economy;
- “(c) Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;
- “(d) Can be designed to be walkable and served by a well-connected system of streets by appropriate service providers;
- “(e) Can be designed to preserve and enhance natural ecological systems; and
- “(f) Includes sufficient land suitable for a range of housing types.”

<sup>3</sup> ORS 195.141: “(2) Land designated as a rural reserve:

- “(a) Must be outside an urban growth boundary.
- “(b) May not be designated as an urban reserve during the urban reserve planning period described in ORS 195.145 (4). [“at least 20 years, and not more than 30 years, after the 20-year period for which the district has demonstrated a buildable land supply in the most recent inventory, determination and analysis performed under ORS 197.296.”]

“(c) May not be included within an urban growth boundary during the period of time described in paragraph (b) of this subsection.

“(3) When designating a rural reserve under this section to provide long-term protection to the agricultural industry, a county and a metropolitan service district shall base the designation on consideration of factors including, but not limited to, whether land proposed for designation as a rural reserve:

- “(a) Is situated in an area that is otherwise potentially subject to urbanization during the period described in subsection (2)(b) of this section, as indicated by proximity to the urban growth boundary and to properties with fair market values that significantly exceed agricultural values;
- “(b) Is capable of sustaining long-term agricultural operations;
- “(c) Has suitable soils and available water where needed to sustain long-term agricultural operations; and
- “(d) Is suitable to sustain long-term agricultural operations, taking into account:
  - “(A) The existence of a large block of agricultural or other resource land with a concentration or cluster of farms;

4. Use within an urban reserve<sup>4</sup>

In addition to statutory provisions governing the designation of reserves, the legislature directed the Commission to adopt rules implementing the statutes. ORS 195.141(4). Shortly after the effective date of SB 1011, LCDC adopted OAR chapter 660, division 27, which includes additional considerations for the counties and Metro to employ in their reserve determinations. The relevant rules in this division include provisions regarding:

1. Amount of urban reserve land<sup>5</sup>
2. Location of urban reserves<sup>6</sup>

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“(B) The adjacent land use pattern, including its location in relation to adjacent nonfarm uses and the existence of buffers between agricultural operations and nonfarm uses;

“(C) The agricultural land use pattern, including parcelization, tenure and ownership patterns; and

“(D) The sufficiency of agricultural infrastructure in the area.”

<sup>4</sup> ORS 195.145: “(3) In carrying out subsections (1) and (2) of this section:

“(a) Within an urban reserve, neither the Commission nor any local government shall prohibit the siting on a legal parcel of a single family dwelling that would otherwise have been allowed under law existing prior to designation as an urban reserve. \* \* \*”

<sup>5</sup> OAR 660-027-0040: “(2) Urban reserves designated under this division shall be planned to accommodate estimated urban population and employment growth in the Metro area for at least 20 years, and not more than 30 years, beyond the 20-year period for which Metro has demonstrated a buildable land supply inside the UGB in the most recent inventory, determination and analysis performed under ORS 197.296. Metro shall specify the particular number of years for which the urban reserves are intended to provide a supply of land, based on the estimated land supply necessary for urban population and employment growth in the Metro area for that number of years. The 20 to 30-year supply of land specified in this rule shall consist of the combined total supply provided by all lands designated for urban reserves in all counties that have executed an intergovernmental agreement with Metro in accordance with OAR 660-027-0030.

“(3) If Metro designates urban reserves under this division prior to December 31, 2009, it shall plan the reserves to accommodate population and employment growth for at least 20 years, and not more than 30 years, beyond 2029. Metro shall specify the particular number of years for which the urban reserves are intended to provide a supply of land.”

<sup>6</sup> OAR 6660-027-0050: Urban Reserve Factors: “When identifying and selecting lands for designation as urban reserves under this division, Metro shall base its decision on consideration of whether land proposed for designation as urban reserves, alone or in conjunction with land inside the UGB:

“(1) Can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments;

“(2) Includes sufficient development capacity to support a healthy economy;

“(3) Can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers;

“(4) Can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers;

“(5) Can be designed to preserve and enhance natural ecological systems;

“(6) Includes sufficient land suitable for a range of needed housing types;

“(7) Can be developed in a way that preserves important natural landscape features included in urban reserves; and

3. Location of rural reserves<sup>7</sup>

4. Planning for areas inside urban and rural reserves<sup>8</sup>

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“(8) Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.”

<sup>7</sup> OAR 660-027-0060: “(1) When identifying and selecting lands for designation as rural reserves under this division, a county shall indicate which land was considered and designated in order to provide long-term protection to the agriculture and forest industries and which land was considered and designated to provide long-term protection of important natural landscape features, or both. Based on this choice, the county shall apply the appropriate factors in either section (2) or (3) of this rule, or both.

“(2) Rural Reserve Factors: When identifying and selecting lands for designation as rural reserves intended to provide long-term protection to the agricultural industry or forest industry, or both, a county shall base its decision on consideration of whether the lands proposed for designation:

“(a) Are situated in an area that is otherwise potentially subject to urbanization during the applicable period described in OAR 660-027-0040(2) or (3) as indicated by proximity to a UGB or proximity to properties with fair market values that significantly exceed agricultural values for farmland, or forestry values for forest land;

“(b) Are capable of sustaining long-term agricultural operations for agricultural land, or are capable of sustaining long-term forestry operations for forest land;

“(c) Have suitable soils where needed to sustain long-term agricultural or forestry operations and, for agricultural land, have available water where needed to sustain long-term agricultural operations; and

“(d) Are suitable to sustain long-term agricultural or forestry operations, taking into account:

“(A) for farm land, the existence of a large block of agricultural or other resource land with a concentration or cluster of farm operations, or, for forest land, the existence of a large block of forested land with a concentration or cluster of managed woodlots;

“(B) The adjacent land use pattern, including its location in relation to adjacent non-farm uses or non-forest uses, and the existence of buffers between agricultural or forest operations and non-farm or non-forest uses;

“(C) The agricultural or forest land use pattern, including parcelization, tenure and ownership patterns; and

“(D) The sufficiency of agricultural or forestry infrastructure in the area, whichever is applicable.

“(3) Rural Reserve Factors: When identifying and selecting lands for designation as rural reserves intended to protect important natural landscape features, a county must consider those areas identified in Metro’s February 2007 “Natural Landscape Features Inventory” and other pertinent information, and shall base its decision on consideration of whether the lands proposed for designation:

“(a) Are situated in an area that is otherwise potentially subject to urbanization during the applicable period described OAR 660-027-0040(2) or (3);

“(b) Are subject to natural disasters or hazards, such as floodplains, steep slopes and areas subject to landslides;

“(c) Are important fish, plant or wildlife habitat;

“(d) Are necessary to protect water quality or water quantity, such as streams, wetlands and riparian areas;

“(e) Provide a sense of place for the region, such as buttes, bluffs, islands and extensive wetlands;

“(f) Can serve as a boundary or buffer, such as rivers, cliffs and floodplains, to reduce conflicts between urban uses and rural uses, or conflicts between urban uses and natural resource uses

“(g) Provide for separation between cities; and

“(h) Provide easy access to recreational opportunities in rural areas, such as rural trails and parks.

“(4) Notwithstanding requirements for applying factors in OAR 660-027-0040(9) and section (2) of this rule, a county may deem that Foundation Agricultural Lands or Important Agricultural Lands within three miles of a UGB qualify for designation as rural reserves under section (2) without further explanation under OAR 660-027-0040(10).”

These statutory and rule provisions provide the basis for the Department’s review in chapters V–VIII of this report. The provisions of the statute are generally repeated in a corresponding LCDC rule, so when a relevant standard is cited in this report, normally only the rule will be identified unless there is some particular reason for specific reference to the statute.

In addition to these statutes and rules, ORS 197.010 provides legislative land use policy, including these overarching principals:

1. Provide a healthy environment;
2. Sustain a prosperous economy;
3. Ensure a desirable quality of life; and
4. Equitably allocate the benefits and burdens of land use planning. (ORS 197.010(2))

The statute goes on to provide that the overarching principles provide “guidance” to a public body when the public body adopts or interprets goals, comprehensive plans and

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<sup>8</sup> OAR 660-027-0070: “(1) Urban reserves are the highest priority for inclusion in the urban growth boundary when Metro expands the UGB, as specified in Goal 14, OAR chapter 660, division 24, and in ORS 197.298.

“(2) In order to maintain opportunities for orderly and efficient development of urban uses and provision of urban services when urban reserves are added to the UGB, counties shall not amend comprehensive plan provisions or land use regulations for urban reserves designated under this division to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as urban reserves until the reserves are added to the UGB.

“(3) Counties that designate rural reserves under this division shall not amend comprehensive plan provisions or land use regulations to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as rural reserves unless and until the reserves are re-designated, consistent with this division, as land other than rural reserves.

“(4) Notwithstanding the prohibitions in sections (2) and (3) of these rules, counties may adopt or amend comprehensive plan provisions or land use regulations as they apply to lands in urban reserves, rural reserves or both, unless an exception to Goals 3, 4, 11 or 14 is required, in order to allow:

“(a) Uses that the county inventories as significant Goal 5 resources, including programs to protect inventoried resources as provided under OAR chapter 660, division 23, or inventoried cultural resources as provided under OAR chapter 660, division 16;

“(b) Public park uses, subject to the adoption or amendment of a park master plan as provided in OAR chapter 660, division 34;

“(c) Roads, highways and other transportation and public facilities and improvements, as provided in ORS 215.213 and 215.283, OAR 660-012-0065, and 660-033-0130 (agricultural land) or OAR chapter 660, division 6 (forest lands);

“(d) Uses and land divisions that are allowed by state statute or administrative rule at the time of the designation of urban and rural reserves.

“(5) Counties, cities and Metro may adopt and amend conceptual plans for the eventual urbanization of urban reserves designated under this division, including plans for eventual provision of public facilities and services, roads, highways and other transportation facilities, and may enter into urban service agreements among cities, counties and special districts serving or projected to serve the designated urban reserve area.

“(6) Metro shall ensure that lands designated as urban reserves, considered alone or in conjunction with lands already inside the UGB, are ultimately planned to be developed in a manner that is consistent with the factors in OAR 660-027-0050.”

land use regulations implementing the plans, or administrative rules implementing a provision of statute; or interprets a law governing land use.

### **B. Procedural Requirements and Validity of Objections**

Pursuant to OAR 660-027-0080, adopted urban and rural reserves are reviewed “in the manner provided for periodic review under ORS 197.628 to 197.650.” OAR 660-025-0160(5) provides that the Commission will hear referrals (such as this case) 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 objections. The local governments may provide general information on the task submittal and address those issues raised in the Department review and objections. Persons who submitted objections may address only those issues raised in their objections. 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 a referral, 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[.]

OAR 660-025-0140(2) states 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 notice was mailed by the local government;
- (b) Clearly identify an alleged deficiency in the work task;
- (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 46 letters of objection to the adopted urban and rural reserves (the objection letters are available at: [http://www.oregon.gov/LCD/state\\_review\\_of\\_metro\\_reserves.shtml#Objections\\_for\\_State\\_Review](http://www.oregon.gov/LCD/state_review_of_metro_reserves.shtml#Objections_for_State_Review)). The Department has analyzed the validity of each objection; an explanation of the results of this analysis is included in chapters VI–VIII of this report.

### **C. The Written Record For This Proceeding**

1. This DLCD staff report including responses to objections.
2. Correspondence identifying material in the record responsive to objections:

- a. Metro, August 13, 2010
- b. Multnomah County, August 13, 2010
- c. Washington County, August 13, 2010
- d. Clackamas County, August 18, 2010

3. Urban and Rural Reserves submittals

- a. Metro Ordinance No.10-1238A, and the following exhibits thereto (Attachment B):
  - o Exhibit A – Map
  - o Exhibit B – Regional Framework Plan Policy 1.7 Urban and Rural Reserves
  - o Exhibit C – Title 5 of the Urban Growth Management Functional Plan is repealed
  - o Exhibit D – Title 11: Planning for New Urban Areas
  - o Exhibit E – [Consolidated Findings for Urban and Rural Reserve Designations] Reasons for Designation of Urban and Rural Reserves
- b. Clackamas County Ordinance No.ZDO-223 (Attachment C), and the following exhibits thereto:
  - o Exhibit A – Chapter 4 Clackamas County Comprehensive Plan amendment, including map
  - o Exhibit B – Urban Rural Reserves findings of fact
- c. Multnomah County Ordinance No.1161 and Ordinance No.1165 (Attachment C) and the following exhibits thereto:
  - o Exhibit 2 – Findings of Fact
  - o Exhibit 3 – Record Index
- d. Washington County Ordinance No.733 (Attachment C) and the following exhibits thereto:
  - o Exhibit 1 amending the proposed Policy 29, relating to Rural and Urban Reserves designations, of the Rural/Natural Resource Plan;
  - o Exhibit 2 amending the Rural/Natural Resource Plan by the creation of a new map entitled “Rural and Urban Reserves” in Policy 29;
  - o Exhibit 3 amending the Rural/Natural Resource Plan by the creation of a new map entitled “Special Concept Plan Areas” in Policy 29;
  - o Exhibit 4 amending Policy 3, Intergovernmental Coordination, of the Rural/Natural Resource Plan;
  - o Exhibit 5 amending Policy 23, Transportation Plan, of the Rural/Natural Resource Plan;
  - o Exhibit 6 amending Policy 27, Urbanization, of the Rural/Natural Resource Plan;
  - o Exhibit 7 amending Policy 3, Intergovernmental Coordination, of the Comprehensive Framework Plan for the Urban Area;
  - o Exhibit 8 amending Policy 32, Transportation, of the Comprehensive Framework Plan for the Urban Area; and
  - o Exhibit 9 amending Policy 40, Regional Planning Implementation, of the Comprehensive Framework Plan for the Urban Area.

4. Objections. The following list shows the name of the individual or organization who submitted a letter in response to the Metro and county urban and rural reserve submittals. The reference number associated with the letter corresponds to the order of the letters in the following list and is used throughout this report. The reference number has no importance beyond identification. The preponderance of the letters included objections to one or more aspects of the reserves decisions. The validity of the objections is addressed in section IV.B and those found invalid are identified in chapter IX.

<u>Ref.</u>	<u>Name</u>
1.	Ann Culter
2.	Arthur Dummer
3.	Tualatin Riverkeepers
4.	Coalition for a Prosperous Region
5.	Carol Chesarek
6.	Chris & Tom Maletis
7.	Dale Burger
8.	Forest Park Neighborhood Association <i>et al.</i>
9.	David Hunnicutt
10.	Oregonians in Action
11.	David A. Smith
12.	Donald and Dawn Bowerman, <i>et al.</i>
13.	Dorothy Partlow
14.	Elizabeth Graser-Lindsey
15.	Hank Skade
16.	Jim Calcagno
17.	Jim Irvine
18.	Oregon Department of Agriculture
19.	Audubon Society
20.	John Burnham
21.	John and Judy Cherry
22.	Joseph C. Rayhawk
23.	Joseph C. Rayhawk
24.	Kathy Blumenkron
25.	Linda Peters
26.	1000 Friends of Oregon
27.	Gary Gentemann
28.	Melissa Jacobsen
29.	Michael Wagner
30.	Michael Cropp
31.	Metropolitan Land Group
32.	City of Portland
33.	Robert Burnham
34.	Robert Zahler
35.	Coalition for a Livable Future
36.	Sandra J. Baker

37. Save Helvetia Community
  38. Steve and Kelly Bobosky
  39. Susan McKenna
  40. Thomas J. VanderZanden
  41. Thomas J. VanderZanden
  42. Tim O’Callaghan
  43. Tom Szambelan
  44. Cities of Tualatin and West Linn
  45. William E. Kaer
  46. City of Wilsonville
5. Any valid exceptions to the Department’s report and response from the Department.
- Please contact Jennifer Donnelly at (971) 673-0963 or [jennifer.donnelly@state.or.us](mailto:jennifer.donnelly@state.or.us) to view or obtain copies of these materials.

## V. DEPARTMENT ANALYSIS

This chapter contains the Department’s review of the urban and rural reserves decisions by Metro and Clackamas, Multnomah and Washington counties. This chapter addresses the Department’s own review of the urban and rural reserve designations, while chapters VI–VIII provide the Department’s response to objections received from individuals and organizations.

The Department’s review is of the written record, and is limited to whether the decisions are: (a) unlawful in substance or procedure (however, error in procedure is not cause for reversal or remand unless the substantial rights of a person who filed a valid objection were prejudiced); (b) unconstitutional; or (c) not supported by substantial evidence in the whole record. SB 1010, section 9.

### A. Amount of Urban Reserve Land

The statutory and administrative rule requirements regarding the amount of land that Metro may designate as an urban reserves are provided in footnotes 1 and 5. Generally, the urban reserve is to include a sufficient quantity of land to accommodate urban growth for 20 to 30 years beyond the 20-year period for which Metro has demonstrated a buildable land supply inside the UGB in the most recent inventory, determination and analysis under ORS 197.296. OAR 660-027-0040(2). Metro must first inventory the buildable land supply inside the UGB, then determine the capacity of those lands (the lands already inside the UGB) to meet the region’s long-term needs, and then analyze what portion of those long-term needs may require additional lands beyond the current UGB. In carrying out these steps, Metro must specify the number of years for which the urban reserves are intended to provide a supply of land. OAR 660-027-0040(2).

Metro’s compliance with the rule provision regarding determination of land supply was identified by a number of objectors as a potential issue. OAR 660-027-0040(2) says:

Urban reserves designated under this division shall be planned to accommodate estimated urban population and employment growth in the Metro area for at least 20 years, and not more than 30 years, *beyond the 20-year period for which Metro has demonstrated a buildable land supply inside the UGB in the most recent inventory, determination and analysis performed under ORS 197.296*. Metro shall specify the particular number of years for which the urban reserves are intended to provide a supply of land, based on the estimated land supply necessary for urban population and employment growth in the Metro area for that number of years. The 20 to 30-year supply of land specified in this rule shall consist of the combined total supply provided by all lands designated for urban reserves in all counties that have executed an intergovernmental agreement with Metro in accordance with OAR 660-027-0030. (emphasis added)

To designate the appropriate amount of reserves, Metro must know for which years and for how many years it is planning. The rule involves two different planning periods: the

first is the “20-year planning period for which Metro has demonstrated a buildable land supply in the most recent inventory, determination and analysis performed under ORS 197.296” (hereafter, the “UGB-planning period”), while the second planning period is the 20 to 30-year period for which the urban reserves satisfy additional need (the “UR-planning period”).

Because under OAR 660-027-0040(2) the UR-planning period begins after the UGB-planning period ends, in order to designate the correct amount of urban reserves it is necessary to know *which* 20-year UGB-planning period the UR-planning period follows. According to Ordinance No. 10-1238A, Exhibit E (hereafter the “Consolidated Findings”), “Metro developed a 50-year ‘range’ forecast for population and employment that was coordinated with the 20-year forecast done for Metro’s UGB capacity analysis completed in December, 2009.” Metro Rec. at 22. The Consolidated Findings also state that “[t]he urban reserve estimate begins with Metro’s UGB estimate of need for the next 20 years in its Urban Growth Report 2009-2030, January, 2010 (adopted December 17, 2009).” *Id.* In other words, Metro based the UR-planning period on the 2010-2030 UGB-planning period in the Urban Growth Report. Metro designated 30 years of urban reserves to provide for future urban expansion and development from 2030 until 2060 – thirty years beyond the UGB-planning period.

OAR 660-027-0040(2) states that the place where Metro will have demonstrated a buildable land supply is “*in* the most recent inventory, determination and analysis performed under ORS 197.296.” (emphasis added) By completing the inventory, determination and analysis Metro demonstrates the buildable land supply. Nothing more is required.

Metro is required by OAR 660-027-0040(2) to *inventory* the supply of buildable lands within the current UGB. ORS 197.296(3)(a). Metro must then *determine* the housing capacity of that buildable land. *Id.* After doing those two things, ORS 197.296(3)(b) requires Metro to conduct an *analysis* of housing need by type and density range to determine the number of units and amount of land needed for each needed housing type for the next 20 years. Metro has completed these three steps, not only for its future housing needs, but also for its projected needs for employment lands. Metro Rec. at 609. By complying with the requirements of ORS 197.296(3), Metro has satisfied the requirement for a UGB-planning period to be one onto which a UR-planning period can tack because, by completing the inventory, determination and analysis, and particularly the inventory, it has demonstrated what the buildable land supply is for that UGB-planning period.

Metro has designated urban reserves for a planning period that is authorized under the urban reserve statutes and rules. Metro completed its inventory, determination and analysis under ORS 197.296 for the 2009-2030 UGB-planning period, and compiled the results into the 2009-2030 Urban Growth Report (“UGR”).<sup>9</sup> Metro Council adopted the 2009-2030 UGR by resolution on December 17, 2009. Metro Rec. at 22. Accordingly,

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<sup>9</sup> The full title of the Urban Growth Report is “Urban Growth Report, 2009-2030, Employment and Residential, January 2010.”

Metro has demonstrated a buildable land supply in the most recent inventory, determination and analysis performed under ORS 197.296, and the 2009-2030 UGB-planning period is one onto which the UR-planning period may tack under OAR 660-027-0040(2) and ORS 195.145(4).

Several objections also relate to Metro’s population and employment forecasts, which are the starting point for its determination of the region’s long-term land needs. See, section VI.D, below. Some objectors allege that Metro’s use of the forecasts as the basis for its land needs projections does not comply with state requirements because the forecasts are not acknowledged. These objectors point to prior case law, involving Metro’s designation of urban reserves in 1997, when Metro relied upon a *draft* forecast that had not been adopted by the Metro Council instead of Metro’s acknowledged planning documents (it’s Functional Plan). *D.S. Parklane v. Metro*, 165 Or App 1, 21-23, 994 P2d 1205 (2000) (“*Parklane*”) (Metro’s adopted planning documents “must be the basis for all decisions and actions relating to the use of land.”)

The Department recommends that the Commission find that Metro’s use of the 20 and 50-year population and employment forecasts (Metro Rec. at 1916-1933) complies with state requirements. Unlike the decision challenged in *Parklane*, in this case the Metro Council adopted the 20 and 50-year population and employment forecast for the express purpose of determining the amount of land required for urban reserves, as Appendix 12 to the Urban Growth Report. Metro Rec. at 59-60, 1918-2011; Metro Resolution No. 09-4094. The 2009 Urban Growth Report is not a draft planning document, it is *the* means by which Metro begins its process for determining urban reserve land needs (and land needs for purposes of its urban growth boundary). For these reasons, the Department recommends that the Commission deny the objections concerning Metro’s population and employment forecasts.

### **B. Location of Urban Reserves**

The statute and administrative rules addressing where to locate urban reserves are provided in footnotes 2 and 6. The statute and rule provide “factors” that Metro must consider when deciding which lands to designate as urban reserves (the rule includes two factors in addition to those in the statute). The “urban reserve factors” that Metro must consider in review of candidate areas are whether the land in question:

- (1) Can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments;
- (2) Includes sufficient development capacity to support a healthy economy;
- (3) Can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers;
- (4) Can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers;
- (5) Can be designed to preserve and enhance natural ecological systems;
- (6) Includes sufficient land suitable for a range of needed housing types;

- (7) Can be developed in a way that preserves important natural landscape features included in urban reserves; and
- (8) Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves. OAR 660-027-0050.

Note these factors are *not criteria* in the sense that Metro has to show each area complies with each factor. Rather, these are each *considerations*, which Metro must take into account when deciding whether to designate an area as an urban reserve.

The findings included in the Metro Council’s decision are found in the Consolidated Findings. Metro Rec. at 14. The findings explain how Metro employed the factors, by explaining the background, overall conclusions, the overall process and an analysis of public involvement. The factors were applied in different processes in each of the counties.<sup>10</sup>

**1. Deciding Whether A Particular Area Should be Urban or Rural, or Undesignated, and the Role of Metro and the Role of LCDC.** Any one area may be, and many areas likely could have been, designated either as an urban or a rural reserve. Many areas have characteristics such that Metro could have designated them as either urban or rural reserve after considering *both* sets of factors under OAR 660-027-0050 and OAR 660-027-0060. The question for the Department in this report (and that the Department recommends the Commission use in its review) is whether Metro considered the urban reserve factors in deciding to include particular areas, explained why the areas should be urban reserves using the factors listed in the statute and rules, and whether there is evidence in the record as a whole that a reasonable person would rely upon to decide as Metro did.

With one exception, the Department does not believe that the question is whether an area would be better as a rural reserve than as an urban reserve, or even whether Metro was right in its decisions. The questions are narrow: *whether Metro considered what it was supposed to consider, whether Metro’s findings explain its reasoning, and whether there is some evidence in the record to support Metro’s decision.*

The one exception is for lands that were identified by the Oregon Department of Agriculture as Foundation Agricultural Land. Under OAR 660-027-0040(11), if Metro

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<sup>10</sup> Reasons for Reserves in Clackamas County:  
Urban Reserves Metro Rec. at 25  
Rural Reserves Metro Rec. at 39  
Reasons for Reserves in Multnomah County, Metro Rec. at 46:  
Urban Reserves Metro Rec. at 48  
Rural Reserves Metro Rec. at 49  
Reasons for Reserves in Washington County, Metro Rec. at 58:  
Urban Reserves Metro Rec. at 71  
Rural Reserves Metro Rec. at 95  
Consistency with Regional and State Policies, Metro Rec. at 110

designates such land as an urban reserve, it must “\* \* \* explain, by reference to the factors in OAR 660-027-0050 and 660-027-0060(2) [the urban *and* rural factors], why Metro chose the Foundation Agricultural Land for designation as urban reserves rather than other land considered under this division.” For these lands, Metro must consider both sets of factors, and explain why it selected the lands in question instead of other lands.

In sum, objections that an area is better suited for one designation than the other do not provide a basis for remand, with the exception of Foundation Agricultural Lands. The administrative rules and the applicable statutes leave substantial discretion to Metro in deciding which lands to designate as urban reserves and, as long as Metro can demonstrate that it considered the factors, there is no requirement for Metro to show that the area is better suited as an urban reserve than as a rural reserve.

**2. Scale of Review.** A second general question is the appropriate scale of analysis for Metro to employ in deciding what lands to designate as urban reserves. OAR 660-027-0050, the factors for urban reserves, and OAR 660-027-0060 for rural reserves refer to identification and selection of “land,” and some of the individual factors in those rules mention characteristics of “the area.” None of the factors for selecting urban or rural reserves, or any other provision of the applicable statutes or rules, require a parcel-specific analysis for reserve-boundary location decisions.

Since the amount of urban reserve land is limited to the amount Metro demonstrates is needed, the region-wide supply of urban reserve is constrained, so locating urban reserve boundaries requires a higher level of precision than does locating rural reserve boundaries. The Department recommends that the Commission affirm the analysis areas Metro has used for evaluating lands as urban reserves. The Department does not believe that a parcel-by-parcel analysis is required by either the statutes or rules, particularly in light of the fact that the land in question normally will not be urbanized for decades. The Department recommends that the Commission affirm Metro’s use of areas, as set forth in the Consolidated Findings, as the appropriate scale for considering the application of the urban reserve factors.

The Department’s analysis has not revealed any other general issues related to Metro’s designation of urban reserves that are not covered in responses to objections in chapters VI–VIII of this report.

### **C. Amount of Rural Reserve Land**

Neither the statute nor the rule include criteria, standards or factors for determining how much rural reserve land is appropriate for the counties to designate. The factors address the qualities of the land, and there is no state standard regarding how much rural reserve a county may designate. The purpose statement in the rule (OAR 660-027-0005(2)) includes the following provision:

The objective of this division is a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and

vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region for its residents.

Since this “balance” is not implemented through prescribed criteria, the counties and Metro have considerable discretion in deciding which lands warrant the protections provided by a rural reserve designation.

Issues raised by objectors related to the amount of rural reserve land designated by the counties are addressed in chapter VII of this report.

#### **D. Location of Rural Reserves**

Both the statutes and rules provide “factors” for consideration in locating rural reserves, but no criteria with which the counties are required to show compliance (the rule includes several factors related to designation of important natural landscape features not present in the statute). The “rural reserve factors” for agricultural and forest lands are whether the lands:

- (a) Are situated in an area that is otherwise potentially subject to urbanization during the applicable period described in OAR 660-027-0040(2) or (3) as indicated by proximity to a UGB or proximity to properties with fair market values that significantly exceed agricultural values for farmland, or forestry values for forest land;
- (b) Are capable of sustaining long-term agricultural operations for agricultural land, or are capable of sustaining long-term forestry operations for forest land;
- (c) Have suitable soils where needed to sustain long-term agricultural or forestry operations and, for agricultural land, have available water where needed to sustain long-term agricultural operations; and
- (d) Are suitable to sustain long-term agricultural or forestry operations, taking into account:
  - (A) for farm land, the existence of a large block of agricultural or other resource land with a concentration or cluster of farm operations, or, for forest land, the existence of a large block of forested land with a concentration or cluster of managed woodlots;
  - (B) The adjacent land use pattern, including its location in relation to adjacent non-farm uses or non-forest uses, and the existence of buffers between agricultural or forest operations and non-farm or non-forest uses;
  - (C) The agricultural or forest land use pattern, including parcelization, tenure and ownership patterns; and
  - (D) The sufficiency of agricultural or forestry infrastructure in the area, whichever is applicable. OAR 660-027-0060(2).

The rural reserve factors for designating lands to protect important natural landscape features are whether the lands:

- (a) Are situated in an area that is otherwise potentially subject to urbanization during the applicable period described OAR 660-027-0040(2) or (3);

- (b) Are subject to natural disasters or hazards, such as floodplains, steep slopes and areas subject to landslides;
- (c) Are important fish, plant or wildlife habitat;
- (d) Are necessary to protect water quality or water quantity, such as streams, wetlands and riparian areas;
- (e) Provide a sense of place for the region, such as buttes, bluffs, islands and extensive wetlands;
- (f) Can serve as a boundary or buffer, such as rivers, cliffs and floodplains, to reduce conflicts between urban uses and rural uses, or conflicts between urban uses and natural resource uses
- (g) Provide for separation between cities; and
- (h) Provide easy access to recreational opportunities in rural areas, such as rural trails and parks. OAR 600-027-0060(3).

The rules include other provisions besides these factors; see footnotes 3 and 7 for the full statutes and rules. See subsection V.B.1 above for a discussion of consideration of areas that qualify for both urban and rural reserve designation and the appropriate size of study area for analyzing candidate reserve areas. This is important for the review of objections, as many of the objections relate to the designation of particular parcels. The Department's response to objections related to the location of rural reserves is located in chapter VII.

The findings regarding rural reserve decisions included in each county's and Metro's decisions can be found in Metro's submittal. Metro Rec. at 39 for Clackamas County; at 49 for Multnomah County; and at 82 for Washington County. The findings describe each rural reserve area and explain the county's findings regarding the rural reserve factors in OAR 660-027-0060(2).

#### **E. Plan and code provisions to implement reserves policy**

The statute and administrative rule requirements relevant to planning and land use regulations within reserves are found in footnotes 4 and 8. The only statutory provision is a restriction on new regulations prohibiting the siting of a single family dwelling on a legal parcel where that use was formerly permitted. The counties and Metro have complied with this provision.

The rule includes restrictions on up-zoning and other intensification of uses in urban or rural reserves. The counties have adopted amendments to their comprehensive plan policies implementing these restrictions in order to influence future land use decisions. CC Rec. at pp. 12, Policy 10 (FCFC); MC Rec. at pp. 9663a; WC Rec. at 9044. The Department received no objections related to the counties' implementation of planning and zoning inside urban and rural reserves. The Department recommends the Commission find the reserves decisions comply with OAR 660-027-0070 and ORS 195.145(3)(a).

OAR 660-027-0070(6) requires that Metro ensure the lands designated as urban reserves be planned to develop in a manner consistent with the findings and conclusions that

resulted in the designation. To implement the use restrictions within urban reserves, Metro adopted an amendment to the Urban Growth Management Functional Plan to include policies requiring completion of concept plans developed by affected local governments, service districts, and Metro for areas before they are added to the UGB. Metro Rec. at 4, 8–13.

The Department received no objections related to Metro’s implementation of planning and zoning inside urban reserves. The Department recommends the Commission find the reserves decision is consistent with OAR 660-027-0070.

## **VI. RESPONSE TO OBJECTIONS – URBAN RESERVES DECISION**

This chapter contains the Department’s analysis of objections to Metro’s urban reserves submittals, with recommendations on whether the Commission should sustain or deny the objection. In some cases, the objection is related to an issue addressed in the Department’s analysis in chapter V above, and in other cases new issues are raised.

This chapter addresses only valid objections. See section IV.B for a description of requirements for valid objections. Chapter IX lists objections that do not satisfy the criteria to be valid, and explains why the Department recommends that the Commission deny particular objections. The full text of all objections is available at [http://www.oregon.gov/LCD/state\\_review\\_of\\_metro\\_reserves.shtml](http://www.oregon.gov/LCD/state_review_of_metro_reserves.shtml). The reference, or “Ref.,” number indicated for each objection in the analysis below directs readers to the appropriate letter. The number has no significance other than for ease of identification.

### **A. General Goal, Statute, and Rule Issues**

**1. Cities of Tualatin and West Linn (Ref. 44-1).** These objectors submitted a letter containing six objections. This first objection regards a general issue related Metro’s authority to establish urban reserves, while objections 2 through 6 relate to designation of Areas 4A–D (the Stafford Area) as an urban reserve. This subsection addresses the first objection. The objector cities are represented by Miller Nash, LLP.

**a. Objection.** The cities assert that Metro has no authority to designate urban reserves pursuant to OAR chapter 660, division 27 and the designation of urban reserves is a violation of Goal 2. Tualatin, July 14, 2010 at 3.

The cities contend that Metro’s designation of urban reserves under the division 27 process is unlawful in substance because Metro Code Chapter 3.01, and specifically Sections 3.01.010(h) and 3.01.012, requires Metro and cities and counties within Metro’s jurisdiction to designate urban reserves pursuant to OAR chapter 660, division 21. Metro has not amended its code to add the authority provided through SB 1011. According to the cities, Metro therefore has no authority under its own code to adopt urban reserves pursuant to division 27, and the counties are similarly prohibited from doing so. *See* Metro Code Section 3.01.012. The reserves decision is void. The Commission therefore has no jurisdiction to review the reserves decision.

Anticipating that Metro would argue that its adoption of Ordinance 101238A should be considered a *de facto* amendment to Chapter 3.01, the cities argue that while the ordinance amended several other sections of the Metro Code, it did not amend Chapter 3.10, nor do the findings explain how the reserves decision is consistent with Chapter 3.10. According to the cities, the reserves decision therefore violates Goal 2, because Metro’s adopted planning documents “must be the basis for all decisions and actions relating to the use of land.” *D.S. Parklane v. Metro*, 165 Or App 1, 21-23, 994 P2d 1205 (2000) (“*Parklane*”).

The cities' proposed remedy is for the Commission to dismiss or remand the reserve decision.

**b. Department Analysis and Recommendation.** The Department recommends that the Commission deny this objection. The cities have not established as a legal matter that Metro lacks the authority to designate urban reserves under OAR chapter 660, division 27.

As a matter of fact relevant to this objection, Metro designated urban reserves under ORS 195.145(1)(b) and OAR chapter 660, division 27.

ORS 195.141(1) provides: "A county and a metropolitan service district established under ORS chapter 268 may enter into an intergovernmental agreement...to designate rural reserves pursuant to this section and urban reserves pursuant to ORS 195.145(1)(b)."

ORS 195.145(1)(b) provides: "Alternatively, a metropolitan service district established under ORS chapter 268 and a county may enter into a written agreement...to designate urban reserves."

OAR 660-027-0020(1) provides: "As an alternative to the authority to designate urban reserve areas granted by OAR chapter 660, division 21, Metro may designate urban reserves through intergovernmental agreements with counties and by amendment of the regional framework plan to implement such agreements in accordance with the requirements of this division."

As noted above, ORS 195.145(1)(b) and OAR chapter 660, division 27 establish an additional process for designation of urban reserves for metropolitan service districts and counties within such districts. *See* OAR 660-027-0020(1). Nothing in either the statute or the rule requires a metropolitan service district to designate urban reserves under either process. The statute and the rule therefore do not preempt any local choice to select one process over the other.

For Urban Reserve Areas, Metro Code 3.01.012(a) provides: "This section establishes the process and criteria for designation of urban reserve areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021." Metro Code 3.01.010(h) defines "Urban reserve" to mean "an area designated as an urban reserve pursuant to Section 3.01.012 of this Code and applicable statutes and administrative rules.

The cities contend that those provisions limit Metro's authority to designate urban reserves to the process provided under OAR chapter 660, division 21. The Department agrees that if Metro elected to designate urban reserves under ORS 195.145 *and* division 21, it would need to do so following the process and criteria in Metro Code 3.01.012. However, that is not what Metro did. It elected to proceed directly under the authority provided by SB 1011 and OAR 660-027, and nothing in the Metro Code cited by

objectors limits Metro’s authority to act directly under the statute and rules. The statute and the rules are self-executing and nothing in state law or rule requires Metro to update its ordinance to reflect the more recent state legislation.

The Metro Code does not provide either a process or criteria for designation of urban reserve areas pursuant to ORS 195.145(1)(b) and OAR chapter 660, division 27. Objectors contend that the absence of provisions in the Metro Code means that Metro lacks authority to utilize the provisions of OAR chapter 660, division 27. However, objectors point to nothing in the Metro Code that precludes Metro from employing the alternative means of designating urban reserves under ORS 195.145(1)(b) and OAR chapter 660, division 27. Nor do objectors establish that the authorizations to designate urban reserves under ORS 195.145(1)(b) and OAR chapter 660, division 27 are contingent on Metro first adopting a process and criteria as it has done in Metro Code 3.01.012 for the other means of designating urban reserves.

The cities’ argument is premised on the assertion that Metro has made a local choice to select one process over the other. However, Metro adopted the provisions of Metro Code 3.01.012 prior to the enactment of Oregon Laws 2007, chapter 723. To construe Metro Code 3.01.012 as a “local choice” to preclude using a statutory alternative for designating urban reserves that did not yet exist is nonsensical, and contrary to the rules of statutory construction, as it would require inserting a restriction into that provision that does not exist. *See* ORS 174.010.

To the extent the Commission’s review of the submittal pursuant to OAR 660-027-0080(4) includes review of compliance with the Metro Code, the Department recommends that the Commission reject this objection.

**2. Coalition for a Prosperous Region (Ref. 4-4).** “CPR”: Columbia Pacific Building Trades Council, The Commercial Real Estate Association (NAIOP), Commercial Real Estate Economic Coalition, Home Builders Association of Metropolitan Portland, Metropolitan Association of Realtors®, Portland Business Alliance, and Westside Economic Alliance, represented by Stark Ackerman. This objector submitted a letter containing five objections.

**a. Objection.** The objection contains three parts:

- (1) Metro failed to allocate land needs by geographic subarea to meet long-term needs for population and employment, and as such failed to balance urban needs as required by OAR 660-027-0005(2).
- (2) By doing so, Metro failed to adequately consider the urban reserves factor requiring sufficient development capacity to support a healthy economy (OAR 660-027-0050(2)).
- (3) By doing so, Metro failed to adequately consider the urban reserves factor requiring that lands designated for urban reserves can be developed in a way that makes efficient use of existing and future infrastructure investments (OAR 660-027-0050(1)).

Metro is therefore alleged to have failed to comply with Statewide Planning Goals 9, 10 and 14. CPR, July 14, 2010 at 14–16.

The objection contends the three counties that comprise the Metro region are projected to grow at different rates, yet the reserves decision does not expressly allocate land needs by geographic area, or even allow sufficient flexibility to address such sub-regional growth rates. The Coalition’s primary concern is that insufficient urban reserves and undesignated lands have been provided to meet the region’s needs over the next 50 years, particularly in the western part of the region. This objection is therefore focused on the need to increase urban reserves in Washington County consistent with its sub-regional growth needs.

According to the Coalition, the failure to allocate growth among the counties means that the reserves decision failed to properly apply the urban reserves factor that lands designated for urban reserves can be developed in a way that makes efficient use of existing and future infrastructure investments. The failure to allocate growth among the counties also means that the reserves decision failed to properly apply the urban reserves factor that sufficient development capacity for a healthy economy and sufficient land suitable for a range of housing choices.

The Coalition proposed the following remedy:

- (1) Designate additional land in Washington County as urban reserves based on unmet need in a process that considers all relevant factors, including historic population growth, economic aspirations of the individual communities, and housing equity.
- (2) In the alternative, acknowledge the designated urban reserves for all three counties, but remand with direction to remove rural reserve designations in Washington County such that there is sufficient land available to accommodate possible increases to the urban reserves, or to retain these as undesignated until they may be needed for conversion to urban reserves at a later time.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

Regarding part (1) of the objection, OAR 660-027-0005(2) requires findings supported by an adequate factual base that there is a balance between designated urban and rural reserves that, “*in its entirety, best achieves* livable communities, the viability and vitality of the agricultural and forest industries and protection of the most important landscape features that define the region for its residents.” OAR 660-027-0005(2). (emphasis added) The objection indicates that “balance” means or includes assigning land needs across the region by geographic area. The Department does not agree.

The Coalition’s arguments might have more force if the decision under review were Metro’s legislative amendment of its regional urban growth boundary. In that context, the

court's have found that Metro must consider regional balance. Here, however, Goal 14 and the related statutes concerning housing and employment do not apply. The statutory and rule criteria are much less prescriptive, and only direct Metro to assure that the amount of land “\* \* \* be planned to accommodate estimated urban population and employment growth in the Metro area for at least [40 to 50 years] \* \* \*, [and that the amount] consist of the combined total supply provided by all lands designated for urban reserves in all counties that have executed an intergovernmental agreement with Metro \* \* \*.” OAR 660-027-0040(2).

The designation of urban reserves in the Metro region provides a large inventory of land that has the *potential* to become urbanizable in the future, to the extent that Metro is able to demonstrate a need for additional land. To the extent that one part of the Metro region grows faster than expected, either in terms of residents or jobs, Metro retains the ability to adjust its UGB to reflect differences in growth rates. Further, Metro, as recommended by the Department, has built in a twenty-year review of its urban reserves designations so that it can adjust what lands are *potentially* urbanizable as well. And, Metro and the counties have (collectively) left some undesignated lands around the entire region in order to allow for this type of correction.

In short, unlike a UGB amendment, an urban reserve designation provides an overall amount of land for potential urban needs for a 30-year year period beyond the 20-year UGB; it does not designate lands for urban use, let alone for specific future uses or sub-regional needs. (See response to City of Portland Objection #1 regarding use of specific industrial needs to determine urban reserve land supply, citing LCDC's remand of the City of Newberg urban reserves decision.)

The Coalition also incorrectly relies on the joint state agencies' October 14, 2009 letter to the Metro Regional Reserves Steering Committee and Core 4. Metro Rec. at 1370-1390. The Coalition mistakenly interprets the letter to mean that the urban reserves decision must designate specific lands or areas for specific future urban uses in specific parts of the region. But the state agencies were saying only that sub-regional needs were an important policy consideration that the agencies urged Metro to take into account as part of its deliberations. In fact, the findings show that county and local needs were presented and extensively considered in the process and analysis leading up to the final designation of urban and rural reserves. *See, e.g.*, Metro Rec. at 2021, 25-39, 48-49 and 71-95.

The Department recommends that the Commission find that failure to designate urban reserves by geographic area does not violate OAR 660-027-0005(2) or other relevant goals and rules.

In part (2) of the objection, the Coalition alleges that, by not designating urban reserves on a geographic basis, Metro didn't adequately consider the urban reserves factor requiring sufficient development capacity to support a healthy economy in OAR 660-0050(2). The objection relies on the fact that the Washington County Reserves Coordinating Committee recommended an urban reserves amount of 34,300 acres in Washington County to the Reserves Steering Committee and the Core 4, but Metro

ultimately designated about 13,000 acres in Washington County. Metro Rec. at 71-73. As the objection expressly states, its purpose is to increase the amount of urban reserves in Washington County in order to increase the total regional urban reserves land supply. The objector claims that a healthy regional economy requires Metro to adopt a much higher number for urban reserves land supply in Washington County, and the correct number is the one recommended by Washington County.

Metro is not required to adopt the recommendation of any party to the reserves process. In designating urban and rural reserves, Metro and three counties must apply, weigh and balance the urban and rural reserve designation factors in the administrative rule to lands in the study area, and make a decision based on findings that demonstrate that the decision meets the criteria for urban reserves and the overall objective in OAR 660-027-0005(2). The real issue, then, is whether there are adequate findings in the record showing that OAR 660-027-0050(2) was applied in Metro's analysis (whether the urban reserves "include sufficient development capacity to support a healthy economy"). The Department finds that there are. Metro Rec. at 16-17, 27, 29, 31-32, 34, 37-38, 48-49, 69, 71, and 73-94. In its findings, Metro specifically addresses this factor with regard to employment lands. Metro Rec. at 16-17, 23.

The Department recommends that the Commission find that Metro's failure to designate urban reserves on a geographic basis does not violate the cited goals and rules.

Regarding the third and final part of the objection, the Coalition claims that failure to allocate growth among the counties means that Metro didn't properly apply the urban reserves factor requiring that lands can be developed in a way that makes efficient use of existing and future infrastructure investments. The objector relies on the fact that "the City of Hillsboro has developed sophisticated infrastructure to support substantial industrial development"; however, the objection does not cite to facts in the record supporting that conclusory statement, and even if such facts were cited they don't require the conclusion that Metro did not properly apply the factors to study areas around the entire region, not just in Washington County.

The primary remaining issue is whether there are adequate findings in the record showing that OAR 660-027-0050(3) was applied in Metro's analysis (whether the land proposed for urban reserves "can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers.") The Department believes that there are. Metro Rec. at 27, 29, 31-32, 35, 38, 48, 69-71, and 73-94.

The Department recommends that the Commission find that Metro's failure to designate urban reserves on a geographical basis does not violate the cited goals and rules.

**3. Elizabeth Graser-Lindsey (Ref. 14-1).** This objector submitted a letter with two objections.

**a. Objection.** Ms. Graser-Lindsey asserts the decision designating the urban and rural reserves failed to "consider as a major determinant the carrying capacity of the air,

land and water resources” and failed to determine if “the land conservation and development actions provided for by such plans” would “exceed the carrying capacity of such resources.” Metro and the counties did not “develop alternative means that will achieve the goals” as required by Statewide Planning Goal 2 when the guidelines are not followed. The objector asserts the reserves decision violates Statewide Planning Goals 2, 3, 4, 5, 6, 8, 9, 10, 12, and 14. Graser-Lindsey, July 6, 2010 at 1.

The 1995 Metro Future Vision states: “We have chosen to approach carrying capacity as an issue requiring ongoing discussion and monitoring.” Metro’s Notice of Adoption of Urban and Rural Reserves (Metro Ordinance No. 10-1238A, Exhibit E) indicates that Statewide Planning Goals 1–15 apply to this decision, that “these decisions establish a system of urban and rural reserves in the three-county region to guide long-term planning to the year 2060,” and that “the decisions include changes to the comprehensive plans (counties) and regional framework plan (Metro) and maps.”

Ms. Graser-Lindsey’s proposed remedy is for the Commission to remand with instructions to evaluate the carrying capacity of the air, land and water resources of the planning area, evaluate its relevance as a major determinant on the urban and rural reserve planning, determine whether the land conservation and development actions provided for by the urban and rural reserve plans would exceed the carrying capacity of such resources, and, if they would exceed the carrying capacity of the resources, to modify the reserve plans.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

It is true, as the objector states, that all relevant goals apply to urban and rural reserves designations. This is because they are comprehensive plan amendments in the case of Clackamas, Multnomah, and Washington Counties, and Regional Framework Plan amendments in the case of Metro, and plan amendments must include findings regarding compliance with the relevant goals. Findings of compliance with applicable statewide planning goals are explicitly required for planning documents designating urban and rural reserves under OAR 660-027-0080(4).

The goals cited by Ms. Graser-Lindsey all include provisions that plan elements regarding carrying capacity. For example, the Goal 3 guidelines provide that plans “*should consider* as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans *should not exceed* the carrying capacity of such resources.” Goal 3 (emphasis added).

There are two reasons why the Department recommends that the Commission deny this objection. First, the decision to designate urban reserves, as described above, does *not* commit the lands to urban use. Rather, it makes the lands first priority for inclusion within the Metro UGB *if* Metro at some point in the future makes a policy decision to expand its urban growth boundary, and *if* Metro makes the showing required by state law (and Metro’s own authorities) that an expansion is justified. Even then, Metro will need

to decide among lands designated as urban reserves as to which reserves to include. As a result, the Department believes that the type of consideration of carrying capacity contemplated under the statewide land use planning goals is appropriately made at the time of an amendment of the urban growth boundary, rather than at the time of a decision on urban reserves.

The second reason why the Department recommends that the Commission deny this objection is that the provisions identified by the objector are located in the guidelines section of each goal. Goal 2 states:

Guidelines are *suggested directions* that would aid local governments in activating the mandated goals. They are *intended to be instructive, directional* and positive, *not limiting local government to a single course of action* when some other course would achieve the same result. Above all, guidelines are not intended to be a grant of power to the state to carry out zoning from the state level under the guise of guidelines. (emphasis added)

Metro’s Regional Framework Plan and Regional Urban Growth Goals and Objectives (RUGGOs) already have been acknowledged by the Commission as complying with the statewide planning goals. The Framework Plan and RUGGOs include provisions directed at the overall carrying capacity of the lands making up the Metro region. As noted above, the urban reserves decision does not commit the lands to urbanization and, as a result, the Department believes that Metro’s existing planning provisions remain adequate to address carrying capacity to the extent that such a consideration is required by the statewide goals. As a result, the Department recommends that the Commission deny this objection.

**4. Maletis et. al. (Ref. 6-6).** The objectors are Chris Maletis; Tom Maletis; Exit 282A Development Company, LLC; and LFGC, LLC, represented by Steven L. Pfeiffer. These objectors submitted a letter containing six objections.

**a. Objection:** The objectors assert the decision violates Goal 12 because it does not include findings regarding OAR chapter 660, division 12 (the “Transportation Planning Rule” or “TPR”). Maletis et. al., July 14, 2010 at 15. The objector’s letter enumerates this objection under General Objections, section 4.

The objectors state that Metro has adopted amendments to the framework plan, and the counties have each adopted amendments to their respective acknowledged comprehensive plans. Although the TPR is applicable to each of these amendments, according to the objectors none of these agencies determined whether the proposed amendments would “significantly affect” any existing or proposed transportation facilities.

The objectors argue that neither Metro nor Clackamas County made any independent findings regarding Goal 12 or the TPR; moreover, while Multnomah and Washington

counties did adopt findings regarding Goal 12, they, too, did not address the TPR. As a result, objectors state that it is entirely unclear whether any of the adopted reserves policies or designations significantly affect any existing or planned transportation facilities. Metro and the counties are not permitted to avoid this analysis under the excuse that no development is currently proposed. Furthermore, Metro and the Counties cannot defer this analysis to a later stage of development.

The parties request that the Commission remand the decision to Clackamas County with instructions to remove the rural reserves designation from their property and re-designate the area as urban reserve (see also subsection VIII.A.8, objections 6-1 and 6-2). Additionally, the objectors ask that on remand, the county (and Metro) be instructed to address the other identified legal deficiencies. *Maletis et. al.*, July 14, 2010 at 15.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

The “significantly affect” language cited by the objector occurs in OAR chapter 660, division 12 (the “Transportation Planning Rule” or “TPR”). OAR 660-012-0060 requires that, where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation will “significantly affect” an existing or planned transportation facility, the government agency adopting the amendment must preserve the “identified function, capacity, and performance standards” of the facility. OAR 660-012-0060(1) and (2).

The rule also identifies the circumstances that would result in a significant affect.<sup>11</sup> None of the categories listed in OAR 660-012-0060(1) describe the amendments adopted by Metro and the counties. The TPR does not, by its own terms, apply to the reserves decision, and the statute and rules regarding reserves designations do not direct the decision-makers to address the TPR. Additionally, OAR 660-012-0060(1)(c) says the determination of whether an action will significantly affect a transportation facility is “...measured at the end of the planning period identified in the adopted transportation system plan...” Transportation system plans almost universally have a 20-year planning period, and the urban reserve addresses *potential* land uses, past that horizon.

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<sup>11</sup> OAR 660-012-0060(1): \* \* \*A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) As measured at the end of the planning period identified in the adopted transportation system plan:
  - (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
  - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
  - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Finally, OAR 660-024-0020(1)(d) states:

The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary.

While this rule does not apply directly to urban and rural reserves designations, by implication a land use decision that does not commit lands to an urban use and that, in fact, maintains existing land uses, has no effect on any transportation system or facility. The same reasoning applies here: since the zoning of the property included in an urban reserve will not (and cannot) change by virtue of the reserve designation, no new vehicle trips will be generated by the land use action. The Department recommends the Commission find that Metro and the county are not required to address OAR 660-012-0060 in the reserves decision.

**5. Tim O’Callaghan (Ref. 42-5).** Mr. O’Callaghan submitted a letter containing two objections specific to the designation of his property and four objections generally question the reserves decision. This subsection addresses one of the general objections. The objector is represented by Michael C. Robinson.

**a. Objection.** Mr. O’Callaghan asserts the decision violates Goal 12 because it does not include findings regarding OAR chapter 660, division 12 (the “Transportation Planning Rule” or “TPR”). O’Callaghan, July 14, 2010 at 16. The objector’s letter enumerates this objection under General Objections, section 3.

The objector’s proposed remedy is for the Commission to remand the decision to Metro and the counties in order address Goal 12 and the TPR.

**b. Department Analysis and Recommendation.** This objection is the same in substance as the preceding objection (Maletis, *et al.*), and the Department recommends the Commission deny the objection for the same reasons addressed in subsection VI.A.4.

## **B. Amount of Urban Reserve Land**

**1. City of Portland (Ref. 32-1).** The city submitted a letter containing two objections.

**a. Objection.** Metro’s decision includes an oversupply of urban reserves that represents more than a 30-year supply of land in violation of OAR 660-027-0040(2). Portland, July 14, 2010 at 2 (page unnumbered).

The city asserts that the oversupply error is the result of three faulty assumptions in the December 2009 Urban Growth Report, which result in an overestimate of the future urban land need:

- (1) The existing urban growth boundary requires a four percent vacancy rate to provide needed housing, even though urban reserves will be readily available to meet unanticipated needs.
- (2) The calculation on need for urban reserves requires a four percent vacancy rate, even though these lands are, by definition, completely vacant of urban housing.
- (3) There will be no up-zonings of existing urban land, even though the 2035 Regional Transportation Plan contains new High Capacity Transit (HCT) corridors, with assumptions of up-zoning and redevelopment at new transit stations.

The city's proposed remedy is for the Commission to remand with instructions to recalculate the capacity of existing urban land without the four percent vacancy rate, include the additional redevelopment capacity along HCT corridors, and recalculate the need for urban reserves without a four percent vacancy rate.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

OAR 660-027-0040(2) establishes how Metro is to determine the amount of land to include as urban reserves if it designates reserves under division 27. The amount is a quantity of land “based on the estimated land supply necessary for urban population and employment growth in the Metro area for [“at least 20 years, and not more than 30 years, beyond the 20-year period for which Metro has demonstrated a buildable land supply inside the UGB in the most recent inventory, determination and analysis performed under ORS 197.296.]”

Metro established the time period that its urban reserves are intended to provide a supply of land for as 50 years -- starting January 1, 2010 and ending December 31, 2059. Metro Rec. at 14, 22. The starting date was based on the date that Metro completed its “inventory, determination and analysis performed under ORS 197.296.” The Metro Council adopted this report by resolution, for the express purpose of using it as a basis for its decision on urban reserves.

Nothing in OAR 660-027-0040(2) directs the specifics of how Metro is to estimate the land supply necessary for urban population and employment growth in the Metro area through the fifty-year period. The general methodology used in the Urban Growth Report is consistent with the methodology used to determine the capacity of the existing urban growth boundary. Communities determining their needs for employment and residential lands for purposes of UGB management use a vacancy factor -- as some level of vacancy is required for land markets to function. Portland does not provide any basis for determining that a four percent vacancy factor is too high. Portland appears to believe that having a long-term supply of land *outside* of the UGB designated as urban reserves

means that such land will be a functional equivalent of vacant land *within* the UGB. But that argument ignores that the process of bringing land into an urban growth boundary and then providing the urban services necessary for the land to develop is a multi-year process. If there is *no* vacant land within the UGB in the meantime, then the region would not be complying with its obligations under Goal 14 and Goal 9 to provide a long-term supply of land for housing and employment needs (and, under Goal 9, to provide a competitive short-term supply).

Portland also argues that Metro's assumption that there will be no up-zoning of land over the planning period is inconsistent with the 2035 Regional Transportation Plan, which contains new High Capacity Transit (HCT) corridors, with assumptions of up-zoning and redevelopment at new transit stations. The 2035 *RTSP* was adopted by Metro on June 10, 2010 – one week *after* Metro adopted its decision on urban reserves. Further, the 2035 *RTSP* is not yet acknowledged. More substantively, at least until the High Capacity Transit (HCT) corridors strategies contained in the 2035 *RTSP* are implemented through changes to Metro's other functional plans, the Department believes it was reasonable for Metro to assume no increase in planned or zoned densities. That assumption was balanced by other, less conservative, assumptions elsewhere in Metro's decision relating to the amount of urban reserve lands (some of which are addressed below).

**2. 1000 Friends of Oregon (Ref. 26-1) and City of Wilsonville (Ref.46-0).** These objectors both filed as their first objection a general challenge to the amount of urban reserve lands designated by Metro. The 1000 Friends letter is on behalf of 1000 Friends of Oregon, the Washington County Farm Bureau, and Dave Vanasche, Washington County Farm Bureau President.

**a. Objection.** The amount of land proposed for urban reserves exceeds the statutory 50-year limit on urban reserves in violation of ORS 195.145(4). 1000 Friends, July 12, 2010 at 2. City of Wilsonville, July 14, 2010, at 2-5.

The objectors assert that the amount of land proposed for urban reserves exceeds the statutory 50-year limit on urban reserves, in at least three ways:

- (1) Metro assumes that the existing urban zoning, adopted and acknowledged by each city and county, will not be realized within the 20-year time period of the urban growth boundary (UGB), at least absent a demonstration that public investments or policies are currently in place or underway to cause the zoned level of urban development to happen.
- (2) Metro assumes that cities will meet their current zoning only if certain investments are made - such as in infrastructure, urban renewal, various subsidies, or waivers - and Metro requires a level of certainty about those investments before relying on them to assume that higher densities are achieved in any city.
- (3) Metro's capacity estimate for the UGB assumes there will be no up-zoning over the 20-year or 50-year period over current zoning. This is inconsistent with the 2035 RTP.

The objectors' proposed remedy is for the Commission to remand the decision to Metro with direction to fully account for up-zoning, rezoning, and meeting zoned densities over the reserves time period; and decrease the amount of urban reserves accordingly.

**b. Department Analysis and Recommendation.** The state agencies reviewed Metro's estimate of its projected range of land needs for residential and employment uses in the combined state agency comments. The state agencies stated that Metro's projections were reasonable:

The state agencies support the amount of urban reserves recommended by the Metro COO. That recommendation is for a range of between 15,000 and 29,000 acres. We believe that Metro and the counties can develop findings that, with this amount of land, the region can accommodate estimated urban population and employment growth for at least 40 years, and that the amount includes sufficient development capacity to support a healthy economy and to provide a range of needed housing types. Metro Rec. at 1373.

Metro's analysis of the capacity of the existing UGB is based on a projection that development within the current UGB will occur at levels allowed by current zoning during the 50-year planning period. Metro projects that 100 percent of the maximum zoned capacity of the existing UGB will be used during the reserves planning period. Metro Rec. at 600. In addition, in calculating the amount of land needed for urban reserves, Metro assumed that: (1) future residential development in urban reserves would develop at higher densities than has been the experience in the UGB in the past, and (2) that employment lands over the next 50 years would be used with greater efficiencies than in the past. Metro Rec. at 23–24.

1000 Friends and Wilsonville argue that Metro's projections do not meet the requirements of ORS 197.296 and Goal 14. Those authorities do not set requirements for urban reserve designations, they set requirements for urban growth boundaries. Further, Metro's use of current zoned capacity is consistent with ORS 197.296, and the Commission's Goal 14 rules, which require communities to first use current zoned capacity in determining what proportion of future projected land needs can be met within the existing UGB (looking to upzoning as a possible efficiency measure once current capacity is determined). There is no legal inconsistency between Metro's projections and ORS 197.296 or Goal 14.

While some of Metro's planning projections may be characterized as somewhat conservative, others are best described as somewhat aggressive. On balance, the Department believes that the projection of residential land need over the 50-year period is reasonable and is supported by an adequate factual base. In contrast to the statutes and rules relating to land need projections for the amendment of urban growth boundaries, neither SB 1011 nor the Commission's rule proscribe any particular method for estimating housing and employment needs over a fifty-year period, and Metro has documented that there is a significant range in terms of likely outcomes over such a long planning period. *See generally*, Metro Rec. at 1922-1931. Instead of requiring a specific

method for estimating long-term need, SB 1011 and the Commission’s rules rely principally on the requirement for a broad regional consensus among decision-makers to achieve balance in the urban and rural reserve designations. For all of these reasons, the Department recommends that the Commission deny the first part of 1000 Friends’ objection 1.

The second part of this objection alleges that Metro projected that development during the first twenty years of the fifty year period will occur at zoned capacity only if certain investments are made. 1000 Friends argues that Metro should rely on full zoned capacity, with no projected underbuild, because the cities all have acknowledged public facilities plans. Metro’s findings explain that it did not project higher density because it has not yet adopted measures to increase the capacity of the current UGB. Metro Rec. at 23. Metro’s findings make it clear that it did project that even areas that have recently been added to the UGB (such as Damascus) will develop at full planned densities over a 50-year period. *Id.* As a result, the Department recommends that the Commission deny the second part of this objection.

The Department also recommends the Commission deny the third part of these objections regarding consistency with the 2035 RTP. This part of the objections is essentially the same as the City of Portland objection 32-1. See subsection VI.B.1 (immediately above) for an explanation of the Department’s analysis and recommendation on this sub-issue.

**3. Coalition for a Prosperous Region (Ref. 4-1).** “CPR”: Columbia Pacific Building Trades Council, The Commercial Real Estate Association (NAIOP), Commercial Real Estate Economic Coalition, Home Builders Association of Metropolitan Portland, Metropolitan Association of Realtors®, Portland Business Alliance, and Westside Economic Alliance, represented by Stark Ackerman. This objector submitted a letter containing five objections.

**a. Objection.** The objector asserts the decision fails to designate sufficient urban reserves to achieve the balance of urban and rural reserves required by OAR 660-027-0005(2). CPR, July 14, 2010 at 4–8.

The objection makes the following points:

- The section titled “Overall Conclusions” in the reserves findings is almost exclusively devoted to a discussion of the tradeoffs and considerations related to the designation of *rural* reserves. It does not describe the trade-offs or considerations of its designation of *urban* reserves. Metro Rec. at 14-19.
- The reserves decision does not describe how it “balanced” the designation of urban and rural reserves to “best achieve” the region’s urban and rural needs: the rule itself is cited only once; and the only two statements concerning balance are purely conclusory. Metro Rec. at 2, 18, 22.

- There is considerable testimony not even mentioned in the reserves findings, which argues that urban needs are not met and disproportionately suffer in comparison with rural needs. The reserve findings concerning tradeoffs for individual urban reserve areas are not enough. Without the findings discussed above, there is no demonstration that OAR 660-027-0005(2) has been met.
- The reserves findings mention OAR 660-027-0050(2) in only three places, and then only to state that the balance has been achieved. Metro Rec. at 2, 18, 22.

The objector recommends a remand with directions to determine whether the proposed reserves balance the urban and rural needs consistent with OAR 660-027-0005(2) and the factors set forth in OAR 660-027-0050 and 660-027-0060, specifically focusing on whether and how the decision “best achieves” urban needs.

**b. Department Analysis and Recommendation.** The Department recommends this objection be denied.

The relevant rule cited by the objector, OAR 660-027-0005(2), requires findings supported by an adequate factual base that there is a balance between designated urban and rural reserves that, “*in its entirety, best achieves* livable communities, the viability and vitality of the agricultural and forest industries and protection of the most important landscape features that define the region for its residents.” OAR 660-027-0005(2). (emphasis added) The objection suggests that “balance” means some kind of reckoning of the amount of urban reserve versus the amount of rural reserves. The Department does not agree. The balance described in OAR 660-027-0005(2) is a qualitative balance in terms of long-term trade-offs between the further geographic expansion of the Portland metro urban area and the conservation of farm, forest and natural areas that surround the metro area. This is not a balance in terms of the quantitative amount of urban and rural reserves, but a balance between encouraging further urban expansion versus land conservation.

The real issue is whether the findings in support of the reserves decisions demonstrate compliance with the overall objective in OAR 660-027-0005(2). Metro’s consolidated findings are in Exhibit E to Ordinance No. 10-1238A, Metro Rec. at 14-115. Although the combined findings contain few statements that explicitly address balance, the findings sections entitled “Background” and “Overall Conclusions,” *as a whole*, adequately explain why Metro and the counties determined that their designation of urban reserves and rural reserves best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the most important landscape features that define the region for its residents. Metro Rec. at 14-19 (findings). See also, Metro Rec. at 117-122 (Staff Report).

**4. Coalition for a Prosperous Region (Ref. 4-3).** “CPR”: Columbia Pacific Building Trades Council, The Commercial Real Estate Association (NAIOP), Commercial Real Estate Economic Coalition, Home Builders Association of Metropolitan Portland, Metropolitan Association of Realtors®, Portland Business Alliance, and Westside

Economic Alliance, represented by Stark Ackerman. This objector submitted a letter containing five objections.

**a. Objection.** CPR asserts the urban reserves decision overestimates the development capacity within the existing UGB and relies on faulty assumptions to dramatically increase projected development efficiency and density, the consequence of which is that the decision fails to designate enough urban reserves to balance urban and rural needs as required by OAR 660-027-0005(2). The decision fails to properly apply the urban reserves factors, particularly OAR 660-027-0050(2) and (6). The decision fails to satisfy the requirements of Goals 2, 9, 10, and 14 and is therefore not consistent with OAR 660-027-0080(4). CPR, July 14, 2010 at 9–14.

CPR also asserts that Metro’s 2009 Urban Growth Report, Reserves Residential Range Methodology, and Reserves Employment Range Methodology rely on overly optimistic and never-achieved refill rates, very aggressive floor-to-area ratios (FARs), availability of housing subsidies, and decreased underbuild rates, which result in an overestimation of the capacity within the existing UGB and an underestimation of reserves land needed to accommodate housing and employment demand through the 2060 planning horizon.

The objection also challenges the assumption that there will be a higher proportion of infill housing in the future, arguing that more infill negatively affects housing choice (both by unit type and location) and affordability and prevents achievement of “livable communities” as “attractive places to live and work.”

CPR’s proposed remedy is for the Commission to:

- (1) Remand to Metro with direction to revise the refill rates, underbuild rates, FARs, and limitations on housing types to reflect historical norms for residential and employment lands, and to designate additional urban reserves warranted by such revised calculations consistent with the requirements of the urban reserve rules, and Goals 9; 10, and 14.
- (2) Alternatively, acknowledge the designated urban reserves, and remand the rural reserves with direction to adjust the rural reserves to provide additional undesignated lands appropriate for development.
- (3) Require the adoption of a periodic adjustment schedule for designating additional urban reserve if the actual refill rates, underbuild rates, and FARs are significantly different from the assumptions Metro has made in making the reserves decision.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

In calculating the amount of land needed for urban reserves, Metro assumed that: (1) future residential development within the UGB would be at full or almost full zoned capacity over the 50-year period, (2) future residential development in urban reserves would develop at higher densities than has been the experience in the UGB in the past, and (3) employment lands over the next 50 years would be used with greater efficiencies

than in the past. Metro Rec. at 23–24. The objector claims that these assumptions were inappropriate and unsupported factually, and led to an inadequate amount of land for urban reserves in a manner that violated statewide planning goals and rules. The Department does not agree. Metro provided adequate findings supported by an adequate factual base in explaining the reasons for making the above-described assumptions. Metro Rec. at 23-24 (findings); 117-122 (staff report); and 597-610 (technical analyses for COO recommendations). Notably, objector’s arguments are essentially the reverse of the arguments made by objectors 1000 Friends and the cities of Wilsonville and Portland. Metro’s policy choice to project its 50-year land needs in the middle of its forecasted range does not conflict with any state statute, goal or rule, and is supported by an adequate factual base.

The Department also does not agree that projecting a higher proportion of infill housing in the urban reserves than has occurred in the UGB violates Goal 10 and the urban reserve designation factor<sup>12</sup> by negatively affecting housing choice and affordability. Nor does the Department agree that the higher proportion of infill housing prevents achievement of the overall objective of “livable communities” as “attractive places to live and work” under OAR 660-027-000(5)(2) and 660-027-0010(4). Goal 10 requires communities to provide land for *needed* housing.<sup>13</sup> A household may have choices of housing types, but choice is meaningless if the choices are not the needed housing types affordable to those households. There is no evidence in the record that communities with infill housing are not “livable,” that infill housing prevents those communities from being “attractive places to live and work,” or that more infill will prevent flexibility of location in the region.

CPR also asserts that Metro did not include sufficient development capacity to support a healthy economy in violation of urban reserve designation factor OAR 660-0050(2). Again, Metro found that there is more than sufficient development capacity within its current UGB to meet projected employment needs over a 50-year period. Metro Rec. at 609. Nevertheless, Metro also determined that for one general type of employment land need (large lots, over 25 acres) there is not sufficient capacity in the existing UGB beyond 20 years. To address this general, long-term employment land need, Metro added 3,000 acres to its total estimate of land supply, equating to its estimate based on historic trends and future projections regarding the amount of land needed for this type of use. The Department recommends that the Commission find that Metro’s projections used to determine the amount of urban reserves land are reasonable and supported by an adequate factual base, and therefore do not violate the cited goals and rules.

**5. Linda Peters Ref. (25-2).** Ms. Peters submitted a letter containing two objections with multiple parts.

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<sup>12</sup> OAR 660-027-0050(6): “Includes sufficient land suitable for a range of needed housing types.”

<sup>13</sup> Goal 10: Housing: To provide for the housing needs of citizens of the state.

Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

**a. Objection.** This objection contains four parts:

- (1) Washington County’s amendments to the IGA with Metro converted 212 acres to urban reserves from the rural sides and rights-of-way of 22 rural roads, including land adjacent to rural reserves, without adopting policies to implement these reserves.
- (2) The findings are not adequate to support the need for this land as urban reserves.
- (3) The designation violates Goal 3 and OAR 660-027-0050(8) by failing to buffer urban from rural uses.
- (4) The exact amount of designated land has not yet been determined.

Ms. Peters asserts the deficiency violates OAR 660-027-0040(7), OAR 660-027-0050(8), Goal 2 and Goal 3. Peters, July 14, 2010 at 6 (page unnumbered).

Ms. Peters contends that Metro’s decision to include both sides of certain rights-of-way within its urban reserve designations will increase conflicts with nearby farm uses. Placing urban infrastructure, particularly roads built to urban standards, through or alongside rural reserves, fails to protect the resource uses to encourage long-term investment. “[T]he urban and rural reserves concept is intended not only to protect rural reserves from urbanization, it is also intended to provide a greater degree of protection of resource uses in rural reserves relative to other resource lands in order to encourage long-term investment in farm and forest uses and conservation of important natural resources.”

The objection states that there has been no showing of need for these urban reserve expansions, citing Washington County’s only justification as “*Rural* reserve designations of public road rights-of-way (ROW) adjoining urban or future urban areas could result in management and/or maintenance issues.” (emphasis added)

According to Ms. Peters, the amended road designations fail to satisfy Goal 3: Agricultural Lands and OAR 660-027-0050(8). Placing “urban reserves” on the rural reserve side of the road provides no buffer or edge to the farming activities on the rural reserve side of the road, which fails to “avoid or minimize adverse effects on farm and forest practices...on nearby land including land designated as rural reserves.”

Ms. Peters’ proposed remedy is for the Commission to reverse Washington County’s assignment of urban reserve designations on rural sides and rights-of-way of the 22 subject rural roads. Alternatively, remand to Washington County for an adequate factual base and compliance with all other statutory and rule requirements for urban reserve designations.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection, as explained below.

OAR chapter 660, division 27 authorizes Metro to designate urban reserves and the three Metro-area counties to designate rural reserves. OAR 660-027-0020(1) and (2). Therefore, the urban reserves were designated by Metro, not Washington County, and if

there is an error in the designation of urban reserves, it is Metro’s error, not Washington County’s.

Regarding part (1) of the objection (failure to adopt policies to implement urban reserves), OAR 660-027-0040(7) applies to the designation of *rural* reserves. It is not applicable to the designation of urban reserves in the Metro area. The Department assumes that the objector meant to cite OAR 660-027-0040(6), which requires Metro to adopt policies to implement urban reserves and show them on its regional framework plan map.

The relevant documents in the record are Policies 1.7, 1.9, and 1.11 of Metro’s Regional Framework Plan and a map, which were adopted with the urban reserve designations. Exhibits A and B to Ordinance No. 10-1238A, Metro Rec. at 3–6; also see Metro Rec. at 24.<sup>14</sup> Metro’s adoption ordinance describes the map as follows: “The areas shown as ‘Rural Reserves’ on Exhibit A are the Rural Reserves adopted by Clackamas, Multnomah and Washington Counties and are hereby made subject to the policies added to the Regional Framework Plan by Exhibit B of this ordinance.” Metro Rec. at 2. Metro’s findings state:

The region’s urban and rural reserves are fully integrated into Metro’s Regional Framework Plan and the Comprehensive Plans of Clackamas, Multnomah and Washington counties. Metro’s plan includes a map that shows urban and rural reserves in all three counties. Each of the county plans includes a map that shows urban and rural reserves in the county. The reserves shown on each county map are identical to the reserves shown in that county on the Metro map. Metro Rec. at 15.

These passages could be clearer, but they adequately indicate that the reserves map is adopted as part of the Regional Framework Plan.

The objection appears to be that Metro’s policies must specifically address rights-of-way and adjoining lands. OAR 660-027-0040(6) does not specify what Metro’s urban reserve policies must contain other than that they must implement the reserves. Metro’s amendments to its Regional Framework Plan, Metro Rec. at 4, and to Title 11 of its Urban Growth Management Functional Plan, Metro Rec. at 8-13. There is no requirement that Metro’s policies address every detail of its designations and the Department recommends that the Commission deny the first part of this objection.

Regarding part (2) of the objection (inadequate findings to support the decision in violation of Goal 2), Washington County’s data and findings for urban reserve designation of certain rural rights-of-way and adjacent lands are in the record. WC Rec.

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<sup>14</sup> “The Regional Framework Plan is hereby amended, as indicated in Exhibit 13, attached and incorporated into this ordinance, to adopt policies to implement Urban Reserves and Rural Reserves pursuant to the intergovernmental agreements between Metro and Clackamas, Multnomah and Washington Counties, respectively, and ORS 195.141 to 195.143.” (Ordinance No. 10-1238A, Metro Rec. at p 2)

at 9643-9644; Metro Rec. at 63, 67. More directly, this is a legislative land use decision by Metro regarding whether to include certain areas within its designation of urban reserves. That decision does not require findings that explain the details of each segment of the boundary selected by Metro. Rather, OAR 550-027-0050 requires Metro to make its decisions by applying the listed factors to the lands it identifies [for study] and selects. Metro did so on the basis of areas that it defined for purposes of its analysis and decision-making process. The objector does not identify any reason why Metro erred by analyzing the application of the urban reserve factors at the geographic level of these areas, and the Department recommends that the Commission find that Metro's use of areas as its basis for analysis was reasonable given the legislative and regional nature of its decision. If Metro were required to apply the factors to every parcel or every part of the edge of urban reserve areas its analysis would quickly become impossible. For these reasons, the Department recommends that the Commission deny the second part of this objection.

Regarding part (3) of the objection, (failure to determine amount of land designated in violation of Goal 2), the findings for amount of land need for urban reserves in Washington County provide exact acreage figures, locations, and reasons why the urban reserve areas were designated as such (e.g., 4E, 4F, 4G, 5A, 5B). Metro Rec. at 58-95. The Department recommends that the Commission deny this part of the objection. The decision adequately describes the boundary of the designated urban reserves and the amount of land included.

Regarding part (4) of the objection (violation of Goal 3 and OAR 660-027-0050(8) because of adverse effects on nearby farm uses), the designation of urban and rural reserves, if anything, limits uses that might conflict with farm uses. OAR 660-027-0070. There is no conflict between Metro's decision and Goal 3.

OAR 660-027-0050(8) is one of the urban reserve designation factors. It does not require a finding that designation of the site will avoid or minimize adverse effects on nearby farm uses and rural reserves. It is a factor that is considered with all of the other urban reserve designation factors in OAR 660-027-0050, not a criterion that must on its own be satisfied. Metro adopted general findings addressing 0050(8) in connection with the Bethany West area. Metro Rec. at 92-95. The findings state that "concept and community level planning in conformance with established county plan policies can establish a site design which will avoid or minimize adverse impacts on farm practices and natural landscape features in the area." The reasons the boundary was adjusted to include both sides of the rights-of-way in question are further explained in a staff memo. WC Rec. at 8559. That memo explains that if the reserves boundary was placed at the centerline of roadways it may mean that only half of the right-of-way could be improved if and when the land was added to the urban growth boundary. Objector does not explain why these findings and the record are inadequate, and the Department recommends that the Commission deny this part of the objection.

### **C. Employment Land/Goal 9**

**1. 1000 Friends of Oregon (Ref. 26-3).** This objector filed a letter containing six objections on behalf of 1000 Friends of Oregon, the Washington County Farm Bureau, and Dave Vanasche, Washington County Farm Bureau President.

**a. Objection.** The alleged need for 3,000 or more acres for urban reserves for large-lot industrial use:

- (1) Is not supported by law and is without substantial evidence; and
- (2) The designation of lands to meet this alleged need violates the reserve rule and statute by improperly using large blocks of Foundation farmland.

1000 Friends et. al contend the deficiency violates ORS 215.243(2)<sup>15</sup> and OAR 660-021-0030(1). 1000 Friends, July 12, 2010 at 8.

Regarding part (1) of the objection, 1000 Friends contends there is no legal basis for providing for any specific type of land use in the urban reserves. There is no legal basis to make any urban reserve decision based on “preferences” of some employers. There is no provision allowing for setting aside large blocks of land for industrial use. Regarding the second part, the point made is that the overwhelming majority of urban reserve land proposed for large-lot industrial uses is on Foundation farmland in Washington County.

1000 Friends’ proposed remedy is for the Commission to remand to Metro with direction to analyze urban reserve land need without a large-lot industrial users’ factor, and to remove the 3,000 acres of Foundation farmland designated for that purpose.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

Regarding part (1) of the objection (the need for large-lot industrial land is not supported by law or substantial evidence), OAR 660-021-0030(1), cited by the objector, is the same as ORS 195.145(4) and OAR 660-027-0040(2) in establishing the time period for the urban reserves’ land supply.<sup>16</sup> OAR 660-021-0030(1) is not applicable to this urban

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<sup>15</sup> ORS 215.243(2): “The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state’s economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.”

<sup>16</sup> OAR 660-021-0030(1): “Urban reserves shall include an amount of land estimated to be at least a 10-year supply and no more than a 30-year supply of developable land beyond the 20-year time frame used to establish the urban growth boundary. Local governments designating urban reserves shall adopt findings specifying the particular number of years over which designated urban reserves are intended to provide a supply of land.”

ORS 195.145(4): “Urban reserves designated by a metropolitan service district and a county pursuant to subsection (1)(b) of this section must be planned to accommodate population and employment growth for at least 20 years, and not more than 30 years, after the 20-year period for which the district has

reserves decision because Metro may use OAR chapter 660, division 21 *or* division 27 to designate urban reserves, but it may not use both at the same time. OAR 660-027-0005(1) and OAR 660-021-0020(2). The Department’s review assumes that the objector intended to cite OAR 660-027-0040(2) instead of 660-021-0030(1), since the substance of the two rules is the same.

In a previous case decided by the Commission, the City of Newberg calculated its land supply for urban reserves based (in part) on the projected long-term need for large-lot industrial sites with particular site characteristics in particular locations. The Commission remanded the city’s decision. The order states: “The City’s decision designating URAs is remanded to remove identification of specific industrial, commercial, institutional, and livability needs.” (see LCDC Order 010-REMAND-001787, April 22, 2010, p. 9, Attachment D; also see Supplemental Staff Report on the city of Newberg’s Proposed Urban Reserve Areas, July 7, 2009, pp.7-8, Attachment D.) The Commission’s order on Newberg was based on the OAR chapter 660, division 21 rules for designating urban reserves. The following is the pertinent part of the Commission’s order on Newberg’s urban reserves:

The City of Newberg determined its long-term need for land (through 2040) by developing a population forecast coordinated with Yamhill County, and assessing its need for land in several categories along with the existing supply of land within the city’s UGB. Based on this analysis, the City determined that its total long-term need for land (through 2040) was for 1,665 acres. Of this amount, however, a significant portion also was identified as being for uses with unique and specific site requirements - particularly for large tracts of land and in some cases for relatively flat lands.

The Department argued, based on the history of the urban reserve rule, that OAR 660-021-0030(1) does not authorize a city’s long-term land need to be based on specific siting requirements for particular uses, and that (instead) the amount of land in a city’s urban reserves must be based on generalized long-term population and employment forecasts. The City disagreed, but nevertheless agreed to a voluntary remand in order to revise its determination to remove reliance of projected land needs of future uses with specific site requirements.

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demonstrated a buildable land supply in the most recent inventory, determination and analysis performed under ORS 197.296.”

OAR 660-027-0040(2): “(2) Urban reserves designated under this division shall be planned to accommodate estimated urban population and employment growth in the Metro area for at least 20 years, and not more than 30 years, beyond the 20-year period for which Metro has demonstrated a buildable land supply inside the UGB in the most recent inventory, determination and analysis performed under ORS 197.296. Metro shall specify the particular number of years for which the urban reserves are intended to provide a supply of land, based on the estimated land supply necessary for urban population and employment growth in the Metro area for that number of years. The 20 to 30-year supply of land specified in this rule shall consist of the combined total supply provided by all lands designated for urban reserves in all counties that have executed an intergovernmental agreement with Metro in accordance with OAR 660-027-0030.

The Commission interprets OAR 660-021-0030(1) as requiring local governments to make an estimate of its need for developable land over a 10 to 30 year planning period beyond the 20-year time frame used to establish the UGB. This is to be an estimate, based on long-term forecasts of overall population and employment needs for the planning period. The Commission recognizes that the rule authorizes local governments to choose the length of the planning period (within the specified limits), and that the longer the planning period the greater the amount of land that is likely to be justified for inclusion in URAs. LCDC Remand Order 010-Remand- 001187 (Newberg), at 6-7.

Here, Metro found that there was no long-term need for additional land beyond the current UGB as a result of overall employment growth. However, Metro's analysis showed that there was a need, based on its buildable lands inventory, its determination of long-term employment growth and its analysis of the capacity of the existing UGB, for an additional 3,000 acres of land.

Based on this analysis, the UGB contains adequate capacity to accommodate *overall* employment growth in the reserves timeframe \* \* \*. However, one key issue remains, regarding providing lots over 25 acres for larger users. This issue was analyzed in the draft urban growth report. It is likely, that single-tenant and multi-tenant employment users in this size range will need to be largely accommodated on vacant buildable lands because redevelopment and infill (refill) appears to be a more likely source of capacity for smaller lot needs. It is impossible to predict with any certainty the number of large lot users expected to come to this region 50 years from now, so this analysis proposes an extension of the analysis described in the UGR. The 20-year UGR analysis shows a rough match between supply and demand for large lots, so it is reasonable to assume that much of the region's large lot supply in the reserves timeframe would come from urban reserves. *A reasonable extension of historical demand informed by future growth estimates suggests that approximately 100 acres per year would be appropriate over the reserves timeframe, equating to 2,000 acres for the period 2030-2050 and an additional 1,000 acres for 2050 – 2060.* Metro Rec. at 609. *See also,* Metro Rec. at 118-119 (findings).

Unlike Newberg, where the city projected a need for land for specific industries with specific site needs that could only be met in specific locations, Metro is projecting that one aspect of its general land needs for employment over the next fifty years cannot be met within the existing UGB. Metro did not base its determination on a specific need, nor did it identify any particular location where this need will be met within its urban reserve areas. Instead, Metro has determined that in order to accommodate its estimated employment growth, it will need 3,000 acres of land in urban reserves in the 2030-2060 period. The Department recommends that the Commission find that Metro's projection complies with ORS 195.145 and OAR 660-027-0040(2).

Regarding part (2) of the objection (designation of large-lot industrial land on Foundation Agricultural Land violates the statute and rule), no specific urban reserve area is

designated for future large-lot industrial use. That determination would need to be made by Metro in conjunction with an amendment of its urban growth boundary, based on a determination that there is a specific identified land need within the next twenty years for particular land.

It is true that the consolidated findings contain the following statement: “Urban Reserve Area 8A was specifically selected for its key location along the Sunset Highway and north of existing employment land in Hillsboro and also because of the identified need for large-lot industrial sites in this region. WC Rec. 3124-3128. This area’s pattern of relatively large parcels can help support the Metro recommendation for roughly 3,000 acres of large-parcel areas which provide capacity for emerging light industrial high-tech or biotech firms such as Solarworld and Genentech.” Metro Rec. at 90. *See also*, Metro Rec. at 118-119. However, nothing in Metro’s decision or the policies adopted by Metro or Washington County to implement the urban reserves commits it or Washington County that this area will be reserved particularly for this or any other future urban use. As a result, the Department recommends that the Commission deny this objection. To the extent that the objection more generally concerns Metro’s designation of Foundation Agricultural Lands as urban reserves, that issue is addressed below at subsection VI.E.1.

**2. Maletis et. al. (Ref. 6-5).** The objectors are Chris Maletis; Tom Maletis; Exit 282A Development Company, LLC; and LFGC, LLC, represented by Steven L. Pfeiffer. These objectors submitted a letter containing five objections.

**a. Objection:** The objectors assert that there is no substantial evidence or related findings to meaningfully assure that the decision, as it will be implemented by the counties, is in compliance with Goal 9. Maletis et. al., July 14, 2010 at 15. The objector’s letter enumerates this objection under General Objections, section 3.

The objectors contend that although the decision includes short findings offered by each of the counties that the designation of reserves complies with Goal 9, the decision and the record are devoid of facts to support these conclusions. Further, it does not appear that Metro has made any effort to acknowledge and coordinate the counties’ findings and substantive mapping decisions as to Goal 9 into its own analysis to ensure that regional goal objectives and obligations are met. Further, there are no independent findings by Metro that demonstrate, based upon substantial evidence in the whole record, that the decision complies with Goal 9 on a regional basis.

The parties request that the Commission remand the decision to Clackamas County with instructions to remove the rural reserves designation from the property and re-designate the area as urban reserve (see also subsection VIII.A.8, objections 6-1 and 6-2). Additionally, the objectors ask that on remand the county (and Metro) be instructed to address the other identified legal deficiencies.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

Statewide Planning Goal 9, “Economic Development,” is “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.” The Goal 9 implementing rule provides that “[t]his division does not require or restrict planning for industrial or other employment uses outside of urban growth boundaries.” OAR 660-009-0010. Generally, Goal 9 does not establish planning requirements for local governments outside of urban growth boundaries. OAR 660-009-0020.

The applicable requirement for determining potential future land need for employment is contained in OAR 660-027-0050(2), not Goal 9. Metro analyzed the need for employment land for the planning period and accommodated it. Metro Rec. at 22. Metro also made findings relative to Goal 9 in the Urban Growth Report. Metro Rec. at 626.

The specific provisions of the goal generally apply inside UGBs, and “implementation” of the urban reserves decision will take place at the time the UGB is amended by Metro. Metro may, at that time, designate specific lands for employment use in order to be consistent with Goal 9. For all of these reasons, the Department recommends that the Commission deny this objection.

**3. Coalition for a Prosperous Region (Ref. 4-5).** “CPR”: Columbia Pacific Building Trades Council, The Commercial Real Estate Association (NAIOP), Commercial Real Estate Economic Coalition, Home Builders Association of Metropolitan Portland, Metropolitan Association of Realtors®, Portland Business Alliance, and Westside Economic Alliance, represented by Stark Ackerman. This objector submitted a letter containing five objections.

**a. Objection.** In their fifth objection, the objectors assert the decision fails to provide for a diversity of employment sites necessary for a healthy economy, and the 3,000-acre target for large lot industrial sites is not sufficient to meet employment land needs. CPR, July 14, 2010 at 16.

The urban reserve rule relating to employment lands, OAR 660-027-0050(2), requires that urban reserves: “Include sufficient development capacity to support a healthy economy.” Numerous parties presented evidence that to have a healthy economy – that is, be able to attract new employers and support the growth of existing employers – it is necessary to have enough diversity of sites to provide for varying needs (e.g., infrastructure; access to labor force; size; proximity to customers, suppliers, and like companies; market choice, etc.). According to the objectors, the reserves decision fails to account for the needed diversity of employment sites, instead assuming a shift from production to more research and development and administration/marketing, which have more employees per square foot and demand a higher proportion of office space.

The objectors’ assert that Metro’s reliance on new assumptions without an explanation of how existing sites provide the necessary diversity is inadequate to demonstrate that it correctly applied OAR 660-027-0050(2) to provide for a healthy economy, or OAR 660-

027-0005(2) to “best achieve” urban needs. For the same reasons, the objectors believe that the reserves decision does not comply with Goal 9.

The objectors proposes the Commission remand with direction to either: (1) designate additional urban reserves to meet the full range and diversity of employment needs, or (2) acknowledge the designated urban reserves, but remand the remainder to reduce the amount of rural reserves so that there are available lands on which to meet employment needs, should Metro’s assumptions prove to be incorrect.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection. As explained above, the Department believes that Goal 9 does not apply to Metro’s decision. Metro’s obligations to plan “\* \* \* for at least an adequate supply of sites \* \* \* for a variety of industrial and commercial uses \* \* \*” applies at the time Metro amends its urban growth boundary. The applicable requirements are the general provisions of the reserves rules: OAR 660-027-0005(2) (a balance of urban and rural reserves that best achieves livable communities), and OAR 660-027-0050(2) (that the urban reserves alone or in conjunction with lands inside the current UGB include sufficient development capacity to support a healthy economy).

Metro’s analysis showed that the existing UGB has a substantial surplus in the overall amount of employment land that it projected will be needed over the fifty-year planning period (by a factor of 2:1). Metro Rec. at 609. Recognizing that a portion of the general need for employment lands is for larger sites, Metro also analyzed that component of its general employment land need, and determined that there is adequate capacity within the existing UGB for the next twenty years. Metro Rec. at 609-610. Finally, Metro analyzed the demand for this component of its employment land need and, based on an extrapolation of trend date, found that approximately 100 acres per year were needed for large-sites that could not be met within the existing UGB, for a total need of 3,000 acres.

The Department believes that Metro’s analysis is based on substantial evidence, and that its analysis and conclusion demonstrate that the amount of urban reserves designated “includes sufficient development capacity to support a healthy economy.” For these reasons, the Department recommends that the Commission deny this objection.

#### **D. Population and Employment Forecasts**

**1. City of Portland (Ref. 32-2).** The city submitted a letter containing two objections.

**a. Objection:** The city’s second objection asserts Metro failed to coordinate the 50-year range forecast for population and employment, based on the December 2009 Urban Growth Report, with the 2035 Regional Transportation System Plan (RTSP), which is based on population and job growth assumptions. The city alleges that this results in violation of Goal 2, ORS 197.015(5), and ORS 268.380(2). Portland, July 14, 2010 at 3 (page unnumbered).

The city states that Metro is required to adopt plans that are coordinated with each other. The most recent ORS 197.296 analysis, the December 2009 Urban Growth Report, contains population and job growth assumptions that are different from those underpinning the RTSP, because the RTSP contains up-zoning and redevelopment projections along High Capacity Transit (HCT) corridors that are different from those included in the latest ORS 197.296 analysis.

The city's proposed remedy is for the Commission to remand the urban and rural reserve decisions, with directions that they employ the same employment and jobs forecast and redevelopment projections as those in the RTSP. In particular, the city argues that Metro should be required to address the redevelopment opportunities along the HCT corridors identified in the RTSP when calculating the capacity of existing urban land and the need for urban reserves.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection for the reasons stated above at subsection VI.B.1. Further, the Department notes that the RTSP is not before the Commission, and was adopted *after* the reserves decision. If the city has an objection based on consistency of the reserves decision and the RTSP, its appropriate action would have been to have filed an objection to the RTSP.

**2. Maletis et. al. (Ref. 6-3).** The objectors are Chris Maletis; Tom Maletis; Exit 282A Development Company, LLC; and LFGC, LLC, represented by Steven L. Pfeiffer. These objectors submitted a letter containing five objections.

**a. Objection:** The objectors assert the decision violates Goal 2 and Goal 14 because Metro and the counties based projected population growth, employment growth, densities of development, and land needs on a new, unacknowledged report rather than on Metro's acknowledged functional plan and the acknowledged comprehensive plans of the counties. *Maletis et. al.*, July 14, 2010 at 12. The objectors' letter enumerates this objection under General Objections, section 1.

The parties request that the Commission remand the decision to Clackamas County with instructions to remove the rural reserves designation from the objectors' property and re-designate the area as an urban reserve (see also subsection VIII.A.8, objection 6-1 and 6-2). Additionally, the objectors ask that on remand, the county (and Metro) be instructed to address the other identified legal deficiencies.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

See section V.A for the Department's findings and conclusions regarding the status and effect of Metro's employment and population projections. Unlike the draft report at issue in the *Parklane* case, here Metro's projections were adopted by its Council for the purpose of the reserves decisions, and there is no conflict with Metro's Functional Plans or its Framework Plan. Metro Rec. 1937. The Department recommends the Commission

find that Metro properly considered and established the population growth, employment growth, densities of development, and land needs projections used as the basis for urban reserve designations.

**3. Tim O’Callaghan (Ref. 42-3).** Mr. O’Callaghan submitted a letter containing two objections specific to the designation of his property and four objections that generally question the reserves decision. This subsection addresses one of the general objections. The objector is represented by Michael C. Robinson.

**a. Objection.** Mr. O’Callaghan asserts the decision violates Goal 2 because Metro and the Counties based projected population growth, employment growth, densities of development, and land needs on an unacknowledged report to formulate 50-year land needs. O’Callaghan, July 14, 2010 at 14. The objector’s letter enumerates this objection under General Objections, section 1.

Mr. O’Callaghan’s proposed remedy is for the Commission to remand the decision to Washington County.

**b. Department Analysis and Recommendation:** This objection is the same in substance as the preceding objection (Maletis, *et al.*, objection addressed in subsection VI.D.2). The Department recommends that the Commission deny the objection for the same reasons, which are set forth in part V.A. of this report.

**4. Coalition for a Prosperous Region (Ref. 4-2).** “CPR”: Columbia Pacific Building Trades Council, The Commercial Real Estate Association (NAIOP), Commercial Real Estate Economic Coalition, Home Builders Association of Metropolitan Portland, Metropolitan Association of Realtors®, Portland Business Alliance, and Westside Economic Alliance, represented by Stark Ackerman. This objector submitted a letter containing five objections.

**a. Objection.** CPR asserts Metro’s adoption of the top end of the “middle third” of the population and employment forecasts is arbitrary and thus violates the Goal 2 requirement that decisions be supplied by an adequate factual base. Because these forecasts are the basis for the projected urban needs, the objector asserts that the reserves decision also fails to comply with OAR 660-027-0005(2), or demonstrate that the urban reserves factors in OAR 660-027-0050(2) and (6) were correctly applied. CPR, July 14, 2010 at 8.

CPR asserts the reserves findings do not describe how Metro arrived at its decision to use the “middle third” of its population and employment projections. The reserves findings simply state Metro’s estimated demand in ranges for new dwelling units and new jobs.

CPR’s proposed remedy is to:

- (1) Remand the decision with direction to use the full range of population forecasts in projecting housing and employment needs, and add to the acreage of urban

- reserves. Alternatively, acknowledge the urban reserves designated in the Reserves Decision, but remand the remainder of the decision with direction to use the full range of population projections, and remove rural reserves designations so that there are sufficient lands in the urban reserves and undesignated categories to meet those projected needs, and
- (2) Require the adoption of a periodic adjustment schedule for designating additional urban reserves if the population or employment growth is significantly greater than the “middle third” adopted by Metro in this Reserves Decision, based on the analysis during the prior two urban growth boundary decisions.

**b. Department Analysis and Recommendation.** The Department recommends this objection be denied.

The Department advised Metro that it could use a range forecast for the initial phases of its analysis of the amount of land needed for long-term population and employment, but that at the end it must decide (based on an adequate factual base and appropriate policy determinations) on a specific projection of need. Metro decided to use the top end of the “middle third” of its population projection. Metro Rec. at 24, 118-119, 601-603, 607-610. Metro explains the range forecast and the policy questions involved in deciding where within the range to plan for in its 20 and 50-year Regional Population and Employment Forecasts. Metro Rec. at 1918-2007. Metro’s determination of the amount of employment land needed was based on its estimate of the portion of its long-term need that will be for large sites (as explained above), and not on its range forecast. Objector’s have not identified any reason why Metro’s decision to plan for the upper end of the middle third of its population projection for 2060 population conflicts with state requirements or is not supported by substantial evidence in the record. As a result, the Department recommends that the Commission deny this objection.

### **E. The Designation of Foundation Agricultural Land as Urban Reserves**

**1. 1000 Friends of Oregon (Ref. 26-2).** This objector filed a letter containing six objections on behalf of 1000 Friends of Oregon, the Washington County Farm Bureau, and Dave Vanasche, Washington County Farm Bureau President.

**a. Objection.** The second objection of these objectors asserts that Metro designated too much Foundation Agricultural Land as urban reserves, violating ORS 195.137-.145 and OAR chapter 660, division 27. 1000 Friends, July 12, 2010 at 3.

1000 Friends argues that unlike land needed for urban uses, Foundation Agricultural Lands are limited in their quantity and in their locational attributes. They assert that this difference between such lands and lands for urban uses is recognized in the statutes and Commission rules, and that Metro fails to recognize the significant damage that its designations will do to the agricultural industry in this part of the state. The objector asserts that the amount of Foundation Agricultural Land designated as urban reserve is unbalanced and disproportionate region-wide and in Washington County. The letter

identifies alternative areas that Metro could have designated as urban reserves that are not Foundation Agriculture Land. Finally, the objectors argue that these failures have had the result that the decision lacks the overall balance required by the Commission’s rule at 660-027-0005(2).

To support their argument, 1000 Friends point out that of the 28,615 acres of urban reserves, 11,915 acres are Foundation Agricultural Lands, of which 9,730 acres are in Washington County. In contrast, very little Foundation Agricultural Land was designated as urban reserves in Multnomah or Clackamas counties. The objectors also note that much of the undesignated land in Washington County is Foundation Agricultural Land that is under the threat of urbanization. According to 1000 Friends, “[t]he result is that the land most threatened by urbanization in Washington County is now proposed as urban reserves, while many acres not under threat of urbanization in the planning period are designated as rural reserves, turning the law on its head.” 1000 Friends Objection, at 5. Finally, 1000 Friends point out that Metro could choose a time span less than the maximum 50 years, or an estimate of future growth that is not at the top of its population and employment growth forecast. If choosing the outer limit of the allowable time span and the upper end of the population and employment forecasts results in a designation of urban reserves that does not conform to the law, which 1000 Friends believes it does not, then they assert that Metro must choose a lesser time span and/or a lower point within the forecast.

1000 Friends’ proposed remedy is for the Commission to remand the urban and rural reserves decisions with instructions to Metro to reduce the amount of Foundation Agricultural Land designated as urban reserves consistent with state law. 1000 Friends asks that those lands be designated as rural reserves, because, by definition, they satisfy the rural reserves factors, including the threat of urbanization.

**b. Department Analysis and Recommendation:** The Department recommends the Commission deny this objection.

The Department does not agree with 1000 Friends that *only* agricultural and natural resource lands are placed-based under the reserves statutes and rules. Urban reserves also are to reflect place-based needs of the region in terms of future livability and efficiency of public facilities and services. These characteristics are reflected both in the Commission’s rules defining the terms “urban reserves” and “livable communities” and in the legislature’s establishment of the factors that Metro must consider for urban reserves, which include the “efficient use of *existing* infrastructure \* \* \*,” lands that can be provided with cost-effective public facilities and services, lands that can be designed to be walkable and served by well-connected streets, and lands where development can be designed to preserve and enhance natural ecological systems. ORS 195.145(5). These are all factors that are dependent on natural and economic geography, just as the rural reserve factors are.

Identification of land by ODA as Foundation Agricultural Land is sufficient basis for the county to designate land rural reserve within three miles of a UGB without consideration of other factors. On the other hand, even if Foundation Agricultural Land is considered to rate favorably under the urban reserve factors, the Commission's rule require that if Metro designates such land as urban reserves, its findings and statement of reasons must explain, by reference to both the urban *and* rural reserve factors, why Metro chose those lands as urban reserves rather than other lands. OAR 660-027-0040(11). Metro's findings include analysis and conclusions explaining why it designated Foundation Agricultural Lands as urban reserves rather than using other lands. Metro Rec. at 14–18. Specifically, Metro explained its decision in the following terms:

Why did the region designate *any* Foundation Agricultural Land as urban reserve? The explanation lies in the geography and topography of the region, the growing cost of urban services and the declining sources of revenues to pay for them, and the fundamental relationships among geography, topography and the cost of services. The region aspires to build “great communities.” Great communities are those that offer residents a range of housing types and transportation modes from which to choose. Experience shows that compact, mixed-use communities with fully integrated street, pedestrian, bicycle and transit systems offer the best range of housing and transportation choices. *State of the Centers: Investing in Our Communities*, January, 2009. Metro Rec.181-288. The urban reserves factors in the reserves rules derive from work done by the region to identify the characteristics of great communities. Urban reserve factors (1), (3), (4),and(6)<sup>2</sup> especially aim at lands that can be developed in a compact, mixed-use, walkable and transit-supportive pattern, support by efficient and cost-effective services. Cost of services studies tell us that the best geography, both natural and political, for compact, mixed-use communities is relatively flat, undeveloped land. \* \* \*

Converting existing low-density rural residential development into compact, mixed-use communities through infill and re-development is not only very expensive, it is politically difficult. There is no better support for these findings than the experience of the city of Damascus, trying since its addition to the UGB in 2002 to gain the acceptance of its citizens for a plan to urbanize a landscape characterized by a few flat areas interspersed among steeply sloping buttes and incised stream courses and natural resources. Staff Report, June 9, 2010, Metro Rec.289-300.

Mapping of slopes, parcel sizes, and Foundation Agricultural Land revealed that most flat land in large parcels without a rural settlement pattern at the perimeter of the UGB lies outside Hillsboro, Cornelius, Forest Grove, Beaverton, and Sherwood. These same lands provide the most readily available supply of large lots for industrial development. \* \* \* Had the region been looking only for the best land to build great communities, nearly all the urban reserves would have been around these cities. \* \* \*

Despite these geopolitical and cost-of-services realities, the reserves partners designated extensive urban reserves that are *not* Foundation Agricultural Lands in order to meet the farm and forest land objectives of reserves, knowing they will be more difficult and expensive to urbanize:

- Urban Reserve 1D east of Damascus and south of Gresham (2,716 acres);
- Urban Reserve 2A south of Damascus (1,239 acres);
- Urban Reserves 3B, C, D, F and G around Oregon City (2,232 acres);
- Urban reserves 4A, B and C in the Stafford area (4,699 acres);
- Urban reserves 4D, E, F, G and H southeast of Tualatin and east of Wilsonville (3,589 acres);
- Urban Reserve 5F between Tualatin and Sherwood (572 acres);
- Urban Reserve 5G west of Wilsonville (203 acres); and
- Urban Reserve 5D south of Sherwood (447 acres).

This totals approximately 15,697 acres, 55 percent of the lands designated urban reserve. Metro Rec. at 16-17 (citations omitted).

Metro also included some findings concerning why it chose the Foundation Agricultural Lands that it did, considering the rural reserve factors in the Commissions' rules. The Department believes that the Commission intended this aspect of its rules to require Metro to consider whether Foundation Agricultural Lands considered as urban reserves are best-suited as urban reserves or rural reserves, considering both the urban and rural factors. Metro's findings indicate that it believes that its designations satisfy this requirement. Specifically, Metro found that:

Urban reserves, if and when added to the UGB, will take some land from the farm and forest land base. But the partners understood from the beginning that some of the very same characteristics that make an area suitable for agriculture also make it suitable for industrial uses and compact, mixed-use, pedestrian and transit-supportive urban development. \* \* \*

Some important numbers help explain why the partners came to agree that the adopted system, in its entirety, achieves this balance. Of the total 28,615 acres designated urban reserves, approximately 13,981 acres are Foundation or Important Agricultural Land. This represents only four percent of the Foundation and Important Agricultural Land studied for possible urban or rural reserve designation. If all of this land is added to the UGB over the next 50 years, the region will have lost five percent of the farmland base in the three-county area. Metro Rec. at 15 (citations omitted).

Metro's findings could be much more developed in terms of the rural reserve factors. Nevertheless, of the 194,350 acres of land identified as Foundation Agricultural Lands in the three-county area and designated as rural or urban reserves, 11,931 acres are urban reserves and 182,439 acres are rural reserves. Metro Rec. at 179. In Washington County, the numbers are 130,944 total Foundation Agricultural Lands as reserves, with 121,214

acres as rural reserves, and 9,730 as urban. *Id.* Given these facts, and the findings that Metro has adopted, the Department believes that the Commission could find that Metro's decision is adequately supported by the findings required by the Commission's rules.

1000 Friends also argues that the region should not have decided to plan for the maximum time frame allowed. The Department recommends that the Commission deny this aspect of the objection as well. Metro was authorized to designate reserves for up to a 50-year period, and 1000 Friends does not identify any basis why the region decision to plan for the upper end of that range is contrary to state requirements.

Metro and the counties have adopted findings based on the factors regarding the location of urban reserves throughout the region, including on Foundation Agriculture Land. Objector 1000 Friends *et. al* has made arguments based on these same criteria that are reasonable. The Department believes that the statutory and rule provisions directing designation of urban and rural reserves provide the region with considerable discretion in making the reserves decisions, and this objection has not raised factual or legal issues that compel the Commission to remand those decisions. For these reasons, the Department recommends that the Commission deny this objection.

## **VII. RESPONSE TO OBJECTIONS – RURAL RESERVES DECISION**

This chapter contains the Department’s analysis of objections to the counties’ rural reserves submittals, with recommendations on whether the Commission should sustain or deny the objection. In some cases, the objection is related to an issue addressed in the Department’s analysis in chapter V above, and in other cases new issues are raised.

This chapter addresses only valid objections. See section IV.B for a description of requirements for valid objections. Chapter IX lists objections that do not satisfy the criteria to be valid, and explains why the Department recommends that the Commission deny certain objections as invalid. The full text of all objections is available at [http://www.oregon.gov/LCD/state\\_review\\_of\\_metro\\_reserves.shtml](http://www.oregon.gov/LCD/state_review_of_metro_reserves.shtml). The reference, or “Ref.,” number indicated for each objection in the analysis below directs readers to the appropriate objection letter. The number has no significance other than for ease of identification.

### **A. Clackamas County**

**1. Maletis et. al. (Ref. 6-4).** The objectors are Chris Maletis; Tom Maletis; Exit 282A Development Company, LLC; and LFGC, LLC, represented by Steven L. Pfeiffer. These objectors submitted a letter containing several objections.

**a. Objection:** The objectors assert the decision does not comply with Goal 2 because there is no adequate factual base to support the conclusion that all lands within three miles of the UGB are necessarily “subject to urbanization” for purposes of OAR 660-027-0060(2)(a). Maletis et. al., July 14, 2010 at 14. The objector’s letter enumerates this objection under General Objections, section 2.

The objection maintains that a county must consider whether lands are “subject to urbanization” through 2060, the agreed horizon date for reserves planning prior to designating the land rural reserve. ORS 195.141(3)(a); OAR 660-027-0060(2)(a). Clackamas County determined that all lands located within three miles of the Portland Metropolitan UGB and within one-half mile of an outlying city UGB are necessarily “subject to urbanization.” According to the objectors, this is a bright-line, “one size fits all” conclusion, with no evidence in the record to support the selected distances or to explain why properties within three miles of a UGB were more or less subject to the varied factors that influence urbanization. In the absence of any evidence at all to support Clackamas County’s characterization of this factor, there is no adequate factual base for purposes of Goal 2 to support Clackamas County’s application of this factor in the rural reserves analysis.

The parties request that the Commission remand the decision to Clackamas County with instructions to remove the rural reserves designation from the property and re-designate the area as urban reserve (see also subsection VIII.A.8, objection 6-1 and 6-2).

Additionally, the objectors ask that on remand, the county (and Metro) be instructed to address the other identified legal deficiencies.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

Threat of urbanization is one factor that a county must consider under OAR 660-027-0060(2)(a) and ORS 195.141(3) when making a decision on whether to designate land as a rural reserve. Like the other factors, the threat of urbanization is not a criterion or standard that the county must show has been satisfied. Neither the statute nor the Commission’s rule mandate that the county “conclude” the land is subject to urbanization in order to designate it as a rural reserve. Instead, the county must take that factor into consideration in making its decision.

The county’s submittal identifies material addressing the “three-mile urbanization” guideline used by the county Rural Reserves Policy Advisory Committee. CC Rec. at 365. The county’s findings indicate that it relied on OAR 660-027-0060(4) to determine that lands should be designated as rural reserves if they are identified as Foundation Agricultural Land, and are located within three miles of an urban growth boundary. See, e.g., CC Rec. at 4-5 (French Prairie area should be a rural reserve because it is Foundation Agricultural Land within three miles of a UGB, and because it contains prime agricultural soils and is one of the most important agricultural areas in the state).

The Department believes that the County has an adequate factual base for its decision. Additionally, while Clackamas County may have studied rural reserve candidate areas, and determined that land within three miles of the Metro UGB and one-half mile of other cities was subject to urbanization for purposes of addressing the rural reserve factors, it did not designate all land within these radii as rural reserves when the factors as a whole were evaluated and applied.

The Department recommends the Commission deny this objection for these reasons. The objectors’ contentions concerning the validity of OAR 660-027-0060 are addressed separately below, at subsection VIII.A.8.

**2. Tim O’Callaghan (Ref. 42-4).** Mr. O’Callaghan submitted a letter containing two objections specific to the designation of his property and four objections generally question the reserves decision. This subsection addresses one of the general objections. The objector is represented by Michael C. Robinson.

**a. Objection.** Mr. O’Callaghan asserts the decision violates Goal 2 because there is no adequate factual base to support the conclusion that all lands within three miles of the UGB are necessarily “subject to urbanization” for purposes of OAR 660-027-0060(2)(a). O’Callaghan, July 14, 2010 at 15. The objector’s letter enumerates this objection under General Objections, section 2.

The objector’s proposed remedy is for the Commission to remand the rural reserves decision to Clackamas County with instructions to develop an adequate factual base for determining when lands are subject to urbanization.

**b. Department Analysis and Recommendation.** This objection is the same in substance as that of the Maletis, *et al.*, objection addressed in subsection VII.A.1, immediately above. The Department recommends that the Commission deny the objection for the same reasons set forth in that subsection.

**3. Elizabeth Graser-Lindsey (Ref. 14-2).** Ms. Graser-Lindsey submitted a letter with two objections.

**b. Objection.** The decision designating the urban and rural reserves is based on a misapplication of the rural reserve factors “to provide long-term protection to the agricultural industry or forest industry.” Graser-Lindsey, July 6, 2010 at 5 (page unnumbered).

Ms. Graser-Lindsey states that at least one county erroneously used the farmland categories from the January 2007 ODA report to Metro entitled “Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands” (i.e., Foundational, Important and Conflicted Agricultural Land) to define farmland instead of considering the rural reserve factors in OAR 660-027-0060. Ms. Graser-Lindsey contends that specific facts that provided evidence of quality agricultural or forest lands were ignored in areas designated as “Conflicted” in the ODA mapping units, resulting in OAR 660-027-0060 being misapplied.

Ms. Graser-Lindsey’s proposed remedy is for the Commission to remand the urban reserves decision so that the OAR 660-027-0060(2) is applied to all lands designated as rural reserves, and so that the agricultural values of lands that have been ignored can be considered.

**b. Department Analysis and Recommendation.** The Department recommends that the Commission deny this objection.

The statement of objection in the letter alleges deficiencies in both urban and rural reserve designations, but the rules cited in the text of the letter address only rural reserve factors in OAR 660-027-0060. The Department treats this objection as specific to Clackamas County, as decisions from other counties are not cited in the objection.

See subsection V.B.2 regarding the scale of review. Generally, the Department believes that the applicable statutes and rules do not require the counties to make a parcel-by-parcel analysis of reserve areas. Additionally, the rural reserve factors in OAR 660-027-0060(2) are not criteria with which the counties and Metro must show compliance, but rather factors to be considered in the reserves decisions. Even if an area contains quality agricultural or forest land, nothing in the statute or rules compel a rural reserve designation. Clackamas County and Metro made findings regarding the rural reserve

factors in OAR 660-027-0060(2) for each designated area, and those findings demonstrate that the county considered the factors listed in statute and rule. Clackamas County was not compelled to make findings for areas that were not designated. Metro Rec. at 39.

For these reasons, the Department recommends that the Commission deny this objection.

**4. Michael J. Wagner (Ref. 29).** Mr. Wagner submitted a letter containing one objection.

a. **Objection.** Mr. Wagner asserts that Clackamas County did no analysis of “threat of urbanization” as required by OAR 660-027-0060(2)(a) and therefore underestimated the amount of rural reserve lands that should be designated.

Mr. Wagner states that the county did no analysis of lands “potentially subject to urbanization” and that it erred when it limited rural preservation to an “arbitrary” three miles based solely on the concept that traffic studies use the three-mile limit. The objector uses the U.S. Census definition of “urbanized area” to argue that many areas beyond the three-mile limit are potentially subject to urbanization. The objector further states that the county erred when it did not perform any analysis of fair market values, providing an example of comparative information on differing land values for EFU, forest and rural residential-zoned lands.

The objector’s proposed remedy is for the Commission to remand the rural reserves designations to Clackamas County to designate significant additional areas as rural reserve.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

Clackamas County determined that all lands within a distance of three miles from the Metro UGB and one-half mile from a non-Metro UGB are subject to the threat of urbanization over a fifty-year period. The great majority of lands designated rural reserve in the county are within three miles of a UGB, with smaller areas extending beyond the three miles and some areas extending one mile or less from a non-Metro UGB.

The reserves rule sets forth four factors to be considered by counties when designating rural reserves. Among these is that lands be potentially subject to urbanization “as indicated by proximity to a UGB *or* proximity to properties with fair market values” that significantly exceed farm or forest land values. OAR 660-027-0060(2)(a). (emphasis added)

An October 14, 2009 joint state agency comment letter to Metro had these comments on the amount of land designated rural reserve:

In general, the approach used by Clackamas County is consistent with how the agencies believe rural reserve designations should be used (to “steer” urban

development away from or toward particular areas, rather than as a blanket treatment of everything that is not an urban reserve. Metro Rec. at 1375.

Clackamas County determined that lands within three miles of the metro UGB are threatened with urbanization over a fifty-year period. Part of the county's choice of three miles was not that traffic studies use the three-mile limit, but to account for the impact of transportation access on state highways. CC Rec. at 365. The county was not required to use the U.S. Census definition of urbanized area as an indicator of lands subject to urbanization. The former includes urban as well as urbanizing (low-density lands), while the latter often includes completely undeveloped farmland that is nevertheless under threat of development. Finally, potential for urbanization is just one factor of four to be considered and is not necessarily a determinative factor in and of itself. For all of these reasons, the Department recommends that the Commission deny this objection.

## **B. Washington County**

**1. Oregon Department of Agriculture (Ref. 18-1).** The Oregon Department of Agriculture and Board of Agriculture (collectively, ODA) submitted a letter containing five objections.

**a. Objection.** ODA's first objection is that the decision is not consistent with the purpose and objective stated in OAR 660-027-00005(2). ODA, July 14, 2010 at 2. The purpose statement of division 27 includes the objective "a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region for its residents." OAR 660-027-0005(2).

ODA notes that "\* \* \* 63.5 percent of the lands located adjacent to the UGB located in Washington County (includes Forest Grove and Cornelius) has been designated by Metro as urban reserve (55%) or left as "undesigned" lands (8.5%) with no protection from future designation as additional urban reserve land. If one removes the Forest Grove/Cornelius UGB, 67.1 percent of the lands has been designated by Metro as urban reserve (61%) or left as "undesigned" land (6.1%)." ODA, at 1.

ODA believes that the amount of rural reserves was inflated in Washington County in order to justify a larger amount of urban reserves in that part of the region. Specifically, ODA proposes that acreage not identified as Foundation Agricultural Land could be designated as urban reserve, instead of the Foundation lands that were. These lands are southwest of Borland Road, southeast of Oregon City, in the Clackamas Heights area, east and west of Wilsonville, and between Wilsonville and Sherwood. ODA, at 2.

The objector's proposed remedy is for the Commission to remand with instructions to designate rural reserves that satisfy the quality and threat factors established by the rule

and to adjust the amount of urban reserve lands to better achieve a balance that protects quality agricultural lands that truly require protection from urbanization.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

Washington County completed an in-depth analysis of potential rural and urban reserves, first evaluating land based on a variety of quantitative assessments reflected in tables 1 and 2 and a series of maps. WC Rec. at 2281-2. The county then refined this analysis to provide a qualitative analysis, including five means of determining potential rural reserve areas: urbanization, productivity, parcelization, physical features and dwelling density. Various subareas of the county were then ranked by tier. WC Rec. at 2300. Tier 1 indicates which subareas are most suitable for rural reserves, followed by Tier 2, Tier 3 and Tier 4 areas. Extensive areas up to five miles from UGBs have been designated for rural reserves, although several outer subareas were assessed by the county as having “low” or “medium” potential for urbanization and were ranked Tier 4 – least suitable for rural reserves.

The objective of OAR chapter 660, division 27 to achieve a balance in the designation of urban and rural reserves applies to the entirety of the region and not to individual counties within it. Further, the designation of a large amount of rural reserve land in Washington County has not enabled the county to designate more urban reserve land than population projections and land use need analyses will support. Findings have been provided to support Washington County’s designation of rural reserves, including consideration of whether the lands are subject to urbanization. WC Rec. at 2294–2306. Whether land is subject to urbanization is a factor for consideration and not determinative as to whether land should be so designated.

The fact that 7.4 percent of the Foundation Agricultural Lands designated as reserves in Washington County are urban reserves, and 92.6 percent are rural reserves, suggests that most of the county’s key agricultural lands have been protected. On a regional basis, the percentages are even more weighted toward protection of agricultural lands, with 6.1 percent of the Foundation lands designated as reserves in the urban category, and 93.9 percent rural. In an Other Washington County characteristics must be considered as well, including: (1) the much greater extent of Foundation Agricultural Lands adjacent to the UGB relative to other counties in the region, (2) the very limited amount of “conflicted” agriculture land, (3) the higher population and land need projections, and (4) fewer topographic challenges for compact development than in Clackamas and Multnomah Counties. For these reasons, the Department recommends that the Commission find that this aspect of the ODA objection is not supported. ODA’s objections to particular urban reserve areas are considered separately, in the subsections that follow (see response to ODA objection 2, subsection VII.B.2, below).

The Department recommends that the Commission find that the “balance” called for in the purpose and objective statement in OAR 660-027-0005 is to be achieved for the region as a whole, and not on a county-by-county basis. The Department further

recommends the Commission find that Washington County has adequately explained its rural reserve designation decision with regards to consideration of the factors in OAR 660-027-0060(2) and (3) in designating lands more than three miles from the current UGB.

**2. The Oregon Department of Agriculture (ODA) (Ref. 18-2).** The Oregon Department of Agriculture and Board of Agriculture (collectively, ODA) submitted a letter containing five objections.

**a. Objection.** ODA's second objections is that the analysis and designation of key Washington County agricultural lands as urban reserves and failure to designate qualified agricultural lands as rural reserves is flawed. ODA, July 14, 2010 at 3.

ODA states that both in general and as applied to specific areas Washington County's analysis and application of the factors for rural reserves uses elements not included in applicable statutes or rules, and relies on a weighting analysis that is inconsistent with the applicable law and involves elements not in the law. More specifically, ODA argues that:

- (1) The county's analysis inappropriately uses the "subject to urbanization" factor to downgrade the importance of agricultural lands under the rural reserve factor in OAR 660-027-0060(2)(a). ODA's identification of Foundation Agricultural Land took into account the long-term viability of agricultural operations and the overall stability of agriculture. Washington County's analysis failed to do so.
- (2) The county's analysis gives too much weight to whether lands are located within the Tualatin Valley Irrigation District and inappropriately ranks lands within water-restricted areas lower (OAR 660-027-0060(2)(c)). The rule only requires consideration of available water "where needed," and many high-value crops are grown in the region without irrigation.
- (3) The analysis and conclusions confuse "large block of agricultural land" with "large parcels," and inappropriately considers residential density without determining whether dwellings were authorized in conjunction with farm use or as nonfarm dwellings when determining whether there is a "large block of agricultural land" (OAR 660-027-0060(2)(d)(A)).
- (4) The analysis does not adequately address the sufficiency of agricultural infrastructure in the area. The only information provided concerns the need to protect a critical mass of operations, and the county disregarded this information (OAR 660-027-(2)(d)(D)).
- (5) The analysis makes conclusory statements that urban reserve areas "can be designed to avoid or minimize adverse effects on farm and forest practices" without providing evidence or discussion as to how adequate protection is provided (OAR 660-027-0050(8)).

ODA's proposed remedy is for the Commission to remand the Washington County portion of the decision to address the deficiencies listed above.

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection for the reasons explained below.

The consolidated findings regarding application of the rural reserves factors in Washington County address each of the subsections in OAR 660-027-0060(2). Metro Rec. at 95-97 (generally describing how the county considered each of the factors in the rule). Washington County’s analysis of how it considered the factors is provided in detail at WC Rec. at 2970-2988 in the recommendations from the county’s coordinating committee.

With respect to ODA’s arguments 1 through 5oted above, the Department makes the following conclusions.

1. Threat of Urbanization: While Washington County initially used a weighting that ascribed little significance (maximum of 10 percent) to proximity to a UGB, that approach was later changed to ascribe greater weight to this factor. The county also considered land values. WC Rec. at 2971-2972. The record shows that the county considered what it is required to consider by statute and rule, and the Department recommends the Commission find the county adequately considered OAR 660-027-0060(2)(a) and deny this aspect of ODA’s objection.
2. Too Much Weight to Availability of Water for Irrigation: Washington County gives its highest agricultural productivity rating only to lands with access to water, even where high-value crops are grown without irrigation and even for high-value farmland. The county notes in its findings that it anticipates water availability will become increasingly important in the future and uses this as a contributing factor under OAR 660-027-0060(2)(b) as well as (c). WC Rec. at 2972. ODA correctly notes that the consideration is for water “where needed” in subsection (c), but fails to recognize that this is not the primary way the county used this consideration. The county found that “water availability appears to be a significant factor in preservation of farmland over the long-term” in its consideration of subsection (b). WC Rec. at 2972. The statute and rule do not preclude the county from considering water availability when determining whether land is “suitable to sustain long-term agricultural operations.” The Department recommends the Commission find that Washington County did not err in considering the availability of water when considering the rural reserve factors.
- 3 and 4. Large Blocks/Clusters of Farm Operations and Agricultural Infrastructure: OAR 660-027-0060(2)(d)(A) and (D) provide that two of the things that counties are to consider when deciding whether to designate land as a rural reserve are the existence of large blocks of resource land with a concentration of farms, and the sufficiency of agricultural infrastructure in the area. Washington County analyzed both parcelization and ownership patterns, but concluded that parcelization is a better long-term indicator of the sustainability of agricultural operations. WC Rec. at 2975; 2976; 2978; 3019-20 (maps of parcelization and ownership), 3815. Washington County has considered whether lands proposed as rural reserves are suitable to sustain long-term agricultural operations, taking into account both large blocks of agricultural operations and the

sufficiency of agricultural infrastructure in the area. The county also considered the ODA Agricultural Lands inventory, finding that almost all lands within five miles of existing urban areas is inventoried as Foundation or Important agricultural lands. WC Rec. at 2972. The county also considered specific comments from the Washington County Farm Bureau, WC Rec. at 2980-2983, that reflect ODA's objection. Although Washington County may not have considered large blocks of agricultural land, and agricultural infrastructure in the way that ODA may have wished, the fact is that the county did consider these factors. The statute and rule require nothing more. For these reasons, the Department recommends that the Commission deny this aspect of ODA's objection.

5. Ability to Design Urbanization of Urban Reserves to Avoid or Minimize Adverse Effects on Farm and Forest Practices. Regarding OAR 660-027-0050(8), whether an urban reserve area can "be designed to avoid or minimize adverse effects on farm and forest practices," Washington County addressed this factor through the "Pre-qualified Concept Plan" process. Each of these concept plans addressed the factor in section (8). WC Rec. at 3036–3141. Additionally, Metro requires concept planning for all new UGB expansions, and one of the considerations in this concept planning exercise is, "avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands." Metro Rec. at 9 and 24–25. For these reasons, the Department recommends that the Commission find that OAR 660-027-050(8) has been adequately addressed with regard to urban reserves in Washington County.

**3. 1000 Friends of Oregon (Ref. 26-4).** 1000 Friends filed a letter containing six objections on behalf of 1000 Friends of Oregon, the Washington County Farm Bureau, and Dave Vanasche, Washington County Farm Bureau President.

**a. Objection.** 1000 Friends asserts in its fourth objection that Washington County's reserves analysis, on which Metro relies, is legally flawed.

1000 Friends argues that Washington County's reserves analysis "brought in elements not in the law, and used various weighting schemes to measure these and other elements, resulting in an analysis that in some cases is actually contrary to the purpose and factors of the Reserve statute and rule." 1000 Friends Objection, at 10.

In this subsection the Department addresses 1000 Friends general contentions regarding Washington County's analysis. 1000 Friends objections relating to specific areas are addressed in connection with the objector's objections #5, 6 and 7 for areas 7I, a portion of 7B, 8A and North Plains/Banks, below.

1000 Friends argues that all of the lands the county designated as urban reserves are under a high threat of urbanizations, while almost all rural reserves are under "low" or "medium" threat of urbanization.

Regarding the requirement in OAR 660-027-0060(2)(b) and (d) that rural reserves be "capable of sustaining" and "suitable to sustain" long-term agricultural operations, 1000 Friends notes that much of the lands designated as urban reserves are the productive heart

of Washington County agriculture, and that the value of production from these lands has continued to grow. 1000 Friends argues that the lands should be designated as rural reserves to sustain this production, not as urban reserves.

Regarding OAR 660-027-0060(2)(c) (agricultural infrastructure), 1000 Friends states that the availability of water for irrigation is relevant only “where needed.” 1000 Friends argues that the county places inappropriate weight on this factor, and does not recognize that many high-value crops do not need irrigation. In addition, 1000 Friends objects that the county looks too narrowly at parcelization in addressing whether there is a “large block of agricultural land” in designating rural reserves under OAR 660-027-0060(2)(d)(A). Finally, the objector states that agricultural infrastructure is not adequately considered as required in OAR 660-027-0060(2)(d)(D).

The objection states for the proposed remedy, “Due to the multiple legal and factual flaws in the reserves analysis of Washington County, that portion of the reserves decision should be remanded to Metro.”

**b. Department Analysis and Recommendation:** The Department recommends that the Commission deny this objection for the same reasons set forth with regard to ODA’s second objection, addressed immediately above.

**4. Oregonians in Action (OIA, Ref. 10-1).** OIA has submitted a letter containing three objections.

**a. Objection.** In its first objection, OIA notes that Washington County applied the factors in OAR 660-027-0060 without regard to the zoning of the property, or to whether exceptions lands or non-resource lands are included. OIA, July 14, 2010 at 1. OIA argues that this is a legal error, and that the factors for rural reserves may only be applied to resource lands (and not to exception lands).

OIA states that the county’s findings do not distinguish between those properties in each of the study areas that are not agricultural land as defined by Goal 3 or forest land as defined by Goal 4, and those that are resource land. OIA argues that the county must study exception areas within proposed rural reserves individually, to determine if they qualify based on having important natural landscape features and, specifically, buffers between Goal 3 and Goal 4 parcels and urban areas.

OIA’s proposed remedy is for the Commission to remand Washington County’s decision and require it to conduct a more detailed analysis that addresses and distinguishes, those lands within each study area that are exception areas and non-resource areas, and those that are resource lands under Goals 3 and 4.

**b. Department Analysis and Recommendation.** The Department recommends that the Commission deny this objection for the following reasons.

Neither the applicable statutes nor rules require that exceptions areas or non-resource lands be distinguished from agricultural or forest lands when designating rural reserves, and the fact that Washington County has not done so is not a basis for the Commission to remand the decision. The statutory definitions of “rural reserve” and “urban reserve” and the statutory factors do not distinguish between resource land and exception land, and neither do the Commission’s rules. The factors apply to both resource and exception lands, and a county must consider both when determining whether to designate lands as rural reserves. Similarly, Metro must consider both exception and resource lands when evaluating lands for designation as urban reserves. Contrary to OIA’s suggestion, there is no inherent reason why exception lands may not sustain or contribute to sustaining, agricultural operations and (as OIA notes) exception lands may also be important in sustaining forest uses or in terms of natural resources, hazards, or the region’s sense of place. For these reasons, the Department recommends that the Commission deny this objection.

**5. Oregonians in Action (OIA, Ref. 10-2).** OIA has submitted a letter containing three objections.

**a. Objection.** The second of OIA’s objections asserts the rural reserve designations are inconsistent with Goal 2 and ORS 197.732. OIA, July 14, 2010 at 2.

The objector states that nothing in ORS 195.137-145 authorizes Washington County to adopt rural reserves in violation of the statewide planning goals and statute. Specifically, OIA argues that OAR 660-027-0040(5) prohibits a county from allowing exceptions in areas designated as rural reserve. According to OIA, this is inconsistent with the authorization that landowners have in statute (197.732) and rule to seek exceptions to the applicability of a statewide planning goal if certain factors are met. As a result, OIA argues that OAR 660-027-0040(5), which is the rule prohibiting the county from allowing exceptions, is invalid.

OIA’s proposed remedy is for the Commission to remand the rural reserve designations to Washington County for repeal. According to OIA the county cannot adopt rural reserves until OAR 660-027-0040(5) is repealed by the Commission.

**b. Department Analysis and Recommendation.** The Department recommends that the Commission deny this objection.

ORS 197.732 provides that a local government *may* adopt an exception to a statewide planning goal if it determines that certain criteria are met. ORS 197.732(2). There is no statutory requirement that a county approve an exception, and the Commission’s rule prohibiting plan amendments to allow new uses in areas designated as a rural reserve does not conflict with the statute. A county could consider the fact that exceptions would not be allowed within rural reserves in determining what lands to designate, as the factors in ORS 195.141 and OAR 660-027-0060 are not exclusive.

OAR 660-027-0040(5) states that “a county shall not re-designate land in rural reserves to another use” during the planning period described in rule. The objector is presumably concerned either that no new exceptions areas may be created within areas designated rural reserve within the planning period. Objector’s concerns are a legitimate policy concern that could be considered by a county, but they do not provide a legal basis for remanding the county’s rural reserve designations. For these reasons, the Department recommends that the Commission deny this objection.

**6. Oregonians in Action (OIA, Ref 10-3).** OIA has submitted a letter containing three objections.

**a. Objection.** OIA’s third objection is that Washington County applied the “important natural landscape features” considerations at OAR 660-027-0060(3) in a “hopelessly overbroad” way to features that are under low threat of urbanization and that contain no Goal 5 resources. OIA argues that ORS 197.137(1) limits rural reserves designated to protect important landscape features to lands that “limit urban development or help define appropriate natural boundaries of urbanization, including plant, fish and wildlife habitat, steep slopes, and floodplains.” OIA, July 14, 2010 at 2.

OIA’s proposed remedy is for the Commission to remand Washington County’s decision with instructions to conduct a more detailed analysis within each study area of which lands contain “important” natural landscape features, and of those areas, which are needed to act as boundaries for urbanization, or as important fish and wildlife habitat, steep slopes or floodplains.

**b. Department Analysis and Recommendation.** The Department recommends that the Commission deny this objection for the following reasons.

Washington County created a three-tier prioritization of natural landscape features. The analysis gives heavy weight to land with an elevation above 350 feet, which results in a high-priority rating for a majority of the five-mile study area and particularly lands far from UGBs. WC Rec. at 2306. The county explained its decision to consider elevation as important to protect lands that provide a sense of place for the region, as well as providing headwater protection for streams. WC Rec. at 2987. The county did not consider Goal 5 resources, but the rule does not limit the county to only those resources in making its determinations.

Washington County’s application of the “subject to urbanization” factor at OAR 660-027-0060(3)(a) does appear to have been quite broad, but the Department does not believe it is unlawful in substance. The county found that:

\* \* \* factor (3)(a) [OAR 660-027-0060(3)(a), the factor for rural reserves to protect natural resources] is worded differently than Factor (2)(a) [the factor for rural reserves to protect farm or forest lands]. Factor (2)(a) requires the consideration of proximity to a UGB or proximity to land with fair market values that significantly exceeds agricultural values for farmland or forest values for forest land. Factor (3) (a) simply states that reserve lands “are situated in an area that is otherwise potentially subject to

urbanization.” Thus, “subject to urbanization” can be defined differently than how staff defined it in Factor 2. Two approaches in defining “subject to urbanization” were therefore considered. One approach was to use the same definition as used in Factor 2 - land that is rated as high subject to urbanization (HU), medium subject to urbanization (MU), and low subject to urbanization (LU). A disadvantage to this option is that some natural feature areas may be strong candidates for inclusion in a rural reserve but be in an area of low urbanization potential. Weighting of values used to make a decision would be one way of addressing this issue. A second approach is to broadly define “subject to urbanization” as all of the 5 mile study area. This allows for all natural features to be considered equally relative to this factor. The Washington County Farm Bureau has advocated that some of the hillside areas should be in urban reserves rather than farmland on the valley floor. Given this perspective, all of the 5 mile study area may be subject to some degree of potential urbanization. WC Rec. at 2986.

Washington County is correct that the wording of OAR 660-027-0060(3)(a) differs from 0060(2)(a). The Department believes that the county’s application of these factors is not contrary to the applicable statutes or rules, and that its conclusions are supported by an adequate factual base. As a result, the Department recommends that the Commission deny this objection.

**7. Bobosky (Ref. 38-2 and 3).** The objectors are Steve and Kelly Bobosky, represented by Wendie L. Kellington. The objection letter contains six objections, two of which have been found to be invalid (see chapter IX). The letter contains objections specific to the designation of the objector’s property and vicinity as a rural reserve and other more general objections to the reserves decision. This subsection addresses the general objections.

**a. Objections.** The objectors assert that the reserves decision unlawfully fails to identify agricultural land subject to Goal 3. Rather, the decision improperly considers land “Agricultural land” whether it is subject to an acknowledged Goal 3 exception or subject to Goal 3, making it impossible to lawfully apply the urban and rural reserves “criteria.” The objector contends the decision violates Goal 3, ORS 195.141(3), OAR 660-0027-0050 and -0060. Bobosky Objection, July 7, 2010 at 15. (Ref 38-2)

The Bobosky’s also argue that, in designating acknowledged exception lands as “rural reserve,” the county assigned exception lands equal status with acknowledged EFU-protected agricultural lands, and that this unlawfully undermines Goal 3 and the agricultural land use policy in ORS 215.243 because it repeals regional protection for agriculture. The Bobosky’s also object to Metro’s repeal of Policy 1.12.<sup>17</sup> Bobosky Objection, July 7, 2010 at 19. (Ref 38-3)

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<sup>17</sup> The repealed Policy 1.12 stated:

It is the policy of the Metro Council that:

1.12.1 Agricultural and forest resource lands outside the UGB shall be protected from urbanization, and accounted for in regional economic and development plans, consistent with this Plan. However, Metro recognizes that all the statewide goals, including Statewide Planning Goal 10 Housing and Goal 14 Urbanization, are of equal importance to Goal 3 Agricultural Lands

The objectors' proposed remedy is for the Commission to remand the decision to Washington County with instructions to:

- (1) Remove the rural reserve designation for the subject 9.76-acre exception lot and redesignate it either urban reserve or leave it undesignated;
- (2) Revisit all other the urban and rural reserves decisions and determinations that land should be left as undesignated, with reference to an analysis of which lands:
  - (a) are agricultural lands as defined in OAR 660-0033-0020(1), and which are forest lands;
  - (b) are subject to Goal 3 (or 4) exceptions;
  - (c) the nature and types of agricultural operations on Goal 3 lands including soils types and irrigation.

Then, apply rural reserves designations to support agriculture only on agricultural land as defined in OAR 660-0033-0020(1). A similar exercise is proposed for Goal 4.

The proposed remedy for the second objection is for the Commission to remand for Metro to restore Policy 1.12 protecting Agricultural Land, instruct Metro that it must prioritize exception lands for urban reserves, evaluate whether exception lands can accommodate land needs for urban reserves and make agricultural land urban reserves as a last resort. Further, LCDC should instruct Metro and the counties that exception lands may not be locked up as rural reserves without some compelling reason founded in protecting inventoried important natural resources.

**b. Department Analysis and Recommendation.** The Department recommends that the Commission deny these objections for the following reasons.

The inquiry and evaluation of what lands to designate as rural reserves is not required to be property-specific, but rather area-wide. See subsection V.B.2. The county is not required, nor would it be possible, to address every parcel or even every group of parcels. The rural reserves factors are not approval criteria and are not determinative in that regard.

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and Goal 4 Forest Lands which protect agriculture and forest resource lands. These goals represent competing and, some times, conflicting policy interests which need to be balanced.

1.12.2 When the Metro Council must choose among agricultural lands of the same soil classification for addition to the UGB, the Metro Council shall choose agricultural land deemed less important to the continuation of commercial agriculture in the region.

1.12.3 Metro shall enter into agreements with neighboring cities and counties to carry out Council policy on protection of agricultural and forest resource policy through the designation of Rural Reserves and other measures.

1.12.4 Metro shall work with neighboring counties to provide a high degree of certainty for investment in agriculture and forestry and to reduce conflicts between urbanization and agricultural and forest practices.

The objectors argue that by not considering whether lands are resource lands or exception lands, the county's decision "undermines Goal 3 and land use policy established in ORS 215.243." The legislature has found that rural reserves are intended "to provide long-term protection for agriculture, forestry or important natural landscape features that limit urban development or help define appropriate natural boundaries of urbanization." ORS 195.137(1). The intent of rural reserves is to afford greater long-term protection of rural lands from urbanization. The status of particular lands as exception lands or agricultural lands is not directly relevant to the counties' decisions. Rural reserves may be designated to protect the agricultural or forest industries (not lands), or to protect important natural features of the lands. These purposes are consistent with Goal 3 and the agricultural land use policies enunciated in ORS 215.243, and do not require a property-by-property consideration of whether lands are exception lands.

The Department disagrees with the objector's assertion that designating exception areas as rural reserve undermines this intent. Uses that take place in rural areas, even if not zoned EFU, affect farming operations and practices. While Washington County was not required to designate exception areas (or any other areas) as rural reserve, no rule prohibits it, either. The effect of the rural reserves designation is greater protection of agricultural *uses*. The Department recommends the Commission find that Washington County's designation of exception areas as rural reserves does not violate Goal 3, ORS 195.141(3), OAR 660-0027-0050 or 660-027-0060, or ORS 215.243.

## **VIII. RESPONSE TO OBJECTIONS – AREA-SPECIFIC**

This chapter contains the Department’s analysis of objections to the designation (or lack of designation) of particular parcels or areas as urban or rural reserves, with the Department’s recommendations on whether the Commission should sustain or deny the objection. The responses to objections are ordered by county, and within each subsection for each county, the objections to urban reserves are addressed first, with subsequent subsections addressing objections to rural reserve designations. The final subsection includes several similar objections to areas in each county that have a common response. In some cases, the objection is related to an issue addressed in the Department’s analysis in chapter V above, and in other cases new issues are raised.

This chapter addresses only valid objections. See section IV.B for a description of requirements for valid objections. Chapter IX lists objections that the Department is recommending not be considered because they are invalid. The full text of all objections is available at [http://www.oregon.gov/LCD/state\\_review\\_of\\_metro\\_reserves.shtml](http://www.oregon.gov/LCD/state_review_of_metro_reserves.shtml). The reference, or “Ref.,” number indicated for each objection in the analysis below directs readers to the appropriate objection letter. The number has no significance other than for ease of identification.

### **A. Clackamas County**

**1. Cities of Tualatin and West Linn (Ref. 44-2).** These cities submitted a letter containing six objections. The first objection regards a general issue related Metro’s authority to establish urban reserves (see subsection V.A.1), while objections 2 through 6 relate to designation of Areas 4A–D (the Stafford Area) as an urban reserve. This subsection addresses the second objection. The cities are represented by Miller Nash, LLP.

**a. Objection.** The cities object to Clackamas County’s designation of areas 4A–D, also known as the Stafford Basin, as an urban reserve. The cities assert that the designation does not comply with OAR 660-027-0050(1) or (3), Goal 2 or Goal 12 (Transportation), or OAR chapter 660, division 12 (the “Transportation Planning Rule” or “TPR”). Tualatin and West Linn, July 14, 2010 at 4–8.

The cities point out that Metro’s findings show that urbanization of the Stafford Basin will require enormous transportation system improvements, and that Metro’s findings that traffic will be bad everywhere does not excuse the fact that this area cannot be efficiently and cost-effectively served by current or future transportation systems. The cities also point out that no appropriate governmental entity can afford to build the required transportation improvements. The cities argue that poor transportation capacity everywhere does not justify ignoring the factors, it indicates that Metro and the counties ought not designate *any* of those areas as urban reserves until there is sufficient evidence to indicate that the future transportation system will accommodate the development.

Similarly, avoidance of Foundation Farm Land does not address whether transportation facilities are available.

The cities also argue that Metro's decision implicates Goal 12 and the TPR. They state Metro's regional transportation plan indicates that there is neither the money nor the ability to construct transportation improvements necessary to serve an urbanized Stafford Basin to provide an adequate transportation system through 2035. Amending the regional planning documents to provide for significant additional urban development in an area served by a transportation system that will not be able to support it allegedly violates, or at the very least requires an analysis of, Goal 12 and the TPR. The cities note that Metro's findings do not address compliance with Goal 12 or the TPR at all.

The cities request that the Commission remand the reserves decision to address transportation issues.

**b. Area Description.** Urban Reserves 4A, 4B and 4C are named Stafford, Rosemont and Borland. These three areas comprise approximately 4,700 acres. Area 4A (Stafford) is located north of the Tualatin River, south of Lake Oswego, and west of West Linn. Area 4B (Rosemont) is a 162-acre area located adjacent to West Linn's recently urbanized Tanner Basin neighborhood. Area 4C (Borland) is located south of the Tualatin River, on both sides of I-205. Area 4C is adjacent to the cities of Tualatin and Lake Oswego on the west and West Linn on the east. The southern boundary generally is framed by the steeper terrain of Pete's Mountain. There are very few parcels greater than 20 acres. The terrain of this area is varied. Most of area 4B is gently rolling, while the rest of the area east of Wilson Creek has steeper terrain. The area south of Lake Oswego, along Stafford Rd and Johnson Rd., generally has more moderate slopes. The Borland area, south of the Tualatin River, also is characterized by moderate slopes.

Wilson Creek and the Tualatin River are important natural landscape features located in this area. This entire area is identified as Conflicted Agricultural Land, although approximately 1,100 acres near Rosemont Road are zoned Exclusive Farm Use. The Oregon Department of Forestry Development Zone Map does not identify any Mixed Forest/Agriculture or Wildland Forest located with this Urban Reserve.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny this objection.

With regard to Goal 12 and the TPR, the findings state:

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations and does not place any limitations on the provision of rural transportation facilities or improvements. The four governments assessed the feasibility of providing urban transportation facilities to lands under consideration for designation as urban reserve, with assistance from the Oregon Department of Transportation. This assessment guided the designations and increases the likelihood that urban reserves added to

the UGB can be provided with urban transportation facilities efficiently and cost-effectively. The designation of reserves is consistent with Goal 12. Metro Rec. at 114.

The cities have not shown that this finding is in error or that it is inadequate. Additionally, the Clackamas County record indicates that transportation considerations were weighed when the county and Metro compared candidate urban reserve areas, in accordance with OAR 660-027-0050(1) and (3). CC Rec. at 704–792, 800–01.

Regarding the TPR, staff recommends that the Commission find that the TPR does not apply to the urban and rural reserve designations. The TPR generally requires local governments to establish and maintain transportation system plans and the rule provides specificity on what those plans are to contain. One rule, OAR 660-012-0060, applies to decisions to amend comprehensive plans and functional plans, but only where uses authorized by the amendment would significantly affect an existing or planned transportation facility. Metro's urban reserve decisions do not authorize any new use or increased intensity of use. In fact, under OAR 660-027-0070 potential future uses are more limited than they would otherwise be. As a result, the Department recommends that the Commission find that Goal 12 and the TPR do not apply to Metro's decision.

The record supports the designation of Areas 4A–D as an urban reserve under the factors 1 and 3 with regards to transportation facilities, and the Department believes that Metro had an adequate factual base for its decision under Goal 2. CC Rec. at 704–792, 800–01. The cities state that this area will be expensive to serve, and that is true based on the record, but that does not mean that Metro was required to exclude the area. Rather, the cost of transportation is something that Metro was required to, and did, consider.

**2. Cities of Tualatin and West Linn (Ref. 44-3).** The cities' submitted a letter containing six objections. This subsection addresses the cities' third objection. The cities are represented by Miller Nash, LLP.

**a. Objection.** The cities contend that the reserves decision designating the Stafford Area as an urban reserve does not demonstrate compliance with ORS 197.145 (5)(a) and (c), Goal 2, or the OAR chapter 660, division 27 with regard to efficient and cost-effective provision of other public services (other than transportation facilities). Tualatin, July 14, 2010 at 8.

The cities note that they and the City of Lake Oswego have opposed the urbanization of the Stafford Area on the grounds the cities cannot cost-effectively provide public services such as transportation, water, and sewer. If the Stafford Area could be cost-effectively served or urbanized without risking significant negative impacts on existing services or the livability of their existing residents, the cities state that they would be in favor of urbanizing the Stafford Area. The cities argue that Metro and Clackamas County should have accorded great weight to the testimony of the cities. Finally, they argue that Metro's findings are not supported by substantial evidence in the record.

The objectors' proposed remedy is that the reserve decision should be remanded.

**b. Area Description.** See subsection VIII.A.1.b for a description of the urban reserve area.

**c. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

Designation of Areas 4A–D as an urban reserve is based upon application of the factors set forth in OAR 660-027-0050. Clackamas County found that this urban reserve can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments. According to the county, this area is similar in its physical characteristics to lands already within the cities of West Linn and Lake Oswego, which are developing at urban densities. CC Rec. at xviii. The county found that this urban reserve can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers. As with all of the region's urban reserves, additional infrastructure will need to be developed in order to provide for urbanization. CC Rec. at xix. Technical assessments rated this area as highly suitable for sewer and water. CC Rec. at 795-796.

The record shows that the county considered the topography, natural features and parcelization of the various candidate areas. CC Rec. at 1263-1266. The County found that:

While acknowledging that there are impediments to development in this area, much of the area also is suitable for urban-level development. There have been development concepts presented for various parts of this area. *See CC Rec. at 3312.* An early study of this area assessed its potential for development of a "great community" and specifically pointed to the Borland area as an area suitable for a major center. *See CC Rec. at 371.* Buildable land maps for this area provided by Metro also demonstrate the suitability for urban development of parts of this Urban Reserve. *See, Metro Urban Study Area Analysis, Map C.*

The record supports the designation of urban reserve for the Stafford Area under the relevant statutory and rule factors, and there is an adequate factual base for Metro's decision under Goal 2. For these reasons, the Department recommends that the Commission deny this objection.

**3. Cities of Tualatin and West Linn (Ref. 44-4).** The cities submitted a letter containing six objections. This subsection addresses the fourth objection. The cities are represented by Miller Nash, LLP.

**a. Objection.** The cities assert the reserves decision designating the Stafford Area as urban reserve does not comply with OAR 660-027-0050(2), (4), and (6) because existing parcelization and natural topographical constraints mean that the Stafford Area

cannot support a healthy economy, a compact and well integrated urban form, or a mix of needed housing types. Tualatin, July 14, 2010 at 10.

The cities' objection cites a variety of statistics regarding parcel sizes and ownership, and contends the maps and analysis show the areas are substantially parcelized and constrained by slopes and environmental features. The objection further states that, given the natural resource and physical constraints in the Stafford Area, development costs will be very high, so housing will not be provided in the price ranges for "needed housing." The cities disagree with the county's and Metro's findings that the area is physically similar to the cities of West Linn and Lake Oswego

The cities contend that in order to properly consider the factors, the Metro must determine what types of land and how much is needed to achieve the purposes cited in the factors (efficient urban densities, a healthy economy, walkable, etc.). According to the cities, Metro's failure to conduct such an analysis requires that the Commission remand the decision.

The cities' proposed remedy is for the Commission to remand the decision to Metro and Clackamas County for further explanation and analysis.

**b. Area Description.** See subsection VIII.A.1.b for a description of the urban reserve area.

**c. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

Metro and Clackamas County have provided findings relative to the factors, explaining why the Stafford area urban reserves were so designated. Metro Rec. at 19–23. While the cities disagree with the findings and decision, the factors are not criteria that Metro must show compliance with. Instead, they are aspects of the lands being evaluated that Metro must consider. The findings and conclusions adopted by Clackamas County and Metro show that they considered what they were required to, and adequately explain the decision. For these reasons, the Department recommends that the Commission deny the objection.

**4. Cities of Tualatin and West Linn (Ref. 44-5).** The cities submitted a letter containing six objections. This subsection addresses the fifth objection. The cities are represented by Miller Nash, LLP.

**a. Objection.** The cities assert the reserves decision designating the Stafford Area as urban reserve does not comply with OAR 660-027-0050(5), (7), and (8) because in order to protect the existing environmental features, local government would have to constrain development in the Stafford Area to the degree that it cannot meet the identified land needs for urbanization. Tualatin, July 14, 2010 at 14.

The cities note that evidence in the record indicates that as much as 70 percent of the Stafford Area is constrained by topographical (steep slopes) and environmental features (rivers, streams, and wildlife habitat), and that if this area is protected it cannot be urbanized efficiently. Conversely, according to the cities, if the area is developed at the stated intensity, many of these environmental features will be impaired or negatively impacted. The cities also maintain that Metro does not explain why it concludes the Stafford Area is reasonably developable, and local government can still preserve and protect important natural features, given the contrary evidence submitted by the cities.

The cities' proposed remedy is for the Commission to remand the decision with instructions to Metro and Clackamas County to demonstrate compliance with, or adequate consideration of, the urban reserve factors.

**b. Area Description.** See subsection VIII.A.1.b for a description of the urban reserve area.

**c. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

The entire area is comprised of Conflicted Agricultural Land. Metro Rec. at 33. There are important natural landscape features in this area (Tualatin River and Wilson Creek). *Id.* Metro and county findings indicate protection of these areas is a significant issue, but can be accomplished by application of regulatory programs of the cities that will govern when areas are added to the UGB. This and other urban reserve areas will be subject to concept planning prior to being brought into the UGB, and Metro's concept planning criteria include consideration of "protection of natural ecological systems and important natural landscape features." Metro Rec. at 9.

While the objectors disagree with the findings and decision made by Metro and Clackamas County, the factors are not criteria with which Metro must comply. They are, rather, considerations that Metro must weigh in making the reserves decision. The findings and conclusions adopted by Clackamas County and Metro adequately explain the decision. For these reasons, the Department recommends that the Commission deny this objection.

**5. Cities of Tualatin and West Linn (Ref. 44-6).** The cities submitted a letter containing six objections. This subsection addresses the sixth objection. The cities are represented by Miller Nash, LLP.

**a. Objection.** The reserves decision designating the Stafford Area as an urban reserve does not demonstrate that the factors as a whole support designation of the Stafford Area as an Urban Reserve. Tualatin, July 14, 2010 at 15.

This objection essentially brings together the cities' second through fifth objections (see subsections VIII.A.1–4). The cities contend that, for all the reasons explained in the previous objections, on balance, and based on the evidence, Metro should have made a

different decision regarding designation of the Stafford Area. The objection asserts (1) there is no support in the findings for the conclusion that not designating the Stafford Basin or Norwood necessarily requires designation of more Foundation Agricultural Land; (2) the conclusions do not address the fact that large portions of the Stafford Area are zoned for agricultural use and are home to many small-scale farming activities and (3) the rule is not solely about preservation of Foundation Agricultural Land.

The cities' proposed remedy is for the Commission to remand the reserve decision.

**b. Area Description.** See subsection VIII.A.1.b for a description of the urban reserve area.

**c. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

See the Department's recommendations for the cities' second through fifth objections in subsections VIII.A.1–4, above. Metro adequately considered the urban reserve factors in OAR 660-027-0050, and documented that consideration with sufficient evidence and findings. For these reasons, as set forth in more detail above, Metro could conclude that the Stafford Area was appropriate to designate as an urban reserve. The Department recommends that the Commission deny this objection.

**6. City of Wilsonville (Ref. 46-2).** The city submitted a letter containing one general and two area-specific objections. This subsection addresses the second specific objection.

**a. Objection.** The city asserts that an excessive amount of land within the Stafford area (Metro area 4D, northeast of Wilsonville) has been included within urban reserves, with no reasonable expectation of developing to urban densities or receiving urban services. Wilsonville, July 14, 2010 at 8.

OAR 660-027-0050(1) and (3) both emphasize efficiency in the provision of public infrastructure. According to the city, a large portion of the Stafford basin clearly cannot be provided with transportation improvements or other public infrastructure in an efficient manner.

The city's proposed remedy is for the Commission to remand Area 4D to Metro to delete its urban reserve designation.

**b. Area Description.** This Urban Reserve is comprised of lands north of Wilsonville and southeast of Tualatin (Norwood Area). The Norwood area is adjacent to an Urban Reserve in Washington County (I-5 East Washington County, Areas 4E, 4F and 4G). Area 4D comprises approximately 2,600 acres, and is adjacent to a slightly smaller Urban Reserve in Washington County. This area is parcelized, generally developed with a mix of single family homes and smaller farms, and has moderately rolling terrain. All of this area is identified as Conflicted Agricultural Land. See also subsection VIII.A.1.b (Ref. 44-2) regarding this area.

**c. Department Analysis and Recommendation:** The Department recommends the Commission deny this objection.

The reasons for the Department’s recommendation are detailed in subsections VIII.A.1–5 (Ref. 44-2–6) in connection with the objections of West Linn and Tualatin to the urban reserve designation for the Stafford area. Based on the location of existing infrastructure, the parcelization of the area, and the area being identified as Conflicted Agricultural Land, the Department recommends that the Commission find that Metro’s designation of Area 4D as urban reserve properly considered the factors in OAR 660-027-0050, and that the decision was based on an adequate factual base.

**7. Bowerman et al. (Ref. 12).** This objection was submitted by Donald and Dawn Bowerman, Leigh & Ceille Campbell, Gordon Root, Steven Prueitt and Colin and Mindy Giddings, represented by Donald Bowerman (collectively, the Bowermans).

**a. Objection.** The Bowermans object to Clackamas County’s decision designating the “Top of Pete’s Mountain Area” near West Linn (part of Area 4I) as a rural reserve.

The Bowermans argue that: (1) there is evidence that there is limited to no agricultural industry in the area, (2) the area is not capable of sustaining long term agricultural operations, (3) the soil and water is not suitable to sustain long-term agricultural operations, and (4) the area is not suitable to sustain long-term agricultural operations.

The Bowermans request that the Commission remand the decision to Clackamas County, and direct it to leave the area “Top of Pete’s Mountain” as “undesignated.”

**b. Area Description.** The “Top of Pete’s Mountain” area can be defined as property located in elevations greater than 150 feet and confined by Schaeffer Road to the north, Pete’s Mountain Road to the east, Hoffman Road to the south and Mountain Road to the west. The larger rural reserve area is bounded by the Willamette River on the east and south. On the north, Area 4I is adjacent to areas that were not designated as urban or rural reserve. There are two primary geographic features in this area. The upper hillsides of Pete’s Mountain comprise the eastern part of this area, while the western half and the Peach Cove area generally are characterized by flatter land. The Pete’s Mountain area contains a mix of rural residences, small farms and wooded hillsides. The flat areas contain larger farms and scattered rural residences. All of Area 4I is located within three miles of the UGB.

All of Area 4I is identified as Important Agricultural Land (the “east Wilsonville area”), except for a very small area located at the intersection of S. Shaffer Road and S. Mountain Rd. The Willamette Narrows, an important natural landscape feature identified in Metro’s February 2007 “Natural Landscape Features Inventory,” is located along the eastern edge of Area 4I.

**c. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

The rural reserves designation for Area 4I was made primarily using the “safe harbor” in OAR 660-027-0060(4) for Foundation or Important Agricultural Lands within three miles of the UGB. Under that rule, the county need not provide further explanation for making the rural reserves designation. A small area of “conflicted agricultural land” was included in the rural reserves designation adjacent to Schaeffer Road to make SW Schaeffer Rd the clear “hard” northern boundary for the area’s rural reserves. Even if the Bowermans are correct that the area is not suitable for agricultural uses in the long-term, there are two other bases for Clackamas County to elect to designate the area as a rural reserve: to protect the area for forest uses, and to protect important natural landscape features. As noted above, portions of the area have been inventoried by Metro as containing important landscape features. For all of these reasons, the Department recommends that the Commission deny this objection.

**8. Maletis et. al. (Ref. 6-1 and 6-2).** The objectors are Chris Maletis; Tom Maletis; Exit 282A Development Company, LLC; and LFGC, LLC, represented by Steven L. Pfeiffer (collectively, the Maletis Family). These objectors submitted a letter containing several objections. The Maletis Family’s general objections are addressed in an earlier subsection of this report. This subsection addresses their property-specific objections.

**a. Objection:** The Maletis Family argues that their property (located south of the Willamette River, east of I-5, and west of Airport Road in Clackamas County, in Study Area 4J) should be designated as an urban reserve and not as rural reserve. Maletis et. al., July 14, 2010 at 8–12. The objection includes several bases, including:

- (1) Substantial evidence in the record supports designating the property as an “urban reserve.”
- (2) Metro and the counties misconstrued applicable law and made a decision not supported by substantial evidence in designating the property as “rural reserve.”
- (3) As applied, the enforcement of the “safe harbor” provision of OAR 660-027-00060(4) by Metro and the Counties violates ORS 195.141(3) and (4).

The Maletis Family requests that the Commission remand the decision to Clackamas County and Metro, with instructions to remove the rural reserves designation from the property and to re-designate the area as an urban reserve. Additionally, the objectors ask that on remand, the county (and Metro) be instructed to address the other identified legal deficiencies (addressed in other sections of this report).

**b. Area Description.** Area 4J is generally flat and comprised of large farms. The Molalla and Pudding Rivers are located in the eastern part of this area. The Willamette, Molalla and Pudding Rivers and their floodplains are identified as important natural landscape features in Metro’s February 2007 Natural Landscape Features Inventory.” Metro Reserves Record Binder 1 Rec. at p. 40. All of this rural reserve is classified as

Foundation Agricultural Land (identified in the ODA Report as part of the Clackamas Prairies and French Prairie areas). Metro Rec. at 40.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny this objection.

Since the entirety of the area is within three miles of the Metro UGB, and was identified by ODA to be Foundation Agricultural Land, designation of Area 4J as a rural reserve is consistent with OAR 660-027-0060(4).

After completing a comprehensive analysis of the property and its suitability for urban or rural purposes, Clackamas County found that the area rated “high” under all of the factors related to long-term protection for agriculture and forest industries. CC Rec. at 590-592. The county also rated the property as having “medium” or “high” suitability for an urban reserve designation on all factors, with the exception of three subfactors. CC Rec. at 590-592.

Pursuant to OAR 660-027-0060(4), no further explanation under OAR 660-027-0040(10) is required to justify designation of the area as a rural reserve. Clackamas County designated area 4J as a rural reserve under the rural reserves safe harbor for Foundation Agricultural Land within three miles of the UGB. CC Rec. at v.

In the alternative, even if the Commission determines that OAR 660-027-0060(4) is invalid as applied, the Department recommends that the Commission deny the objection for the following reasons.

The primary contention of the objectors is that substantial evidence in the record supports designating the property “urban reserve” and conversely does not support the current designation as “rural reserve.” If Metro and the county determine that an area could qualify as either a rural reserve or an urban reserve, based on their consideration of the statutory and rule factors, the decision concerning which designation to apply is highly discretionary. The applicable standard in this circumstance is OAR 660-027-0005(2), which provides that the purpose of the Metro reserves as a whole is “a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region for its residents. See subsection V.B.1, above, for additional discussion of the degree of local government discretion for areas that could be designated as either an urban or rural reserve. In summary, the administrative rule and the applicable statute leave the choice to Metro and the counties as to which designation to make when both sets of factors are satisfied.

The Maletis Family contends that, as applied, the use of OAR 660-027-0060(4) (the “safe harbor” provision) by Metro and the counties violates ORS 195.141 (3) and (4). ORS 195.141 (3) requires that Metro and each county base the designation of rural reserves on consideration of the factors in that section.

ORS 195.141 (4) authorizes LCDC to adopt rules establishing a process and criteria for designating reserves pursuant to ORS 195.141. LCDC adopted rules in 2008, and they are codified at OAR 660-027. These rules require consideration of factors, which mirror those set forth in ORS 195.141 (3), prior to designating a rural reserve to provide protection of agricultural land. However, LCDC also adopted another provision, OAR 660-027-0060(4):

Notwithstanding requirements for applying factors in OAR 660-027-0040(9) and section (2) of this rule, a county may deem that Foundation Agricultural Lands or Important Agricultural Lands within three miles of a UGB qualify for designation as rural reserves under section (2) without further explanation.

This section permits a county to assign a rural reserve designation to a property classified as a Foundation or Important Agricultural Land by the Oregon Department of Agriculture without making findings addressing the factors. The “safe harbor” provision in OAR 660-027-0060(4) does not *replace* the factors from statute and rule, but rather identifies a circumstance where, in the Commission’s judgment, the factors are already adequately considered based on prior analysis that the Oregon Department of Agriculture (ODA) carried out that evaluated lands in the region based on the same considerations. Counties are not required to utilize the safe harbor (and Washington County did not), but the Commission’s rule authorizes them to do so. There is no legal error in determining that a county may rely of a preexisting analysis that the Commission determines adequately considers the statutory factors for designating lands as a rural reserve under ORS 195.141(3).

The Department had reviewed the ODA analysis with regard to the French Prairie area. That analysis finds that:

This subregion maintains excellent integrity for large-scale, intensive industrial agricultural operations. It is, in effect, a large block of agricultural land containing large parcels and larger farms with several inclusions of urban development. It is not uncommon for farms to operate on several parcels located within and, in many cases, outside the subregion. While some localized conflicts with nonfarm uses exist, they are not, overall, beyond what is considered common.

\* \* \*

#### Conclusion

Excellent soils, available water, well established infrastructure and large parcels that block up and dominate the land use pattern. This subregion has all the elements for maintaining and expanding viable, commercial agricultural. This subregion, combined with the Clackamas Prairies and East Canby subregions, is one of the most significant agricultural areas in the state. ODA, Identification and

Assessment of the Long-Term Commercial Viability of Metro Region  
Agricultural Lands, *January 2007*, at 32-34

Based on the ODA report as well as the county’s analysis of this area, the Department recommends that the Commission deny this objection and find OAR 660-027-0060(4) is valid as applied.

**9. City of Wilsonville (Ref. 46-1).** The city submitted a letter containing one general and two area-specific objections. This subsection addresses the first specific objection.

**a. Objection.** The city argues that evidence in the record does not support the urban reserve designation of Area 5F (Tonquin). According to the city, Tonquin was inappropriately designated as an urban reserve, and should be designated rural reserve. Wilsonville, July 14, 2010 at 5.

The city contends that designation of the Tonquin Geologic Corridor (Area 5F) as an urban reserve is not been supported by substantial evidence in the record. According to the city, land within the Tonquin Geologic Corridor has been inappropriately included within the urban reserves, in spite of being mapped for its significance in Metro’s Natural Landscape Feature Inventory and therefore subject to OAR 660-027-0060(3). The city argues that Metro did not adequately address the required factors of OAR 660-027-0050 in designating Area 5F in the Tonquin Geologic Corridor as an urban reserve, and that there is no reasonable expectation that this area can be developed to urban standards.

The objection includes arguments specific to several of the urban reserve factors in OAR 660-027-0050:

- (1) The city argues there is no efficient way to provide a full range of urban infrastructure across a broad riparian zone and that there is no evidence that the area can be “developed at urban densities.”
- (3) The city objects to Metro’s conclusion that the area “can be efficiently and cost-effectively served by appropriate and financially capable service providers.”
- (5) The city argues that this area should be designated as a rural reserve, and questions how Metro could appropriately conclude that this area “can be designed to preserve and enhance natural ecological systems” while including it within the urban reserves.
- (7) Similarly to the objection related to subsection (5) of the rule, the city believes that Metro cannot realistically conclude that this area can be designated an urban reserve and that it “*can be developed in a way that preserves important natural landscape features included in urban reserves.*”

- (8) The city argues that the Tonquin Geologic Corridor cannot be urbanized and still “be designed to avoid or minimize adverse effects on important natural landscape features.”

The city’s proposed remedy is for the Commission to remand this designation to the county and to Metro to delete the Tonquin Geologic Corridor (Area 5-F) from the urban reserves and designate it a rural reserve.

**b. Area Description.** Urban Reserve Area 5F is approximately 565 acres and is part of the larger Tonquin Scablands area. Portions of this area are included on Metro’s 2007 Natural Landscape Features Inventory map. The area is comprised of the unincorporated land east of the city of Sherwood and includes portions of the Tualatin River National Wildlife Refuge, quarry operations, a gun club practice facility, and a training area for Tualatin Valley Fire and Rescue. Much of the area is included in the county’s Goal 5 inventory as a mineral and aggregate resource area. Rock Creek and Coffee Lake Creek are the principal drainages in the reserve area. Approximately 143 acres in this area are considered buildable lands. WC Rec. 9276-9295.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny this objection.

A portion of urban reserve Area 5F is included in the Pre-Qualifying Concept Plans (PQCP) submitted by the City of Tualatin to meet its long-term industrial needs. The remainder of the area was shown as residential on the city of Sherwood’s PQCP for the area, WC Rec. 3495-3518. Tualatin included a 117-acre portion of this reserve in its PQCP and the area is of interest to that city primarily for transportation connectivity to extend SW 124th Avenue and to expand the city’s industrial land base. The area was rated high for suitability for sewer service, medium suitability for water service, and medium suitability for transportation.

Metro’s findings state the natural features in this area can be protected and enhanced under the existing regulatory framework in Washington County, Sherwood and Tualatin. Metro Rec. at 79. The 568 acres in Area 5F is located between the cities of Sherwood and Tualatin and is bordered on three sides by the existing UGB. The City of Tualatin has developed general service costs estimates, and has agreed to provide governance and public facilities and services to eastern portion of this area.

The record regarding the urban reserve designation of this area is substantial. Tonquin has been included in the study area since the beginning as an urban reserve. The record shows that the natural features of the area can be protected even with urban development. The record supports that there is capacity for urban development, while also protection of natural features of this area. The Department recommends that the Commission find that Metro has properly considered the factors in OAR 660-027-0050 for designation of Area 5F as an urban reserve, and that Metro’s decision is supported by an adequate factual base.

## **B. Washington County**

**1. David Hunnicutt (Ref. 9).** Mr. Hunnicutt submitted a letter containing one objection.

**a. Objection.** Mr. Hunnicutt asserts that Washington County’s designation of the property at 28577 SW Herd Lane and other land abutting Herd Lane and Neugebauer Road in study area 6E as rural reserve under OAR 660-027-0060 is unlawful because the property does not qualify based on the rural reserve factors.

Mr. Hunnicutt argues that the portion of the study area containing his residence at 28577 SW Herd Lane and other land abutting Herd Lane and/or Neugebauer Road does not qualify for a rural reserve designation because it does not satisfy the rural reserve factors in rule (OAR 660-027-0060(2)(a)–(d)) nor does it have important natural landscape features that would qualify it as a rural reserve designation under OAR 660-027-0060(3). Mr. Hunnicutt maintains that the land in question is not threatened by urbanization during the planning period, because it is located more than three miles from the nearest city within Metro and the closest boundaries of the current Metro UGB.

Mr. Hunnicutt’s proposed remedy is for the Commission to remand the decision to Washington County with instructions to remove the rural reserve designation from the property and the other land abutting Herd Lane and Neugebauer Road.

**b. Area Description.** The 25,381-acre rural reserve Area 6E is split by the Tualatin River, a key natural feature in the reserve. The Chehalem Mountains are also a prominent natural feature. The north half of the reserve area is typified by farm parcels adjacent to and north of the river. South of the river and Highway 219, lots are smaller and uses are more varied, including residential use, nursery use, and farm and forest uses on small parcels.

**c. Department Analysis and Recommendation:** The Department recommends that the Commission deny this objection.

Although the subject property and the surrounding area adjacent to Herd Lane and Neugebauer Road in Rural Reserve Area 6E are located well over five miles from the Metro UGB, they are recognized by Washington County as part of an important natural landscape feature (the Chehalem Mountains) and are designated as Important Agricultural Land in the Oregon Department of Agriculture study. WC Rec. at 2998 and 3000. The county has adequately addressed the rural reserve factors in OAR 660-027-0060. Metro Rec. at 101. The record shows substantial evidence and an adequate factual base to support a decision to designate the area for rural reserves.

See subsection V.B.2 regarding the appropriate scale of analysis for studying reserve designations. The county is not required to perform a property-specific evaluation in the reserves selection process when evaluating areas for rural and urban reserve designation. For these reasons, the Department recommends that the Commission deny the objection.

**2. Areas 7I and 7B.** This subsection provides a consolidated response to objections from the Oregon Department of Agriculture (ODA, Ref. 18-3); Melissa Jacobsen (Ref. 28); and 1000 Friends of Oregon (26-5) on behalf of 1000 Friends of Oregon, the Washington County Farm Bureau, and Dave Vanasche, Washington County Farm Bureau President.

**a. Objection.** The three parties object to Washington County’s designation of area 7I in North Cornelius as an urban reserve under OAR 660-027-0050 and 027-0060, and 1000 Friends objects to that part of area 7B that lies north of Council Creek. ODA, July 14, 2010 at 6; 1000 Friends, July 12, 2010 at 13–16; Jacobsen, July 2, 2010 at 1.

1000 Friends contends that there is insufficient justification showing this land is needed as an urban reserve, noting that the City of Cornelius currently has 125 to 150 acres of vacant, buildable land inside the UGB as well as other urban reserves designated to the east and south of the city. 1000 Friends further argues that the proposed expansion of development across Council Creek and its floodplain is contrary to the urban reserve factors, as it would not facilitate compact growth and would frustrate planned transit facilities within Cornelius. Jacobsen argues that Northwest Susbauer Road and other area roads close nearly every year due to flooding in the Council Creek floodplain. 1000 Friends asserts that neither Washington County nor Metro addressed two urban reserve factors: OAR 660-027-0050(7) – can be developed in a way that preserves important natural landscape features and (8) – can be designed to avoid or minimize adverse effects on farm and forest practices and important natural landscape features, on nearby land, with regard to these lands.

Regarding the rural reserve factors, all three objectors state that the area qualifies as a rural reserve because it satisfies all rural reserve factors (OAR 660-027-0060(2)(a)–(d)). ODA states that the area is under “constant threat” of urbanization as evidenced by a long history of advocacy for inclusion within the Cornelius UGB. 1000 Friends states that this large intact block of farmland supports and sustains long-term agricultural operations and that this area is the heart of the Tualatin Valley agricultural industry, containing some of the most productive farmland in the state. 1000 Friends further states that the area is critical to the economic health of farm infrastructure and industry in the area and that several food processors and other farm infrastructure are present in area 7I. ODA states that the area would constitute a protrusion of urban land into the farm landscape, creating two additional urban edges for agricultural operations to deal with and creating long-term implications for surrounding agricultural lands. 1000 Friends asserts that rural reserve factor in OAR 660-027-0060(2)(d)(B) – the existence of buffers between agricultural or forest operations and non-farm or non-forest uses – was not addressed.

1000 Friends and Jacobsen further assert that area 7I qualifies as rural reserve because it is a mapped significant natural landscape feature under factor 3 that forms a natural boundary separating urban and rural uses.

The three objectors’ proposed remedy is for the Commission to remand the decision to Metro and Washington County and direct Metro to remove the urban reserve designation and Washington County to designate area 7I as a rural reserve. 1000 Friends additionally

requests that the Commission direct Metro and the county to remove the urban reserve designation from that portion of area 7B north of Council Creek and for the county to designate it as a rural reserve.

**b. Area Description.** Urban reserve Area 7I consists of approximately 624 acres of land, 470 acres of which 75 percent is considered buildable. This area, consisting of class I, II and III (High Value) agricultural soils, lies north of and adjacent to Council Creek and the Cornelius urban growth boundary and southwest of Dairy Creek. WC Rec. at 88-89. The area has been identified as Foundation Agricultural Land by ODA.

Area 7I is a portion of a larger Pre-Qualifying Concept Plan area analyzed by the City of Cornelius to satisfy long-term growth needs. The area was selected in part because of its suitability for large-parcel industrial use.

Urban Reserve Area 7B is located along the northern edge of Forest Grove and generally extends from the existing UGB north to Purdin Road between Highway 47 on the east and Thatcher Road on the west. This area is approximately 508 acres. Approximately 40 percent of Area 7B is north of Council Creek. WC Rec. 9288.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny these objections if the Commission finds that the record clearly supports Metro’s decision to designate these areas as an urban reserve. The reasons for the Department’s recommendation are set forth below.

Metro and Washington County have addressed OAR 660-027-0050(1)–(8) (the urban reserve factors) in a general fashion, concluding that all factors have been met for these areas. Metro Rec. at 85-86 (7B), and 88-89 (7I); WC Rec. at 9668. These findings state that the areas could “reasonably be developed at urban densities which would efficiently utilize existing and future infrastructure investments” (factor 1) and that buildable lands “provide sufficient development capacity to support a healthy economy” (factor 2).” The cities of Forest Grove and Cornelius prepared pre-qualifying concept plans for these two areas, indicating that the lands “can be designed to be walkable and appropriately served with a well-connected system of streets, bikeways, recreation trails and public transit” (factor 4) and “can be efficiently and cost-effectively served with schools and other urban facilities and services” (factor 3).

The consolidated findings further state that the “existing regulatory framework in Washington County and Cornelius will preserve and support enhancement of natural ecological systems” potentially impacted by future urbanization (factor 5). The area “can support a range of needed housing types” (factor 6) and can be designed to avoid or minimize potential adverse effects” on surrounding farms and natural landscape features (factor 8). Factor 7 – can be developed in a way that preserves important natural landscape features – is not directly addressed. Metro Rec. at 89.

In all, the Department believes that Metro’s findings regarding the application of the urban reserve factors to Areas 7B and 7I are adequate, and are supported by an adequate

factual base. Normally, that would be the end of the matter, as the choice of whether to designate an area as an urban or rural reserve when the county and Metro agree that it could be either after considering the statutory and rule factors is up to Metro and the county, not the state. However, LCDC’s rule at OAR 660-027-0040(11) provides that if lands were identified as Foundation Agricultural Lands (by ODA), then a more rigorous standard applies:

(11) Because the January 2007 Oregon Department of Agriculture report entitled “Identification and Assessment of the Long-Term Commercial viability of Metro Region Agricultural Lands” indicates that Foundation Agricultural Land is the most important land for the viability and vitality of the agricultural industry, if Metro designates such land as urban reserves, the findings and statement of reasons shall explain, by reference to the factors in OAR 660-027-0050 and 660-027-0060(2), why Metro chose the Foundation Agricultural Land for designation as urban reserves rather than other land considered under this division. OAR 660-027-0040(11) (emphasis added).

Here, Metro’s findings provide a *general* explanation of why it chose Foundation Agricultural Land rather than other lands as urban reserves. See, Metro Rec. at 119-120. These findings note that most of the lands surrounding existing urban areas in Washington County were identified as Foundation Agricultural Land, with the result that *any* significant urban reserve designations in Washington County would necessarily require using some Foundation lands, particularly if urban reserves were to be designated around the city of Cornelius (and, to a lesser extent, Forest Grove and Hillsboro). See WC Rec. at 2998 (map of ODA classifications in Washington County). The consolidated findings state that:

Throughout the technical analysis and review process leading to preliminary recommendations on urban and rural reserves, the consistent message from the Washington County Farm Bureau was that lands within the existing UGB should be used more efficiently and, with the exception of lands classified as “Conflicted” on the map developed by the Oregon Department of Agriculture, all lands in the study area within approximately one mile of a UGB should be designated as rural reserve. Farm Bureau members submitted a map and cover letter depicting their recommendations. WC Rec. 2098-2099; 3026; 3814-3816.

The needs determination by county and city staff determined that the one-mile recommendation noted above would not address the county’s urban growth needs over the 50-year reserves timeframe. The WCRCC on September 8, 2009 voted 11 to 2 in support of urban reserve areas of approximately 34,200 acres and rural reserve areas of approximately 109,750 acres in Washington County. In consideration of the concerns raised by the Farm Bureau as well as likeminded stakeholders, interest groups and community members, the Core 4 recommended a reduction of approximately 40 percent (34,200 acres to 13,561 acres) to the WCRCC’s urban reserve recommendation. These adjustments represented the Core 4’s judgment in balancing the need for future urban lands with the values

placed on “Foundation” agricultural lands and lands that contain valuable natural landscape features to be preserved from urban encroachment.” Metro Rec. at 62.

In addition, the consolidated findings adopted by Metro state the following:

In the technical analysis to determine conformance with the factors for designation of lands as urban reserves or rural reserves (OAR 660-027-0050 and 660-027-0060) Washington County staff found that the property qualified for designation as either rural reserve or urban reserve. The detailed findings on these qualifications are incorporated in the September 23, 2009 recommendations report from the Washington County Urban and Rural Reserves Coordinating Committee to the Regional Core 4 and Reserves Steering Committee. Metro Rec. at 68.

The September 23, 2009 recommendations report from the Washington County Coordinating Committee appears in the record at WC Rec. at 2942-3034. The technical analysis contained in those recommendations addresses the rural reserve factors at OAR 660-027-0060(2)(a)–(d) for 41 subareas in the county. WC Rec. at 2976. The county also produced a chart that details how each factor was addressed in its review process. WC Rec. at 2943. As part of its consideration of the rural reserve factors, the county assigned “tiers” to lands in terms of their suitability for agriculture, with Tier 1 being the most important and Tier 4 being the least. The county assigned Tier 4 status to Area 7I and Tier 1 status to Area 7B. WC Rec. 3024. Finally, the analysis also relies on a series of “Issue Papers,” which are included with the Coordinating Committee recommendations as Appendix 5. WC Rec. at 3780-3819.

For Area 7I, the county noted that it has high urbanization potential, a higher productivity rating and physical features that help define the area, but that it also has a “high dwelling density,” and a high level of parcelization (WC Rec. at 3021), and relatively high land values. WC Rec. at 3014. WC Rec. at 3022. For Area 7B, the county’s technical analysis shows less parcelization, fewer homes, and lower land values.

As set out above, for areas identified by ODA as Foundation Agriculture Land, Metro must explain why it chose Foundation Agriculture Land over other lands when designating urban reserves, and this explanation must be by reference to both the urban *and* the rural reserve factors. OAR 660-027-0040(11). Metro’s consolidated findings provide this explanation in a general fashion, and reference more detailed technical analyses that address the rural factors in some detail with respect to particular areas. While the Department would prefer having more clearly-articulated findings, specific to each of the areas used by Metro and the county in their final decision-making, we do not believe the Commission’s rules require that level of detail, particularly in a circumstance where virtually *all* of the surrounding lands were identified by ODA as Foundation Agricultural Lands. The Department emphasizes for the Commission that it believes that this is a close call, and that the Commission should expressly address it when it applies its rule to review Metro’s decision. Alternatively, even in the Commission determines that the Metro findings are not adequate, the Commission may consider whether the evidence in the record “clearly supports” Metro’s decision with regard to this issue. The

Commission could find that the record clearly supports Metro’s decision because almost any urban reserve designations in this part of the region would have to be located in areas identified as Foundation Agricultural Lands.

Fundamentally, the issues raised by this objection come down to choices by Metro and Washington County about whether to allow communities that are largely surrounded by some of the best farmland in the state some opportunity for future expansion as part the metro region’s long-term growth. As noted in the consolidated findings quoted above, Metro and Washington County substantially curtailed the amount of urban reserve lands in this area of Washington County in order to conserve Foundation Agricultural Lands. The Department believes that Metro has provided an adequate explanation, supported by an adequate factual base, for its decision. For these reasons, the Department recommends that the Commission deny these objections.

**3. Area 8A.** This subsection provides a consolidated response to objections from the Oregon Department of Agriculture (ODA, Ref. 18-4) and 1000 Friends of Oregon on behalf of 1000 Friends of Oregon, the Washington County Farm Bureau, and Washington County Farm Bureau President Dave Vanasche, (Ref. 26-6).

**a. Objection.** The two parties object to Washington County’s designation of area 8A in North Hillsboro as an urban reserve under OAR 660-027-0050 and 027-0060. ODA, July 14, 2010 at 6; 1000 Friends, July 12, 2010 at 16.

Regarding the urban reserve factors, ODA states that no evidence has been provided that development north of Waibel Creek could be designed to avoid or minimize adverse impacts to surrounding farms as required by OAR 660-027-0050(8). 1000 Friends asserts that the county’s decision does not address OAR 660-027-0050(7) – “can be developed in a way that preserves important natural landscape features” – or (8), and that there is no evidence that these factors can be met.

Regarding the rural reserve factors, both objectors state that the area qualifies as a rural reserve because it meets all rural reserve factors (2(a) through (d)). 1000 Friends states that the area is “highly subject to urbanization,” while ODA asserts that it is “under serious threat of urbanization” as indicated by its designation by Metro as an urban reserve and the history and progression of UGB expansions in the vicinity of Highway 26. 1000 Friends states that this large intact block of farmland supports and sustains long-term agricultural operations and that the farm use and ownership patterns demonstrate long-term stability.

1000 Friends objects to the designation of Area 8A as a whole. ODA objects only to the inclusion of the land north of Waibel Creek, stating that Waibel Creek and Meek Road would provide “excellent edges.”

The two objectors’ proposed remedy is for the Commission to remand the decision to Metro and to Washington County and direct Metro to remove the urban reserve designation and Washington County to designate the area rural reserve.

**b. Area Description.** Urban reserve area 8A consists of approximately 2,712 acres of land, of which approximately 2,265 acres are buildable. Metro Rec. at 90. The area is bounded by Hillsboro to the south, McKay Creek to the west and Highway 26 to the north, with Waibel Creek running east-west through the middle of the area. The area has been identified as Foundation Agricultural Land by ODA, and is largely irrigated with groundwater. Both McKay Creek and Waibel Creek include floodplain, wetlands and riparian habitat that have been designated on Metro’s Natural Landscape Features Inventory. WC Rec. at 3000.

Area 8A is a portion of a larger Pre-Qualifying Concept Plan area analyzed by the city of Hillsboro to meet long-term, primarily industrial, growth needs. The area was selected for its “key location along the Sunset Highway and north of existing employment land in Hillsboro and also because of the identified need for large-lot industrial sites” that are close to existing and future labor pools” and will provide opportunities to attract new industries to help diversify and balance the local and regional economy. Metro Rec. at 90.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny these objections.

The Department’s recommendation is based, generally, on the reasons set forth above in connection with Area 7I. The objectors contend the decision does not address OAR 660-027-0050(7)-(8) (developed in a way that preserves important landscape features in urban reserves, and can be designed to minimize or avoid adverse effects on farm practices). However, the findings do address those factors generally, and the record contains more specific findings related to these factors (in the City of Hillsboro’s concept planning for the North Hillsboro area). WC Rec. at 3111 to 3141.

With regard to the rural reserve factors at 0060(2), Metro’s consolidated findings contain a general explanation of why Foundation Agricultural Lands were designated rather than other lands, as described above in connection with Area 7I. Area 8A falls within subareas 13 and 14 in Washington County’s analysis, and is identified as Tier 2 and Tier 3 Farm Land. WC Rec. at 3924. According to the county, subarea 14 is characterized by a high level of urbanization, lower productivity, smaller parcels, and a higher dwelling density. Subarea 13 has a high level of urbanization, a lower productivity rating, but has bigger parcels. WC Rec. at 2978-2929. Washington County’s analysis for this area shows a relatively large number of existing homes, and small parcels (particularly in the eastern portion of the area).

The Department believes that Metro’s findings for Area 8A are adequate, and are supported by an adequate factual base. As noted above, in connection with Area 7I, the Department would prefer that Metro had adopted more specific findings concerning OAR 660-027-0040(11). However, the Department believes that the findings are adequate for review given the unique factual circumstance (virtually all surrounding lands are Foundation lands). For these reasons, the Department recommends that the Commission deny the objections.

**4. Save Helvetia (Ref. 37).** This objection was submitted by Save Helvetia, a coalition of farmers, business owners, and residents including members who participated in the local proceedings, represented by Carrie A. Richter (collectively, “Save Helvetia”).

**a. Objections.** Save Helvetia objects to Washington County’s and Metro’s designation of Area 8B north of US Highway 26 (Shute Road Interchange) as an urban reserve and the lack of designation of Area “8-SBR.” Save Helvetia, July 12, 2010 at 1. The letter contains six objections pertaining to these areas, as follows:

- (1) Area 8B: The Metro decisions contain factual misstatements. Save Helvetia, July 12, 2010 at 2.
- (2) Area 8B: Designating Area 8B urban reserves misapplies the urban reserve factors of OAR 660-027-0050. Save Helvetia, July 12, 2010 at 4.
- (3) Area 8B: The findings applying the urban reserve factors are inconsistent with OAR 660-027-0040(2) and OAR 660-027-0040(11). Save Helvetia, July 12, 2010 at 6.
- (4) Area 8-SBR: The Metro decision fails to satisfy OAR 660-027-0050 “to provide long-term protection of agriculture” and OAR 660-027-0040. Save Helvetia, July 12, 2010 at 11.
- (5) Areas 8B and 8-SBR: The Metro decisions fail to apply the rural reserve factors of OAR 660-027-0060(2)(a). Save Helvetia, July 12, 2010 at 13.
- (6) The urban and rural reserve decisions fail to satisfy ORS 197.298 and violates Goal 14 and the Metro Regional Framework Plan Policy 1.12.2. Save Helvetia, July 12, 2010 at 17.

All of these assignments also state that the decisions violate Goal 2, in that the decision is not supported by adequate factual base (substantial evidence in the whole record).

Save Helvetia’s proposed remedy is for the Commission to remand the decision to Metro and Washington County with instructions to develop a proposal that is completely consistent with the relevant statutes, goals, administrative rules and Metro regulations. Save Helvetia objector states that application of these criteria would result in Areas 8B and 8-SBR being designated as rural reserves.

**b. Area Description.** Urban Reserve Area 8B is located at the northwest quadrant of the intersection of Sunset Highway and NW Shute Road. This site totals approximately 88 acres and includes land within the 100-year floodplain of Waibel Creek. The existing UGB and the corporate limits of the City of Hillsboro run along the eastern border of the area, while the southern boundary runs along Sunset Highway and is contiguous to urban reserve Area 8A. Lands to the north and west of the area are agricultural lands. Metro Rec. at 78.

“Area 8-SBR,” according to the objector, is part of study area 8 and is comprised entirely of Foundation Agricultural Land that totals 556.5 acres, north of Highway 26. It is

bordered by NW West Union Road on the north, NW Helvetia Road on the east, NW Groveland Drive and Highway 26 on the south, and a line of trees on the west.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny the objections for the following reasons.

Regarding the first objection, Save Helvetia identifies four ways in which it contends the county has misstated its description of Area 8B. Save Helvetia, July 12, 2010 at 3. These relate to the name of a bordering road, the size of Area 8B, whether Area 8B is adjacent to the existing UGB, and whether the area was identified as Foundational Agricultural Land by ODA.

Metro’s ordinance provides that “[t]he areas shown as “Urban Reserves” on Map Exhibit A, attached and incorporated into this ordinance, are hereby designated Urban Reserves under ORS 195. 141 and OAR 660 Division 27.” Metro Rec. at 2. Exhibit A to Metro’s ordinance shows Area 8B designated as an urban reserve. Three maps of the area in the county’s record provide confirmation and a more detailed description of the area’s boundaries. WC Rec. at 8860, 9294, 9298 (Exhibit A to the county’s resolution and order). Based on the information in the record, the location and size of Area 8B and its proximity to the existing urban area is described and mapped with sufficient clarity to provide for a reasoned evaluation of the proposal. Therefore the Department recommends that the Commission find that the urban reserve decision for Area 8B was based on an adequate factual base, and that this objection be denied.

In its second objection, Save Helvetia contends that the sole reason for designating Area 8B as a rural reserve was to accommodate a potential future interchange improvement. Save Helvetia argues that the area does not have to be designated as an urban reserve in order to accommodate infrastructure improvements and that none of the urban reserve factors contemplate potential demands for a freeway interchange expansion. Save Helvetia also argues that not all of Area 8B is required for potential future road and other public facilities.

The record indicates that the urban reserve factors have been considered by Metro with regard to Area 8B. Metro Rec. at 91-92. According to Metro, Area 8B is a small portion of a Pre-Qualifying Concept Plan area analyzed by the City of Hillsboro to meet long-term growth needs and includes findings demonstrating conformance with the “Factors for Designation of Lands as Urban Reserves.” WC Rec. at 3110–3137. The findings indicate that the area is suitable for a variety of urban uses, beyond the potential for an interchange improvement. As a result, Save Helvetia’s arguments do not provide a basis for remand. The fact that the area also was identified as Foundation Agricultural Land means that the rural reserve factors also are relevant to the decision. Metro’s findings, together with the analysis performed by Washington County, demonstrate that Metro’s decision considered the required factors and made a decision that is supported by an adequate factual base.

Regarding the third objection, the objector states that the decisions fail to satisfy any of the urban reserve factors of OAR 660-027-0050, and fails to address OAR 660-027-0040(11) which requires findings and statement of reasons that explain why Metro chose Foundation Agricultural Land for designation as urban reserves rather than other land. The record indicates that Metro has based its decision on consideration of the factors for designation of lands as urban reserves. The Metro and Washington County decisions contain findings and statements of reasons that address the factors in OAR 660-027-0050, and explain why Area 8B was designated an urban reserve. Metro Rec. at 78; WC Rec. at 3113–3137.

The findings also generally address Metro’s consideration of the factors in OAR 660-027-0060(2) related to rural reserves, as required by OAR 660-027-0040(11). While, as noted above in connection with Area 7I, Metro’s findings could be more detailed, the Department believes they adequately explain Metro’s and the county’s policy choices under the rules, and that the county’s record provides an adequate factual base for the decision. The county’s analysis shows this area as “Tier 3” farmland, with a moderate level of parcelization. WC Rec. at 3025, 3021 (parcel analysis).

The objection states, “There are no findings which suggest that Area 8B is needed to accommodate the estimated urban population and employment growth in this particular area” per OAR 660-027-0040(2). The Urban Growth Report 2009-2030 (Metro Rec. at 611–773) and the 20 and 50 Year Regional Population and Employment Range Forecasts (Metro Rec. at 1918) were approved by the Metro Council. As noted in the reports, the council’s intent with the reports was to guide its determinations of need and capacity for the 20-year UGB period and the 40- to 50-year urban reserve period. Metro Rec. at 1937. In addition, the partner governments devote a portion of the findings to explaining the determination of the amount of land designated urban reserve (Metro Rec. at 22–24). Neither the statute nor the Commission’s rule require findings that Area 8B, or any specific area, is needed to accommodate some particular component of the regional estimated long-term urban population and employment growth. Rather, Metro is required to make a general determination regarding estimated population and employment, and tie the overall amount of land planned as urban reserves to that determination. Metro has done so, and nothing more is required. For these reasons, the Department recommends that the Commission deny this objection.

In sum, regarding the first three objections, the Department recommends that the Commission find that Metro made its decision to designate Area 8B as an urban reserve based on its consideration of the factors in OAR 660-027-0050 and 0060(2), and that Metro’s decision has an adequate factual base. For these reasons, the Department recommends that the Commission deny these three objections.

Regarding the fourth objection, Save Helvetia states that leaving a large block of Foundation Agricultural Land undesignated (to the west and north of Area 8B) will have an adverse impact on adjacent farming activities, and that it is not necessary to compromise this land by reserving it as undesignated land without any analysis of why this land is not suitable for protection as rural reserve. The objector states that there is no reasonable basis to assume that Goal 3 does not require the same protections of

Foundation Lands that are imposed on other neighboring lands without any further explanation.

The Department recommends that the Commission deny this objection. Nothing in state statute or rule requires that a county designate a particular property or area as a rural reserve. The Commission's rules require that the county indicate which land was considered, which the county has done. This area was considered. The rule requires that the county consider the listed rural reserve factors, which the county has done. The rule (and the corresponding statutory provisions) do not require the county to designate any particular area as a rural reserve. The area in question continues to be planned and zoned for exclusive farm use, and Save Helvetia does not explain how that fails to comply with Goal 3.

In the fifth objection, related to both areas, Save Helvetia states that, "The Metro decisions fail to satisfy OAR 660-027-0040(10) in that both urban and rural reserve factors must be applied 'concurrently and in coordination with one another.' As such, it is improper to solely consider a case in favor of urbanization without simultaneously considering whether these same lands might be more suitable for rural land protections." The Department disagrees. "Simultaneous consideration" does not imply any particular outcome, but rather means that the county and Metro must consider urban and rural reserve designations *in the entire county and region* at the same time. OAR 660-027-0040(10) does not require both urban and rural reserve factors to be considered for each and every property, or for each and every area. Metro and the county complied with OAR 660-027-0040(10) with regard to the county and the region, and that is all that the rule requires. As a result, the Department recommends that the Commission deny this objection.

Save Helvetia states that both areas are under significant pressure to urbanize and are capable of sustaining long-term agricultural operations. The objection provides a detailed explanation of the agricultural and other resource values of the land in Areas 8B and 8-SBR, and Save Helvetia argues that the decision failed to address the sub-factor in OAR 660-027-0060(2)(a). The Department recommends the Commission find that the county did address this sub-factor. WC Rec. at 2970–2979.

In the sixth objection, Save Helvetia contends that the decision is inconsistent with the priority scheme set forth in ORS 197.298; that is, ORS 197.298(2) requires that when determining where to expand the urban growth boundary, higher priority must be given to those lands of lower productive capability. Save Helvetia argues that although ORS 197.298(1)(a) makes urban reserve lands first priority for inclusion in the UGB, that cannot be used to thwart the protection of agricultural land.

ORS 197.298 describes the priority of land to be included within an urban growth boundary. This proposal is for the designation of urban and rural reserves under OAR chapter 660, division 27. The objective of this division, described in OAR 660-027-0005(2) "... is a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest

industries and protection of the important natural landscape features that define the region for its residents.” The Department recommends that the Commission find that ORS 197.298 and Goal 14 are not applicable to these decisions. In the alternative, to the extent that Goal 14 does apply to these decisions, the process and standards established under SB 1011 and OAR 660-027 are consistent with Goal 14, and by demonstrating compliance with those standards, Metro and the counties have made decisions that are consistent with Goal 14.

**5. Chesarek and Amabisca. (Ref. 5).** These objectors submitted a letter containing six objections related to the designation of one property as urban reserve. The objectors also purported to represent eight other individuals with standing who support the objection.

**a. Objection.** The parties object to the designation of Tax Lot 1 N1 18, Lot 100 (hereafter known as “the Peterkort property”), a part of urban reserve Area 8C, as an urban reserve. Chesarek, July 14, 2010 at 2.

The letter contains six objections, contending that the decision to designate the property urban reserve:

- (1) Misapplies urban reserve factors of OAR 660-027-0050. Chesarek, July 14, 2010 at 2;
- (2) Fails to satisfy OAR 660-027-0040(1) [*sic*] that both the urban and rural reserve factors must be applied “concurrently and in coordination with one another.” Chesarek, July 14, 2010 at 9;
- (3) Fails to satisfy Goal 2, evaluation of alternative courses of action related to wetland and public facility issues. Chesarek, July 14, 2010 at 20;
- (4) Fails to satisfy Goal 3, Agricultural Lands. Chesarek, July 14, 2010 at 21;
- (5) Violates Goal 5, to protect natural resources and conserve scenic and historic areas and open spaces. Chesarek, July 14, 2010 at 22;
- (6) Fails to satisfy OAR 660-027-0005(2), long term protection of large blocks of agricultural land and important natural landscape features. Chesarek, July 14, 2010 at 23.

Each objection also alleges the decision violates Goal 2 due to an inadequate factual base.

The objectors’ proposed remedy is for the Commission to remand the urban reserve designation of the subject property to Metro and Washington County, and direct the county to apply a rural reserve designation instead.

**b. Area Description.** The Peterkort property is approximately 129 acres and is part of Area 8C. This land is located near the intersection of NW Springville Rd. and NW 185<sup>th</sup> Avenue at the northern end of the PCC Rock Creek Campus. This area abuts the current UGB along its eastern and southern boundaries. One of the Metro conditions in the ordinance that brought North Bethany into the UGB called for the county to “recommend appropriate long-range boundaries for consideration by the Council in future expansions of the UGB or designation of urban reserves.” Metro Rec. at 92. Metro

found that additional urban land to the immediate west of the North Bethany Community Planning Area is necessary for the provision of sanitary sewer and storm drainage and to assist in the funding for a primary road link to SW 185th Avenue.

In order to address a number of concerns raised in relation to the wetlands and floodplains on the Peterkort property, as well as within the “West Union” portion of Area 8C, a Special Concept Plan Area overlay was added to Washington County Ordinance No. 733 (Special Concept Plan Area C). This special plan overlay requires application of the “Integrating Habitats” approach to planning and development of these lands. WC Rec. at 8533.

This urban reserve area is included as an element of the North Bethany Community Planning area. This section of Area 8C is a small portion of a Pre-Qualifying Concept Plan (PQCP) area analyzed by the City of Beaverton to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the “Factors for Designation of Lands as Urban Reserves” under OAR 660-027-0050. WC Rec. at 3062. The county and Metro made additional findings specific to this property addressing each of the objectors’ concerns and all the urban reserve factors in OAR 660-027-0050. Metro Rec. at 68.

**c. Department Analysis and Recommendations.** The Department recommends the Commission deny these objections.

When identifying and selecting lands for designation as urban reserves under OAR 660-027-0050, Metro must base its decision on consideration of whether land proposed for designation as urban reserve, alone or in conjunction with land inside the UGB, addresses eight different factors. The record indicates that these factors have been considered by Metro. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the “Factors for Designation of Lands as Urban Reserves”. WC Rec. at p. 3062.

Regarding the first objection, OAR 660-027-0050 does not require that Metro compare the cost of installing facilities for both urban and rural designations, or that Metro demonstrate how local governments will finance future road and infrastructure improvements. Nor do the rules require that Metro determine which designation is more compatible for wetland mitigation and which designation provides better protection of wildlife.

Regarding the second objection, the Department addresses OAR 660-027-0040(10) because it contains language quoted in the objection that is not contained in the cited rule (OAR 660-027-0040(1)). As explained above, OAR 660-027-0040(10) does not require both urban and rural reserve factors to be considered for each and every property or area. The rule states:

Metro and any county that enters into an agreement with Metro under this division shall apply the factors in OAR 660-027-0050 and 660-027-0060

concurrently and in coordination with one another. Metro and those counties that lie partially within Metro with which Metro enters into an agreement shall adopt a single, joint set of findings of fact, statements of reasons and conclusions explaining why areas were chosen as urban or rural reserves, how these designations achieve the objective stated in OAR 660-027-005(2), and the factual and policy basis for the estimated land supply determined under section (2) of this rule.

The factors for designation urban reserves in OAR 660-027-0050 and those for rural reserves in OAR 660-027-0060 state that, when identifying and selecting lands for a given designation, a county shall, "...indicate which land was considered..." There is no indication in the text or context of the rule that the Commission intended that both urban and rural reserve factors must be considered simultaneously for each individual property. Metro and Washington County have provided findings addressing the eight factors under OAR 660-027-0050. Metro Rec. at p. 56, WC Rec. at p. 3062. The objectors disagree with the jurisdictions' findings and conclusions, but all the requirements of OAR 660-027-0040(10) have been completed by Metro and Washington County with regards to the Peterkort property.

Regarding the third objection, as noted in the analysis of the first objection, OAR 660-027-0050 requires that Metro base its decision on consideration of whether land proposed for designation as urban reserves, alone or in conjunction with land inside the UGB, addressing eight factors. The record indicates that these factors have been considered by Metro. OAR 660-027-0050 does not require that Metro perform a comparative analysis of wetland mitigation sites, the location of roads, or sewer lines or determine that the site does not meet the rural reserve factors, in order to be designated an urban reserve.

The fourth and fifth objections allege the urban reserve designation violates Statewide Planning Goal 3, "Agricultural Lands," and Goal 5, "Natural Resources, Scenic and Historic Areas, and Open Spaces," respectively. The provisions of the goals referenced by the objectors are Guideline A.1 in Goal 3 and Guidelines B.1 and B.2 in Goal 5. The Guidelines are advisory, and not requirements. The objectors did not identify any requirements in Goal 3 or Goal 5 that the reserves decisions violate. The fifth objection also asserts there are inadequacies in Washington County's existing Goal 5 implementation program. Even if that were true, the objectors have not explained why that is relevant to the decisions on reserves.

Regarding the sixth objection (purpose of reserves and long term protection of large blocks of agricultural land and important natural landscape features), the purpose statement at OAR 660-027-0025(2) is not a criterion that the local governments must satisfy, but rather a region-wide consideration (see also section V.C of this report). The findings adopted by the four local governments explain why they believe their collective decisions satisfy the overall objective of urban and rural reserves. The Department believes that their findings are adequate to comply with the Commission's rule. The remainder of the objection cites no relevant urban reserve factor, and the objection relates

it to a single property. The reserve factors are to be applied to *areas*, not parcels (see also subsection V.B.2 of this report).

Finally, all the objections state the urban reserve decision violates Goal 2 due to an inadequate factual base (not supported by substantial evidence in the whole record). As noted earlier in this subsection, Washington County and Metro adopted specific findings related to all the issues raised in this objection and in consideration of the urban reserve factors in OAR 660-027-0050. Disagreement with the findings and conclusions does not make them inadequate. For all of these reasons, the Department recommends that the Commission deny these objections.

**6. Joseph C. Rayhawk (Ref. 23).** Mr. Rayhawk submitted two separate letters of objection. This subsection addresses one of those letters, which includes objections regarding one property.

**a. Objection.** Mr. Rayhawk objects to the late change of an area known as “the Peterkort property” in Washington County from rural reserve to urban reserves. Rayhawk/Peterkort, July 13, 2010 at 1.

Mr. Rayhawk argues that the decision does not meet the urban reserve factors, and explains factor-by-factor why he believes this to be so. Mr. Rayhawk’s proposed remedy is for the Commission to reject the urban reserve designation for the Peterkort property and remand it to Metro and Washington County to revise the designation to a rural reserve.

**b. Area Description.** See subsection VIII.B.5.b for a description of the subject property.

**c. Department Analysis and Recommendation.** The Department recommends the Commission deny this objection.

See also subsection VIII.B.5.c, Chesarek and Amabisca. (Ref. 5) for the Department’s analysis regarding this area. To summarize, the reserves rule has the county and Metro perform an analysis on an area-wide basis. Neither the rules, nor the corresponding provisions of the statutes, require a parcel-by-parcel analysis. The county and Metro performed considerable analysis of candidate areas and made specific findings regarding the Peterkort property regarding the urban reserve factors. The findings show that they considered the factors they are required to consider.

Mr. Rayhawk also argues that the urban reserve designation appears to be contrary to state land use goals for water quality and habitat protection and possibly the federal Clean Water Act and the federal Endangered Species Act. The Department notes that the decision by Metro to designate this property as an urban reserve does not authorize any activity or use of the land (in fact, it places some additional limitations on future uses). As a result, the decision has no effect in terms of compliance with these federal laws. Decisions concerning uses of the property will not be made unless the property is added

to the Metro UGB and the plan and zoning designations are amended to allow urban uses. For these reasons, the Department recommends that the objection be denied.

**7. Bobosky (Ref. 38-1 and 6).** The objectors are Steve and Kelly Bobosky, represented by Wendie L. Kellington (collectively, the “Boboskys”). The Bobosky’s letter contains six objections, two of which the Department recommends the Commission find are invalid (see chapter IX). The letter also contains objections specific to the designation of the objector’s property and vicinity, and others that more generally question the reserves decision. This subsection addresses the property-specific objections.

**a. Objection.** The Boboskys object to Washington County’s designation of their property and the Bendemeer community in Area 8F as a rural reserve under OAR 660-027-0060, because the property is a rural residential subdivision that meets the urban reserve factors, and because the property does not meet the rural reserve factors.

The Boboskys argue that Washington County and Metro erroneously designated the subject exception area as a rural reserve in violation of OAR 660-027-0060 and ORS 195139(1)(a), ORS 195.141(2) and (3), and that the property and the surrounding Bendemeer rural residential subdivision meet the urban reserve criteria. Bobosky, July 7, 2010 at 2. (Ref. 38-1)

The Boboskys also argue that, by designating the subject lot in a developed residential subdivision as a “rural reserve,” and leaving thousands of acres of high quality farmland subject to Goal 3 undesignated, the challenged decision violates ORS 197.298(2). The objectors state, “Locking up all the subject exception land having poorer agricultural soils, as well as all exception lands in Washington County, as rural reserves, but leaving high quality EFU land all over the region ‘undesignated’ leaves only high quality EFU zoned land for urbanization in violation of ORS 197.298(2).” Bobosky, July 7, 2010 at 23. (Ref. 38-6)

The Boboskys proposed remedy is for the Commission to remand the challenged decision to Metro and Washington County with instructions to remove the rural reserve designation for the subject property and the Bendemeer subdivision and make them undesignated or urban reserve. The letter also states: “...LCDC should order remand of the entire Washington County decision to designate rural reserves because...there is significant risk that the decision improperly locks up exception lands on the erroneous assumption it is Agricultural Land; leaving nowhere else to go for future urbanization needs but Goal 3 ‘Agricultural Lands’ more distant. Order the remaining counties to adopt any necessary adjustments to implement that order.”

**b. Area Description.** Rural reserve area 8F is bordered on the south by Highway 26 (Sunset Highway). The area is approximately 21,446 acres. The north and west boundaries are defined by the edge of the study area and the east boundary is formed by Rock Creek. The area is characterized by several tributaries flowing south from the Tualatin Mountains, including Waibel, Storey, and Holcomb Creeks. Sections of McKay Creek and the East Fork of Dairy Creek also flow through this reserve area. The

topography of the area is characterized by the foothills of the Tualatin Mountains. The community of Helvetia is located in this reserve. Metro Rec. at 108-109.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny these objections.

Washington County and Metro determined that this area could be designated as either a rural or urban reserve. Metro Rec. at 65. Regarding the first objection (Ref. 38-1), the inquiry the county and Metro must complete to designate a rural or an urban reserve is not required to be property-specific, but rather area-wide. The factual base is not required to address every parcel or small group of parcels. See subsection V.B.2 of this report. Under OAR chapter 660, division 27, an argument that an area is better suited for one designation than another is not a basis for remand so long as the decision-maker considered the required factors and the overall region-wide decision meets the objective set forth at OAR 660-027-0005(2). See subsection V.B.1. Regarding the second objection (Ref 38-6), ORS 197.298(2) is not an approval criterion or standard for designation of rural reserves, rather it applies when an urban growth boundary is proposed to be amended.

**8. Tim O’Callaghan (Ref. 42-1 and 2).** Mr. O’Callaghan submitted a letter containing two objections specific to the designation of his property and four objections generally questioning the reserves decision. This subsection addresses the property-specific objections. The objector is represented by Michael C. Robinson.

**a. Objection.** Mr. O’Callaghan objects to Washington County’s designation of property located at 6955 and 7235 NW 185th Avenue (part of Area 8F) as rural reserves under OAR 660-027-0060, because the properties better meet the urban reserve factors and do not meet the rural reserve factors. O’Callaghan, July 14, 2010 at 1. The property is located within rural reserve Area 8F.

The objection includes two parts:

- (1) Substantial evidence in the record supports designating the property as an “urban reserve” and conversely does not support the current designation as “rural reserve.” Tim O’Callaghan, July 14, 2010 at 8. (Ref. 42-1)
- (2) Metro and the counties misconstrued applicable law and made a decision not supported by substantial evidence in designating the property as a “rural reserve.” Tim O’Callaghan, July 14, 2010 at 12. (Ref. 42-2)

Regarding the first objection, Mr. O’Callaghan provided reasons, based on each of the urban reserve factors in OAR 660-027-0050, that the subject property “satisfies” the factors for urban reserve designation. The letter goes on to draw a comparison with a nearby property that received an urban reserve designation by Metro, and asserts there is no reasonable basis to treat them differently.

The second objection asserts there is no substantial evidence supporting the decision to designate the property as a rural reserve, and that the decision was made too early for meaningful input and that preliminary decisions became *de facto* final decisions before the county's final action.

Mr. O'Callaghan's proposed remedy is for the Commission to remand the decision to Metro and Washington County with instructions to remove the rural reserves designation from the 58.34-acre O'Callaghan properties at 6955 and 7235 NW 185th Avenue and re-designate the area urban reserve. Additionally, the letter of objection states that on remand the county and Metro be asked to address the legal deficiencies identified in the objection letter (see subsection VI.A.5, VI.D.3 and VII.A.2 addressing the other objections by this party).

**b. Area Description.** The O'Callaghan properties are located along Rock Creek and adjacent to urban reserve Area 8C (Bethany West) and within rural reserve Area 8F. The two parcels total approximately 58.34 acres and are bordered on the east by the existing urban growth boundary and NW 185th Ave.

Rural reserve area 8F is bordered on the south by Highway 26 (Sunset Highway). The area is approximately 21,446 acres. The north and west boundaries are defined by the edge of the study area and the east boundary is formed by Rock Creek. The area is characterized by several tributaries flowing south from the Tualatin Mountains, including Waibel, Storey, and Holcomb Creeks. Sections of McKay Creek and the East Fork of Dairy Creek also flow through this reserve area. The topography of the area is characterized by the foothills of the Tualatin Mountains. The community of Helvetia is located in this reserve.

**c. Department Analysis and Recommendation:** The Department recommends that the Commission deny these objections.

The factors in OAR 660-027-0060 are not criteria with which the counties and Metro must show compliance, but are rather "factors" to be considered and weighed in making the decision. The jurisdictions must show that they took the factors into account in explaining their decisions. Washington County and Metro considered the factors and had substantial evidence to support the designation of Area 8F, including the O'Callaghan properties, as rural reserves. Metro Rec. at 63-64 and 108-109; WC Rec. at 8592. Mr. O'Callaghan does not contend that the property is inappropriate for rural reserve designation, only that the urban reserve designation would be better. Under OAR chapter 660, division 27, and the corresponding statutory provisions an argument that an area is better suited as another designation is not a basis for remand. See subsection V.B.1.

Washington County considered the factors, based on substantial evidence, related to both the rural reserve factors for both agriculture and natural landscape features to support the decision to designate Area 8F as rural reserves. WC Rec. at 9639. Simply because a decision-maker elects not to follow a recommendation, is not (by itself) a basis for determining that there is not an adequate factual base to support the ultimate decision.

Washington County followed the applicable law in making this decision. Mr. O’Callaghan contends Washington County was under pressure to maintain the reserves designations as they existed at the time they signed the intergovernmental agreement with Metro under OAR 660-027-0020. However, the record shows that the county made adjustments after the agreement with Metro. WC Rec. at 9643. Mr. O’Callaghan has not shown that the county erred in its decision to designate these properties as a rural reserve.

The Department recommends that the Commission find that the rural reserves designation was based on substantial evidence in the record and that the decision complies with applicable law, and for those reasons deny the objections.

**9. Undesignated Areas in Washington County.** This subsection provides a consolidated response to objections from the Oregon Department of Agriculture (ODA, Ref. 18-5) and 1000 Friends of Oregon on behalf of 1000 Friends of Oregon, the Washington County Farm Bureau, and Washington County Farm Bureau President Dave Vanasche (Ref. 26-7).

**a. Objection.** ODA objects to undesignated lands located south of North Plains and west of and adjacent to Helvetia Road. ODA, July 14, 2010 at 7. 1000 Friends objects to “most” of the undesignated lands around North Plains and Banks. 1000 Friends, July 12, 2010 at 17.

ODA states that the decision to not designate farmland located south of North Plains and Highway 26 and lands located north of Highway 26 and west of Helvetia Road fails to protect Foundation Agricultural Land that qualifies for protection as rural reserve. Both of these areas include large, commercially viable farming operations and are contiguous to and part of larger blocks of farmland that have been designated rural reserve. The objector asserts that both areas are under threat of urbanization.

1000 Friends argues generally against the undesignated status of lands around North Plains and Banks, and, in particular, the undesignated land south of Highway 26. The objector states that much of this land qualifies for rural reserve designation and that the impact of leaving undesignated lands must be evaluated, not only on those lands, but on the farm and forest lands around them, citing OAR 660-027-0060(2)(d)(B).

The objectors’ proposed remedy is for the Commission to remand the decision to Washington County and direct it to designate these lands as rural reserves.

**b. Area Description.** Washington County has not designated lands around both North Plains and Banks as either urban or rural reserves. In addition, the county left another sizable area of undesignated land adjacent and to the west of urban reserve area 8B and across Highway 26 from urban reserve area 8A.

**c. Department Analysis and Recommendation.** The Department recommends the Commission deny these objections.

Washington County has explained its decision not to designate lands around North Plains and Banks, based on three reasons: (1) the lands are outside of Metro’s jurisdiction to designate urban reserves, (2) analysis of these lands did not identify them as the highest priority for rural reserves, and (3) it was deemed appropriate to retain some undesignated lands to address the potential long-term population and employment needs of communities outside of Metro but inside of Washington County (given the county’s coordinating role). WC Rec. at 2308.

Even if the land is suitable for designation as rural reserve, nothing in the statute or rules compels Washington County to so designate any particular land. While ODA makes reasonable arguments why some of the land should not be left undesignated, its objections reflect a policy disagreement with Washington County. That disagreement may reflect legitimate, competing views, but it does not provide a basis for the Commission to overturn the county’s decision.

1000 Friends argues that the county must consider OAR 660-027-0060(2)(d)(B) (relating to adjacent land use patterns and buffers) in determining whether to designate these areas. Washington County did evaluate the area for possible rural reserve designation and decided to maintain the existing plan and zone designations. WC Rec. at 8239. Nothing in statute or the Commission’s rules requires the county to adopt findings concerning lands that it did *not* propose to designate as rural reserves. See, OAR 660-027-0060(2) (“\* \* \* a county shall base its decision on consideration of whether *the lands proposed for designation*”).

Finally, the Department notes that Exhibit B to the intergovernmental agreement between Metro and Washington County provides that:

Special Concept Plan Area B:

Undesignated lands surrounding the City of Banks and the City of North Plains provide the opportunity in the future for Washington County and each respective city to undertake Urban Reserve planning under OAR 660-021. It is the County’s expectation that such planning will result in application of Urban Reserve and Rural Reserve designations in appropriate locations and quantities. WC Rec. at 8838.

In other words, Washington County anticipates that future decisions will lead to either urban or rural reserve designations for these undesignated areas. Nothing in ORS 195.137-145 or OAR 660-027 prohibits that approach and given the county’s responsibilities to coordinate land use planning under ORS 195.025, such an approach is certainly desirable with respect to cities that are not included within Metro’s boundary.

### **C. Multnomah County**

**1. Forest Park Neighborhood Association et al (Ref. 8).** This objection was submitted by Daniel Kearns, representing the Forest Park Neighborhood Association (FPNA) and on behalf of Carol Chesarek, Jim Emerson, Milly Skach, Joseph C. Rayhawk, Greg Malinowski, Christopher H. Foster, Claudia Martin, Kevin O'Donnell, Mary Telford, and Jerry Grossnickle (collectively, "FPNA").

**a. Objection.** FPNA objects that Multnomah County's (and thus Metro's) decision violates the administrative rule by not explaining fully why and how Areas 9A–D and 9F qualify for rural reserve designation. The objection is submitted in support of Multnomah County's and Metro's decision, as supplemental findings and citations to evidence and arguments in the record that support Metro's decision. FPNA, July 14, 2010 at 1.

FPNA's proposed remedy is for the Commission to supplement the findings to address the rural reserve factors, including citations to evidence in the record.

**b. Area Description.** Area 9 lines south of Germantown Road and the power-line corridor where it rises from the toe of the west slope of the Tualatin Mountains up to the ridge at Skyline Blvd. MC Rec. at 3004-3015. The north edge of the area is the start of the Conflicted Agricultural Land section that extends south along the Multnomah/Washington county line to the area around Thompson Road and the Forest Heights subdivision in the city of Portland. The area is adjacent to unincorporated urban land in Washington County on the west, and abuts the city of Portland on the east. Most of the area is mapped as Important Landscape Features that begin adjacent to Forest Park and continue west down the slope to the county line. MC Rec. at 1767. The area is a mix of headwaters streams, upland forest and open field wildlife habitat.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny this objection.

Based on the evidence in the record, the Department finds that Metro and Multnomah County based their decision on consideration of the factors for designation of lands in rural reserves as required by OAR 660-027-0060 and have provided sufficient findings to support their recommendation. The Commission may consider incorporation of the objectors' proposed supplemental findings in its order, as the additional information cited by the objectors is available in the record.

**2. Area 9B.** This subsection addresses the objections of the following objectors to Multnomah County’s designation of certain property within Area 9B as rural reserve:

<u>Ref.</u>	<u>Objector’s name</u>
13	Dorothy Partlow
15	Hank Skade
17-1	Jim Irvine
20	John Burnham
24	Kathy Blumenkron
33	Robert Burnham
34	Robert Zahler
41	Thomas J. VanderZanden

**a. Objections.** The parties generally object to Multnomah County’s designation of an L-shaped portion of land in western rural reserve Area 9B as a rural reserve under OAR 660-027-0060 because they believe that the area better meets the urban reserve factors, and does not meet the rural reserve factors. Robert Burnham (Ref. 33) objected more broadly to the designation of Area 9B or rural reserve.

The common objection is that the area does not satisfy the factors in OAR 660-027-0060 for designation as rural reserve, but does satisfy the factors for designation as urban reserve under OAR 660-027-0050. Most of the objectors do not elaborate beyond that one common objection.

The objectors’ proposed remedy is for the Commission to remand the decision to Multnomah County with instructions to remove the rural reserve designation from the L-shaped portion of Area 9B and re-designate the area as urban reserve. Robert Burnham’s proposed remedy applies to the entirety of Area 9B.

**b. Area Description.** Area 9B is defined on the west by the Washington County line, a line that is approximately mid-way between the county line and Skyline Blvd. on the east, and areas adjacent to Forest Heights subdivision on the south, and a power line right-of-way on the north. MC Rec. at 3011, 3015. The area is a mix of headwaters streams, upland forest and open fields. The specific L-shaped portion of Area 9B referred to in most of the objections is located in the southwestern portion of the study area on the Washington/Multnomah county line, and is bisected by Lower Springville Road.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny these objections.

The Department recommends the Commission find that Multnomah County considered the required factors, based on substantial evidence in the record, to support the designation of Area 9B, and the L-shaped southwest portion thereof, as rural reserve. MC Rec. at 9679. See section V.B regarding areas that qualify as both urban and rural reserve and the appropriate scale of review. Generally, the issue is whether the county considered the rural reserve factors in deciding to include a particular area, explained

why the areas should be rural reserve using the factors listed in the statute and rules, and whether there is evidence in the record that a reasonable person would rely upon to decide as the county did. Also, none of the factors for selecting rural reserves, or any other provision of the applicable statutes or rules, require a parcel-specific analysis for reserve-boundary location decisions.

Several of the objections stated that land was not good farmland and cited the ODA designated of “Conflicted.” Multnomah County, however, found the area eligible for rural reserve designation under the factors for significant landscape features in OAR 660-027-0060(3), not those for farm or forest lands under OAR 660-027-0060(2). See MC Rec. at 9680. For these reasons, the Department recommends that the Commission deny the objections.

**3. Metropolitan Land Group (Ref. 31).** (“MLG”) This letter contains six objections related to the rural reserve designation of Area 9B in Multnomah County, specifically or generally. MLG is represented by Steven L. Pfeiffer.

**a. Objection.** MLG objects to Multnomah County’s designation of its property in Area 9B as a rural reserve. MLG, July 14, 2010 at 1. The objection includes six specific allegations:

- (1) Substantial evidence in the record supports designating the Property as an “urban reserve” and conversely does not support the current designation as “rural reserve.” MLG, July 14, 2010 at 9.
- (2) Metro and the counties misconstrued applicable law and made a decision not supported by substantial evidence in designating the property as a “rural reserve.” MLG, July 14, 2010 at 14.
- (3) The decision violates Goal 2 because it relies upon an unacknowledged extraneous report to formulate 50-year land needs. MLG, July 14, 2010 at 16.
- (4) The decision further violates Goal 2 because there is no adequate factual base to support the conclusion that all lands within three miles of the UGB are necessarily “subject to urbanization” for purposes of OAR 660-027-0060(2)(a). MLG, July 14, 2010 at 18.
- (5) The decision violates Goal 12 because it does not include findings regarding the Oregon Transportation Planning Rule. MLG, July 14, 2010 at 18.
- (6) The enforcement of OAR 660-027-0060(4) by Metro and the counties violates ORS 195.141(3) and (4). MLG, July 14, 2010 at 19.

MLG’s proposed remedy is for the Commission to remand this matter with direction to Metro and the counties to remove the rural reserve designation from the objector’s property, designate the property as an urban reserve, and to otherwise address the identified legal deficiencies.

**b. Area Description.** For a description of Area 9B, see subsection 2, immediately above.

**c. Department Analysis and Recommendation.** The Department recommends that the Commission deny these objections.

All of these objections are addressed in other sections of this report, as follows:

- (1) Subsection VIII.C.2
- (2) Subsection VIII.C.2
- (3) Subsection VI.D.2
- (4) Subsection VII.A.1
- (5) Subsection VI.A.4
- (6) This objection is invalid. See chapter IX.

**D. Various**

**1. Various Site-specific Objections to Reserve Designations.** Several objections indicated the counties or Metro designated land incorrectly or inappropriately. This subsection addresses most of those objections.

**a. Objections.** The Department received objections to a variety of urban and rural reserve designations across the region. The list below depicts the objector, the subject reserve area number (see map in Attachment A), and the proposed remedy.

<u>Ref.</u>	<u>Name</u>	<u>Reserve Area</u>	<u>Proposed Remedy</u>
1	Culter	4A–G	Change from urban reserve to undesignated
3	Tualatin Riverkeepers	6B	Change from urban to rural reserve
11	D. Smith	4J	Change from rural to urban reserve
16	Calcagno	3E	Change from rural reserve to undesignated
17-2	Irvine	7C	Remand urban reserve designation
21	Cherry	9A	Change from rural to urban reserve
36	Baker <sup>18</sup>	9D	Change from rural to urban reserve
39	McKenna	3E or 3H	Change from undesignated to rural reserve
43	Szambelan	4I	Change from rural reserve to undesignated

**b. Department Analysis and Recommendation.** The Department recommends the Commission deny these objections.

In each case, the objector asserted the relevant county or Metro, or both, made the wrong decision regarding designation (or non-designation) of a parcel or area. The allegations were that application of the factors in OAR chapter 660, division 27 supported a different conclusion, or that the final decision was not supported by the objector’s understanding of the factors.

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<sup>18</sup> The third objection in the letter submitted by Susan J. Baker (Baker, July 12, 2010 at 8) has been determined to be invalid. See chapter IX.

See section V.B regarding lands that could be designated as either urban or rural reserve, and the geographic scale of local review required for reserve areas. Each of the counties and Metro has made findings based upon substantial evidence explaining how they considered the urban or rural factors with regard to the areas including these properties. Metro Rec. at 14–115. The issue is whether Metro and the counties considered the urban and rural reserve factors in deciding to designate particular areas, explained why the areas should be urban or rural reserves using the factors listed in the statute and rules, and whether there is evidence in the record as a whole that a reasonable person could rely upon to decide as Metro and the counties did. The Department recommends that the Commission find that the local governments appropriately considered the factors and documented the reasons they made the decisions for each of the areas subject to the objections listed above. For these reasons, the Department recommends that the Commission deny the objections.

## **IX. INVALID OBJECTIONS**

The Department found that several objections did not satisfy the requirements of OAR 660-025-0140(2) to be valid. As a result, the Department recommends that these objections not be considered by the Commission. The following list displays objections the Department has determined to be invalid and comments received that do not object to any aspect of the reserves decisions.

Under the Commission’s rule, objections are valid if they:

- Were received within 21 days of the local government notice of the submittal to the Department (all objections were received in a timely manner);
- Demonstrate the objector participated at the local level (all objectors participated);
- Clearly identify an alleged deficiency in the submittal sufficiently to identify the relevant section of the final decision *and* identify the statute, goal, or administrative rule the submittal is alleged to have violated (indicated as “no citation” in the list below); and
- Suggest specific revisions that would resolve the objection (indicated as “no remedy” in the list below).

Objections that support the reserves decision, or otherwise do not object to the submittals, are indicated as “no objection” in the list below.

<u>Ref.</u>	<u>Name</u>	<u>Explanation</u>
2	Arthur Dummer	No citation
7	Dale Burger	No citation and no remedy
17-2	Jim Irvine	No citation
19	Audubon Society of Portland	No remedy
22	Joseph Rayhawk	No remedy
27	Gary Gentemann	No objection
30	Michael Cropp	No objection
31-6	Metropolitan Land Group	No remedy
35	Coalition for a Livable Future	No citation
38-4	Steve and Kelly Bobosky	No citation
38-5	Steve and Kelly Bobosky	No citation
40	Thomas J. VanderZanden	No objection
45	William Kaer	No objection
42-6	Tim O’Callaghan	No remedy

The Department recommends that the objections from these objectors be rejected by the Commission as invalid under OAR 660-025-0140(2). The Commission should allow argument from these parties, but only as to whether their objections are valid. And, only if the Commission does not agree with the Department should these parties be allowed to argue the merits of their submittals.

## **X. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS**

### **A. Recommendation**

The Department recommends that the Commission find that the adopted plans designating urban and rural reserves in the Portland metro area under ORS 195.137 to 195.145 and OAR 660-027 comply with OAR 660-027, the applicable statewide planning goals and other applicable rules of the Commission.

### **B. Proposed Motion**

*Recommended Motion: I move that the Commission accept the Department's recommendation, deny the valid objections, and approve the designations of urban and rural reserves for the Portland metro area and accompanying plan amendments submitted by Metro, Clackamas County, Multnomah County, and Washington County.*

*Alternative Motion 1: I move that the Commission remand the designations of urban and rural reserves for the Portland metro area and accompanying plan amendments to Metro and \_\_ counties for them to \_\_\_\_\_.*

## **XI. ACRONYMS, ABBREVIATIONS AND TERMS**

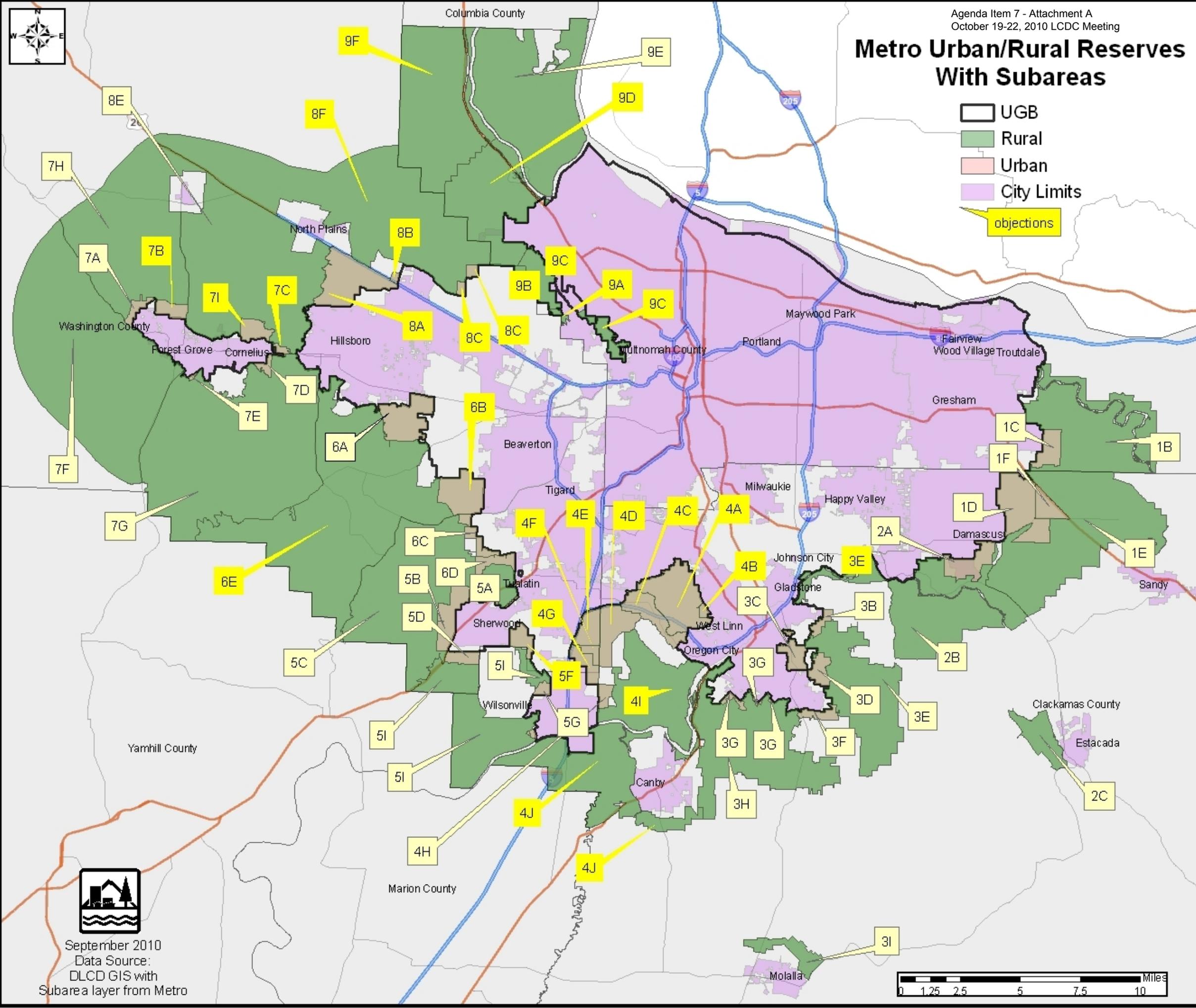
Commission	The Land Conservation and Development Commission
Department	The Department of Land Conservation and Development
Factors	For urban reserves, OAR 660-027-0050; for rural reserves, OAR 660-027-0060(2) and (3)
Metro	The Portland area metropolitan service district
OAR	Oregon Administrative Rule(s)
ORS	Oregon Revised Statutes
Rec. at	Citation to a page number in the record as it was submitted to the Department. "CC," "MC," and "WC" refer to county records and "Metro" refers to the record submitted by Metro.
TPR	Transportation Planning Rule. OAR chapter, division 12
UGB	Urban growth boundary. As used in this report, the UGB refers to the boundary established by Metro

## **XII. ATTACHMENTS**

- A. Map of Urban and Rural Reserve Designations (with area-specific objections shown)
- B. Metro Ordinance No. 10-1238A and Exhibits (including Consolidated Findings)
- c. County ordinances adopting reserve
- D. Newberg urban reserve decision and supporting documents (excerpts)

# Metro Urban/Rural Reserves With Subareas

- UGB
- Rural
- Urban
- City Limits
- objections



September 2010  
Data Source:  
DLCD GIS with  
Subarea layer from Metro

0 1.25 2.5 5 7.5 10 Miles



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING URBAN ) Ordinance No. 10-1238A  
RESERVES AND CONFORMING AMENDMENTS )  
TO THE REGIONAL FRAMEWORK PLAN AND ) Introduced by Chief Operating Officer  
THE URBAN GROWTH MANAGEMENT ) Michael Jordan with the Concurrence of  
FUNCTIONAL PLAN ) Council President David Bragdon

WHEREAS, Metro and Multnomah, Washington and Clackamas Counties (“the four governments”) have declared their mutual interest in long-term planning for three-county area for which they share land use planning authority in order to ensure the development of great communities within the urban growth boundary surrounded by prosperous farms, ranches, woodlots, forests, and natural resources and landscapes; and

WHEREAS, the 2007 Oregon Legislature enacted Senate Bill 1011, codified at ORS 195.137 to 195.145 (“the statute”), at the request of the four governments and many other local governments and organizations in the region and state agencies, to establish a new method to accomplish the goals of the four governments through long-term planning; and

WHEREAS, the statute authorizes the four local governments to designate Urban Reserves and Rural Reserves to accomplish the purposes of the statute, which are consistent with the goals of the four governments; and

WHEREAS, the Land Conservation and Development Commission (“LCDC”) adopted rules to implement the statute on January 25, 2008, as directed by the statute; and

WHEREAS, the statute and rules require the four governments to work together in their joint effort to designate reserves and to enter into formal agreements among them to designate reserves in a coordinated and concurrent process prior to adoption of ordinances adopting reserves; and

WHEREAS, the statute and the rules set forth certain factors to be considered in the designation of reserves, and elements to be included in ordinances adopting reserves; and

WHEREAS, the Metro Council has entered into an intergovernmental agreement with each of the Boards of Commissioners of Clackamas, Multnomah and Washington Counties to designate certain lands in each of the counties as Urban Reserves and other lands as Rural Reserves; and

WHEREAS, Metro conducted workshops and hearings across the region and sought the advice of the Metro Policy Advisory Committee (“MPAC”) prior to entering into intergovernmental agreements with the three counties; and

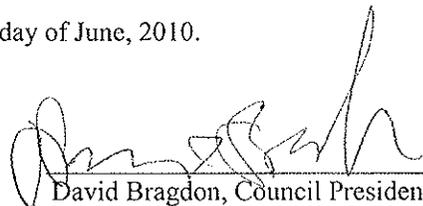
“WHEREAS, MPAC recommended adoption by the Metro Council of Regional Framework Plan policies and functional plan amendments to implement urban and rural reserves, but not the proposed map of reserves, at its meeting on May 12, 2010; and”

WHEREAS, Metro held a public hearing on the Urban Reserves and Rural Reserves recommended in the intergovernmental agreements on May 20, 2010; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The areas shown as "Urban Reserves" on Map Exhibit A, attached and incorporated into this ordinance, are hereby designated Urban Reserves under ORS 195.141 and OAR 660 Division 27.
2. The areas shown as "Rural Reserves" on Exhibit A are the Rural Reserves adopted by Clackamas, Multnomah and Washington Counties and are hereby made subject to the policies added to the Regional Framework Plan by Exhibit B of this ordinance.
3. The Regional Framework Plan is hereby amended, as indicated in Exhibit B, attached and incorporated into this ordinance, to adopt policies to implement Urban Reserves and Rural Reserves pursuant to the intergovernmental agreements between Metro and Clackamas, Multnomah and Washington Counties, respectively, and ORS 195.141 to 195.143.
4. Title 5 (Neighbor Cities and Rural Reserves) of the Urban Growth Management Functional Plan (UGMFP) is hereby repealed as indicated in Exhibit C, attached to this ordinance.
5. Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended, as indicated in Exhibit D, attached and incorporated into this ordinance, to implement provisions of the intergovernmental agreements between Metro and Clackamas, Multnomah and Washington Counties and ORS 195.141 to 195.143.
6. The Findings of Fact and Conclusions of Law in Exhibit E, attached and incorporated into this ordinance, explain how the actions taken by the Council in this ordinance comply with the Regional Framework Plan and state law.

ADOPTED by the Metro Council this 3rd day of June, 2010.

  
David Bragdon, Council President

Attest:

  
TONY ANDERSEN, Recording Secretary

Approved as to form:

  
Daniel B. Cooper, Metro Attorney



# REGION 2040

Decisions for Tomorrow

2040 Growth Concept  
Exhibit A to Ordinance 10-1238A



600 NORTHEAST GRAND AVENUE PORTLAND, OREGON 97232-2736  
TEL (503) 797-1742 FAX (503) 797-1509  
drc@metro.dst.or.us www.metro-region.org

### LEGEND

Clark County

- Farm and Forest Land
- Rural Residential
- Low Density Residential
- High Density Residential
- Commercial
- General Commercial / City Center
- Public Facility
- Light Industrial
- Heavy Industrial
- Parks and Open Space
- Vancouver City Center
- Medium Density Residential
- Activity Centers
- Town Centers

# LEGEND

## Metropolitan Region

- Central City
- Regional Centers
- Town Centers
- Inner Neighborhoods
- Outer Neighborhoods
- Employment Areas
- Industrial Areas
- Regionally Significant Industrial Areas
- Corridors
- Main Streets
- Station Community
- Station Community Core
- Potential Regional Throughways
- Planned & Existing Light Rail Lines
- Proposed Light Rail Alignments
- Potential HCT Facilities
- Light Rail Stations
- Potential Light Rail Stations
- International Airports
- Regional Airports
- Terminals
- Intermodal Rail Yards
- Rail Distribution Network
- Urban Reserves
- Rural Reserves
- Park
- Open space
- Urban Growth Boundary
- Neighboring Cities

0 0.5 1 2 3 4 Miles  
1 inch = 1 mile

**Exhibit B to Ordinance No. 10-1238A**

**REGIONAL FRAMEWORK PLAN**

**Policy 1.7 Urban and Rural Reserves**

It is the policy of the Metro Council to:

- 1.7.1 Establish a system of urban reserves, sufficient to accommodate long-term growth, that identifies land outside the UGB suitable for urbanization in a manner consistent with this Regional Framework Plan.
- 1.7.2 Collaborate with Multnomah, Clackamas and Washington Counties and Neighbor Cities to establish a system of rural reserves to protect agricultural land, forest land and natural landscape features that help define appropriate natural boundaries to urbanization, and to keep a separation from Neighbor Cities to protect their identities and aspirations.
- 1.7.3 Designate as urban reserves, with a supply of land to accommodate population and employment growth to the year 2060, those lands identified as urban reserves on the Urban and Rural Reserves Map in Title 14 of the Urban Growth Management Functional Plan.
- 1.7.4 Protect those lands designated as rural reserves on the Urban and Rural Reserves Map in Title 14 of the Urban Growth Management Functional Plan from addition to the UGB and from re-designation as urban reserves at least until the year 2060.
- 1.7.5 In conjunction with the appropriate county, cities and service districts, develop concept plans for urban reserves prior to their addition to the UGB. Provide technical, financial and other support to the local governments in order to:
  - a. Help achieve livable communities.
  - b. Identify the city or cities that will likely annex the area after it is added to the UGB.
  - c. Identify the city or cities or the service districts that will likely provide services to the area after it is added to the UGB.
  - d. Determine the general urban land uses and prospective components of the regional system of parks, natural areas, open spaces, fish and wildlife habitats, trails and greenways.
- 1.7.6 Twenty years after the initial designation of the reserves, in conjunction with Clackamas, Multnomah and Washington Counties, review the designated urban and rural reserves for effectiveness, sufficiency and appropriateness.

**Policy 1.9 Urban Growth Boundary**

It is the policy of the Metro Council to:

- 1.9.1 Establish and maintain an urban growth boundary to limit urbanization of rural land and facilitate the development of a compact urban form.
- 1.9.2 Consider expansion of the UGB only after having taken all reasonable measures to use land within the UGB efficiently.
- 1.9.3 Expand the UGB, when necessary, from land designated Urban Reserves unless they cannot reasonably accommodate the demonstrated need to expand.
- 1.9.4 Not to expand the UGB onto lands designated Rural Reserves at least until the year 2060.
- 1.9.5 Consult appropriate Neighbor Cities prior to addition of land to the UGB in their vicinity.
- 1.9.6 Add land to the UGB only after concept planning for the land has been completed by the responsible local governments in collaboration with Metro unless participants cannot agree on the plan and addition of the land is necessary to comply with ORS 197.299.
- 1.9.7 Provide the following procedures for expansion of the UGB:
  - a. A process for minor revisions
  - b. A complete and comprehensive process associated with the analysis of the capacity of the UGB required periodically of Metro by state planning laws
  - c. A process available for expansion to accommodate non-residential needs between the state-required capacity analyses
  - d. An accelerated process for addition of land to accommodate an immediate need for industrial capacity.
- 1.9.8 Use natural or built features, whenever practical, to ensure a clear transition from rural to urban land use.
- 1.9.9 Ensure that expansion of the UGB enhances the roles of Centers, Corridors and Main Streets.
- 1.9.10 Determine whether the types, mix and wages of existing and potential jobs within subareas justifies an expansion in a particular area.
- 1.9.11 Conduct an inventory of significant fish and wildlife habitat that would be affected by addition of land, and consider the effects of urbanization of the land on the habitat and measures to reduce adverse effects, prior to a decision on the proposed addition.
- 1.9.12 Use the choice of land to include within the UGB as an opportunity to seek agreement with landowners to devote a portion of residential capacity to needed workforce housing as determined by the Urban Growth Report adopted as part of the UGB expansion process.
- 1.9.13 Prepare a report on the effect of the proposed amendment on existing residential neighborhoods prior to approving any amendment or amendments of the urban growth boundary in excess of 100 acres and send the report to all households within one mile of the proposed UGB amendment area and to all cities and counties within the district. The report shall address:

- a. Traffic patterns and any resulting increase in traffic congestion, commute times and air quality.
- b. Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory.
- c. The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.

**Policy 1.11 Neighbor Cities**

It is the policy of the Metro Council to:

- 1.11.1 Coordinate concept planning of Urban Reserves with Neighbor Cities Sandy, Canby, Estacada, Barlow, North Plains, Banks and Vancouver to minimize the generation of new automobile trips between Neighbor Cities and the Metro UGB by seeking appropriate ratios of dwelling units and jobs within the Metro UGB and in Neighbor Cities.
- 1.11.2 Pursue agreements with Neighbor Cities, Clackamas and Washington Counties and the Oregon Department of Transportation to establish “green corridors” along state highways that link Neighbor Cities with cities inside the Metro UGB in order to maintain a rural separation between cities, to protect the civic identities of Neighbor Cities, and to protect the capacity of those highways to move people and freight between the cities.
- 1.11.3 Coordinate with Vancouver, Clark County and the Southwest Washington Transportation Council through the Bi-State Coordinating Committee and other appropriate channels on population and employment forecasting; transportation; economic development; emergency management; park, trail and natural area planning; and other growth management issues.

**Policy 1.12 Protection of Agriculture and Forest Resource Lands**

[Repealed]

**Exhibit C to Ordinance No. 10-1238A**

**Title 5 of the Urban Growth Management Functional Plan is repealed.**

**Exhibit D to Ordinance No. 10-1238A**

**TITLE 11: PLANNING FOR NEW URBAN AREAS**

3.07.1105 Purpose and Intent

The Regional Framework Plan calls for long-range planning to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities. It is the purpose of Title 11 to guide such long-range planning for urban reserves and areas added to the UGB. It is also the purpose of Title 11 to provide interim protection for areas added to the UGB until city or county amendments to land use regulations to allow urbanization become applicable to the areas.

3.07.1110 Planning for Areas Designated Urban Reserve

A. The county responsible for land use planning for an urban reserve and any city likely to provide governance or an urban service for the area, shall, in conjunction with Metro and appropriate service districts, develop a concept plan for the urban reserve prior to its addition to the UGB pursuant to Metro Code 3.01.015 and 3.01.020. The date for completion of a concept plan and the area of urban reserves to be planned will be jointly determined by Metro and the county and city or cities.

B. A concept plan shall achieve, or contribute to the achievement of, the following outcomes:

1. If the plan proposes a mix of residential and employment uses:
  - a. A mix and intensity of uses that will make efficient use of the public systems and facilities described in subsection C;
  - b. A development pattern that supports pedestrian and bicycle travel to retail, professional and civic services;
  - c. Opportunities for a range of needed housing types;
  - d. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics,

- such as proximity to transportation facilities, needed by employers;
  - e. Well-connected systems of streets, bikeways, parks and other public open spaces, natural areas, recreation trails and public transit;
  - f. Protection of natural ecological systems and important natural landscape features;
  - g. Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands; or
2. If the plan involves fewer than 100 acres or proposes to accommodate only residential or employment needs, depending on the need to be accommodated:
- a. Opportunities for a range of needed housing types;
  - b. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;
  - c. Well-connected systems of streets, bikeways, pedestrian ways, parks, natural areas, recreation trails;
  - d. Protection of natural ecological systems and important natural landscape features;
  - e. Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands.

C. A concept plan shall:

1. Show the general locations of any residential, commercial, industrial, institutional and public uses proposed for the area with sufficient detail to allow estimates of the cost of the public systems and facilities described in paragraph 2;
2. For proposed sewer, park and trail, water and storm-water systems and transportation facilities, provide the following:
  - a. The general locations of proposed sewer, park and trail, water and storm-water systems;
  - b. The mode, function and general location of any proposed state transportation facilities, arterial facilities,

regional transit and trail facilities and freight intermodal facilities;

- c. The proposed connections of these systems and facilities, if any, to existing systems;
- d. Preliminary estimates of the costs of the systems and facilities in sufficient detail to determine feasibility and allow cost comparisons with other areas;
- e. Proposed methods to finance the systems and facilities; and
- f. Consideration for protection of the capacity, function and safe operation of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.

3. If the area subject to the concept plan calls for designation of land for industrial use, include an assessment of opportunities to create and protect parcels 50 acres or larger and to cluster uses that benefit from proximity to one another;

4. Show water quality resource areas, flood management areas and habitat conservation areas that will be subject to performance standards under Titles 3 and 13 of the Urban Growth Management Functional Plan;

5. Be coordinated with the comprehensive plans and land use regulations that apply to nearby lands already within the UGB;

6. Include an agreement between or among the county and the city or cities and service districts that preliminarily identifies which city, cities or districts will likely be the providers of urban services, as defined at ORS 195.065(4), when the area is urbanized;

7. Include an agreement between or among the county and the city or cities that preliminarily identifies the local government responsible for comprehensive planning of the area, and the city or cities that will have authority to annex the area, or portions of it, following addition to the UGB;

8. Provide that an area added to the UGB must be annexed to a city prior to, or simultaneously with, application of city land use regulations to the area intended to comply with subsection C of section 3.07.1120; and

9. Be coordinated with schools districts.

D. Concept plans shall guide, but not bind:

1. The designation of 2040 Growth Concept design types by the Metro Council;
2. Conditions in the Metro ordinance that adds the area to the UGB; or
3. Amendments to city or county comprehensive plans or land use regulations following addition of the area to the UGB.

E. If the local governments responsible for completion of a concept plan under this section are unable to reach agreement on a concept plan by the date set under subsection A, then the Metro Council may nonetheless add the area to the UGB if necessary to fulfill its responsibility under ORS 197.299 to ensure the UGB has sufficient capacity to accommodate forecasted growth.

#### 3.07.1120 Planning for Areas Added to the UGB

A. The county or city responsible for comprehensive planning of an area, as specified by the intergovernmental agreement adopted pursuant to 3.07.1110C(7) or the ordinance that added the area to the UGB, shall adopt comprehensive plan provisions and land use regulations for the area to address the requirements of subsection C by the date specified by the ordinance or by Metro Code 3.01.040(b)(4).

B. If the concept plan developed for the area pursuant to Section 3.07.1110 assigns planning responsibility to more than one city or county, the responsible local governments shall provide for concurrent consideration and adoption of proposed comprehensive plan provisions unless the ordinance adding the area to the UGB provides otherwise.

C. Comprehensive plan provisions for the area shall include:

1. Specific plan designation boundaries derived from and generally consistent with the boundaries of design type designations assigned by the Metro Council in the ordinance adding the area to the UGB;

2. Provision for annexation to a city and to any necessary service districts prior to, or simultaneously with, application of city land use regulations intended to comply with this subsection;

3. Provisions that ensure zoned capacity for the number and types of housing units, if any, specified by the Metro Council pursuant to Metro Code 3.01.040(b)(2);

4. Provision for affordable housing consistent with Title 7 of the Urban Growth Management Functional Plan if the comprehensive plan authorizes housing in any part of the area;

5. Provision for the amount of land and improvements needed, if any, for public school facilities sufficient to serve the area added to the UGB in coordination with affected school districts. This requirement includes consideration of any school facility plan prepared in accordance with ORS 195.110;

6. Provision for the amount of land and improvements needed, if any, for public park facilities sufficient to serve the area added to the UGB in coordination with affected park providers.

7. A conceptual street plan that identifies internal street connections and connections to adjacent urban areas to improve local access and improve the integrity of the regional street system. For areas that allow residential or mixed-use development, the plan shall meet the standards for street connections in the Regional Transportation Functional Plan;

8. Provision for the financing of local and state public facilities and services; and

9. A strategy for protection of the capacity and function of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.

D. The county or city responsible for comprehensive planning of an area shall submit a determination of the residential capacity of any area zoned to allow dwelling units, using the method in section 3.07.120, to Metro within 30 days after adoption of new land use regulations for the area.

### 3.07.1130 Interim Protection of Areas Added to the UGB

Until land use regulations that comply with section 3.07.1120 become applicable to the area, the city or county responsible for planning the area added to the UGB shall not adopt or approve:

- A. A land use regulation or zoning map amendment that allows higher residential density in the area than allowed by regulations in effect at the time of addition of the area to the UGB;
- B. A land use regulation or zoning map amendment that allows commercial or industrial uses not allowed under regulations in effect at the time of addition of the area to the UGB;
- C. A land division or partition that would result in creation of a lot or parcel less than 20 acres in size, except for public facilities and services as defined in Metro Code section 3.01.010, or for a new public school;
- D. In an area designated by the Metro Council in the ordinance adding the area to the UGB as Regionally Significant Industrial Area:
  - 1. A commercial use that is not accessory to industrial uses in the area; and
  - 2. A school, a church, a park or any other institutional or community service use intended to serve people who do not work or reside in the area.

3.07.1140 Applicability

Section 3.07.1110 becomes applicable on March 31, 2011.

## **Exhibit E to Ordinance No. 10-1238A**

### **REASONS FOR DESIGNATION OF URBAN AND RURAL RESERVES**

#### **I. Background**

The 2007 Oregon Legislature authorized Metro and Clackamas, Multnomah and Washington Counties (“partner governments”) to designate urban reserves and rural reserves following the process set forth in ORS 195.137 – 195.145 (Senate Bill 1011) and implementing rules adopted by the Land Conservation and Development Commission (LCDC) (OAR 660 Division 27). The Legislature enacted the new authority in response to a call by local governments in the region to improve the methods available to them for managing growth. After the experience of adding over 20,000 acres to the regional urban growth boundary (UGB) following the soil-capability-based priority of lands in ORS 197.298, cities and the partner governments wanted to place more emphasis on the suitability of lands for sustainable urban development, longer-term security for agriculture and forestry outside the UGB, and respect for the natural landscape features that define the region.

The new statute and rules make agreements among the partner governments a prerequisite for designation of urban and rural reserves. The remarkable cooperation among the local governments of the region that led to passage of Senate Bill 1011 and adoption of LCDC rules continued through the process of designation of urban reserves by Metro and rural reserves by Clackamas, Multnomah and Washington Counties. The partners’ four ordinances are based upon the formal intergovernmental agreements between Metro and each county that are part of our record, developed simultaneously following long study of potential reserves and thorough involvement by the public.

#### **II. OVERALL CONCLUSIONS**

Metro Ordinance No. 10-1238 designates 28,615 gross acres as urban reserves, including urban reserves in each county. These lands are now first priority for addition to the region’s UGB when the region needs housing or employment capacity. As indicated in new policy in Metro’s Regional Framework Plan in Exhibit A to the ordinance, the urban reserves are intended to accommodate population and employment growth for 50 years, to year 2060.

Clackamas County Ordinance No. ZDO-233 designates 68,713 acres as rural reserves in Clackamas County. Multnomah County Ordinance No. 2010-1161 designates 46,706 acres as rural reserves in Multnomah County. Washington County Ordinance No. 733 designates 151,536 acres as rural reserves in that county. As indicated in new policies in the Regional Framework Plan and the counties’ Comprehensive Plans, these rural reserves – 266,954 acres in total - are now protected from urbanization for 50 years. Staff Report, June 9, 2010, Metro Rec.118. The governments of the region have struggled with the urban-farm/forest interface, always searching for a “hard edge” to give farmers and foresters some certainty to encourage investment in their businesses. No road, stream or floodplain under the old way of expanding the UGB offers the long-term certainty of the edge of a rural reserves with at least a 50-year lifespan.

This certainty is among the reasons the four governments chose the longer, 50-year, reserves period.

The region's governments have also debated how best to protect important natural landscape features at the edges of the urban area. The partners' agreements and these ordinances now identify the features that will define the extent of outward urban expansion.

The region's urban and rural reserves are fully integrated into Metro's Regional Framework Plan and the Comprehensive Plans of Clackamas, Multnomah and Washington counties. Metro's plan includes a map that shows urban and rural reserves in all three counties. Each of the county plans includes a map that shows urban and rural reserves in the county. The reserves shown on each county map are identical to the reserves shown in that county on the Metro map. Each of the four plans contains new policies that ensure accomplishment of the goals for the reserves set by the four local governments and by state law. These new policies are consistent with, and carry out, the intergovernmental agreements between Metro and the three counties signed in February, 2010.

Together, these reserves signal the region's long-term limits of urbanization, its commitment to stewardship of farmland and forests, and its respect for the features of the natural landscape that give the people of the region their sense of place. Urban reserves, if and when added to the UGB, will take some land from the farm and forest land base. But the partners understood from the beginning that some of the very same characteristics that make an area suitable for agriculture also make it suitable for industrial uses and compact, mixed-use, pedestrian and transit-supportive urban development. The most difficult decisions made by the four governments involved Foundation Agricultural Land<sup>1</sup> near the existing UGB and the circumstances in which this land should be designated as urban reserve to accommodate growth in a compact form and provide opportunities for industrial development difficult or impossible on steep slopes.

Some important numbers help explain why the partners came to agree that the adopted system, in its entirety, achieves this balance. Of the total 28,615 acres designated urban reserves, approximately 13,981 acres are Foundation or Important Agricultural Land. This represents only four percent of the Foundation and Important Agricultural Land studied for possible urban or rural reserve designation. If all of this land is added to the UGB over the next 50 years, the region will have lost five percent of the farmland base in the three-county area. Staff Report, June 9, 2010, Metro Rec.119; 179-180.

There is a second vantage point from which to assess the significance for agriculture of the designation of urban reserves in the three-county region: the percentage of land zoned for exclusive farm use in the three counties that is designated urban reserve. Land zoned EFU has emerged over 35 years of planning as the principal land base for agriculture in the counties, and is protected for that purpose by county zoning. The inventory of Foundation and Important

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<sup>1</sup> Those lands mapped as Foundation Agricultural Land in the January, 2007, Oregon Department of Agriculture report to Metro entitled "Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands.

Agricultural Lands includes land that is “exception land” no longer protected for agriculture for farming. Of the 28,615 acres designated urban reserves, some 10,767 acres are zoned EFU. Even including the 2,774 acres of these EFU lands that are classified by ODA as “conflicted”, these 10,767 acres represent four percent of all land zoned EFU in the three counties. If the “conflicted” acres are removed from consideration, the percentage drops to four percent. Staff Report, June 9, 2010, Metro Rec.179-180.

If the region’s effort to contain urban development within the existing UGB and these urban reserves for the next 50 years is successful, the UGB will have accommodated an estimated 74 percent increase in population on an 11-percent increase in the area within the UGB. No other region in the nation can demonstrate this growth management success. Most of the borders of urban reserves are defined by a 50-year “hard edge” of 266,954 acres designated rural reserves, nearly all of which lies within five miles of the existing UGB. Of these rural reserves, approximately 249,116 acres are Foundation or Important Agricultural Land. Staff Report, June 9, 2010, Metro Rec.119-120; 179-180.

Why did the region designate *any* Foundation Agricultural Land as urban reserve? The explanation lies in the geography and topography of the region, the growing cost of urban services and the declining sources of revenues to pay for them, and the fundamental relationships among geography, topography and the cost of services. The region aspires to build “great communities.” Great communities are those that offer residents a range of housing types and transportation modes from which to choose. Experience shows that compact, mixed-use communities with fully integrated street, pedestrian, bicycle and transit systems offer the best range of housing and transportation choices. *State of the Centers: Investing in Our Communities*, January, 2009. Metro Rec.181-288. The urban reserves factors in the reserves rules derive from work done by the region to identify the characteristics of great communities. Urban reserve factors (1), (3), (4),and(6)<sup>2</sup> especially aim at lands that can be developed in a compact, mixed-use, walkable and transit-supportive pattern, support by efficient and cost-effective services. Cost of services studies tell us that the best geography, both natural and political, for compact, mixed-use communities is relatively flat, undeveloped land. *Core 4 Technical Team Preliminary Analysis Reports for Water, Sewer and Transportation*, Metro Rec. 1163-1187; *Regional Infrastructure Analysis*, Metro Rec. 440-481.

The region also aspires to provide family-wage jobs to its residents. Urban reserve factor (2) directs attention to capacity for a healthy economy.<sup>3</sup> Certain industries the region wants to attract prefer large parcels of flat land. Staff Report, June 9, 2010, Metro Rec. 172-178. Water,

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<sup>2</sup> (1) Can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments;

(3) Can be efficiently and cost-effectively service with public schools and other urban-level public facilities and services by appropriate and financially capable providers;

(4) Can be designed to be walkable and service with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate services providers;

(6) Includes sufficient land suitable for a range of needed housing types.

<sup>3</sup> (2) Includes sufficient development capacity to support a healthy economy.

sewer and transportation costs rise as slope increases. *Core 4 Technical Team Preliminary Analysis Reports for Water, Sewer and Transportation*, Metro Rec. 1163-1187; *Regional Infrastructure Analysis*, Metro Rec. 440-481. Converting existing low-density rural residential development into compact, mixed-use communities through infill and re-development is not only very expensive, it is politically difficult. There is no better support for these findings than the experience of the city of Damascus, trying since its addition to the UGB in 2002 to gain the acceptance of its citizens for a plan to urbanize a landscape characterized by a few flat areas interspersed among steeply sloping buttes and incised stream courses and natural resources. Staff Report, June 9, 2010, Metro Rec.289-300.

Mapping of slopes, parcel sizes, and Foundation Agricultural Land revealed that most flat land in large parcels without a rural settlement pattern at the perimeter of the UGB lies outside Hillsboro, Cornelius, Forest Grove, Beaverton, and Sherwood. These same lands provide the most readily available supply of large lots for industrial development. *Business Coalition Constrained Land for Development and Employment Map*, Metro Rec. 301; 1105-1110. Almost all of it is Foundation Agricultural Land. Had the region been looking only for the best land to build great communities, nearly all the urban reserves would have been around these cities. It is no coincidence that these cities told the reserves partners that they want significant urban reserves available to them, while most other cities told the partners they want little or no urban reserves. *Washington County Cities' Pre-Qualified Concept Plans*, WashCo Rec. 3036-3578.

Despite these geopolitical and cost-of-services realities, the reserves partners designated extensive urban reserves that are *not* Foundation Agricultural Lands in order to meet the farm and forest land objectives of reserves, knowing they will be more difficult and expensive to urbanize:

- Urban Reserve 1D east of Damascus and south of Gresham (2,716 acres);
- Urban Reserve 2A south of Damascus (1,239 acres);
- Urban Reserves 3B, C, D, F and G around Oregon City (2,232 acres);
- Urban reserves 4A, B and C in the Stafford area (4,699 acres);
- Urban reserves 4D, E, F, G and H southeast of Tualatin and east of Wilsonville (3,589 acres);
- Urban Reserve 5F between Tualatin and Sherwood (572 acres);
- Urban Reserve 5G west of Wilsonville (203 acres); and
- Urban Reserve 5D south of Sherwood (447 acres).

This totals approximately 15,697 acres, 55 percent of the lands designated urban reserve.

Our reasons for not selecting more non-Foundation Agricultural Land as urban reserves from the 400,000 acres studied can be found in our analysis of these lands using the urban reserve factors. First, we began our analysis by examining lands within five miles of the UGB. Most of these lands initially studied are beyond the affordable reach of urban services. With one exception (Urban Reserve 1D), designated urban reserves lie within two miles of the UGB.

Second, much of the Important and some Conflicted Agricultural Lands are separated from the UGB by, or include, important natural landscape features:

- East of Sandy: the Sandy River Canyon and the county’s scenic river overlay zone
- Eagle Creek and Springwater Ridge: the bluffs above the Clackamas River
- Clackamas Heights (portion closest to UGB): Abernethy Creek
- South of Oregon City: steep slopes drop to Beaver Creek
- West Wilsonville: Tonquin Scablands
- Bethany/West Multnomah: Forest Park and stream headwaters and courses.

Urban reserve factors (5), (7) and (8)<sup>4</sup> seek to direct urban development away from important natural landscape features and other natural resources.

Third, much of the Important and Conflicted Agricultural Lands rate lower against the urban reserves factors in comparison to areas designated urban reserve, or remain undesignated for possible designation as urban reserve if the region’s population forecast proves too low:<sup>5</sup>

- Clackamas Heights
- East Wilsonville
- West Wilsonville
- Southeast of Oregon City
- Southwest of Borland Road
- Between Wilsonville and Sherwood

Lastly, some of the Important and Conflicted Agricultural Lands lies adjacent to cities in the region that have their own UGBs and want their own opportunities to expand over time:

- Estacada
- Sandy

These reasons are more fully set forth in the explanations for specific urban and rural reserves in sections VI-VIII.

The record of this two and one-half-year effort shows that not every partner agreed with all urban reserves in each county. But each partner agrees that this adopted system of urban and rural reserves, in its entirety, achieves the region’s long-range goals and a balance among the objectives of reserves: to accommodate growth in population and employment in sustainable and

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<sup>4</sup> (5) Can be designed to preserve and enhance natural ecological systems;

(7) Can be developed in a way that preserves important natural landscape features included in urban reserves;

(8) Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.

<sup>5</sup> “Retaining the existing planning and zoning for rural lands (and not applying a rural or an urban reserves designation) is appropriate for lands that are unlikely to be needed over the next 40 years, or (conversely) that are not subject to a threat of urbanization.” Letter from nine state agencies to the Metro Regional Reserves Steering Committee, October 14, 2009, page 15.

prosperous communities and neighborhoods, to preserve the vitality of the farms and forests of the region, and to protect defining natural landscape features. The partners are confident that this system of reserves will allow the continuation of vibrant and mutually-reinforcing farm, forest and urban economies for the next 50 years. And the partners agree this system is the best system the region can adopt by mutual agreement.

### **III. OVERALL PROCESS OF ANALYSIS AND PUBLIC INVOLVEMENT**

#### **A. Analysis and Decision-Making**

The three counties and Metro began reserves work as soon as LCDC adopted the new rules on reserves (OAR Division 27). The four governments formed committees and began public involvement to raise awareness about reserves and help people learn how to engage in the process. Each of the four governments selected one of its elected officials to serve on the “Core 4”, established to guide the designation process and formulate recommendations to the county boards and the Metro Council. The four governments also established a “Reserves Steering Committee” (RSC) to advise the Core 4 on reserves designation. The RSC represented interests across the region - from business, agriculture, social conservation advocacy, cities, service districts and state agencies (52 members and alternates).

The four governments established an overall Project Management Team (PMT) composed of planners and other professions from their planning departments. Each county established an advisory committee to provide guidance and advice to its county board, staffed by the county’s planning department.

As part of technical analysis, staff gathered providers of water, sewer, transportation, education and other urban services to consider viability of future service provision to lands within the study area. The parks and open space staff at Metro provided guidance on how best to consider natural features using data that had been deeply researched, broadly vetted and tested for social and political acceptance among Willamette Valley stakeholders (Oregon Wildlife Conservation Strategy, Pacific Northwest Research Consortium, Willamette Valley Futures, The Nature Conservancy’s Ecoregional Assessment). Business leaders, farm bureaus and other representative groups were consulted on an ongoing basis.

The first major task of the Core 4 was to recommend a reserves study area to the county boards and the Metro Council. With advice from the RSC, the county advisory committees and public comment gathered open houses across the region, the Core 4 recommended for further analysis some 400,000 acres around the existing urban area, extending generally five miles from the UGB. The four governments endorsed the study area in the fall of 2008. Then the task of applying the urban and rural reserve factors to specific areas began in earnest.

The county advisory committees reviewed information presented by the staff and advised the staff and county boards on how each “candidate area” rated under each reserves factor. The county staffs brought this work to the RSC for discussion. After a year’s worth of work at regular meetings, the RSC made its recommendations to the Core 4 in October, 2009.

Later in the fall, each elected body held hearings to hear directly from their constituents on proposed urban and rural reserves. Public involvement included six open houses, three Metro

Council hearings around the region and a virtual open house on the Metro web site, all providing the same maps, materials and survey questions.

Following this public involvement, the Core 4 submitted its final recommendations to the four governments on February 8, 2010. The recommendation included a map of proposed urban and rural reserves, showing reserves upon which there was full agreement (the large majority of proposed reserves) and reserves upon which disagreements were not resolved. The Core 4 proposed that these differences be settled principally in bilateral discussions between each county and Metro, the parties to the intergovernmental agreements (IGAs) required by ORS 195.141. Over the next two weeks, the Metro Council reached agreement on reserves with each county. By February 25, 2010, Metro had signed an IGA with Clackamas, Multnomah and Washington counties. Metro Rec.302; 312; 404.

The IGAs required each government to amend its plan to designate urban (Metro) or rural (counties) reserves and protect them for their intended purposes with plan policies. The IGAs also set times for final public hearings on the IGA recommendations and adoption of ordinances with these plan policies in May and June. The four governments understood that the IGAs and map of urban and rural reserves were not final decisions and, therefore, provided for final adjustments to the map to respond to public comment at the hearings. By June 15, 2010, the four governments had adopted their reserves ordinances, including minor revisions to the reserves map.

### **B. Public Involvement**

From its inception, the reserves designation process was designed to provide stakeholders and the public with a variety of ways to help shape the process and the final outcome. Most significantly, the decision process required 22 elected officials representing two levels of government and 400,000 acres of territory to craft maps and agreements that a majority of them could support. These commissioners and councilors represent constituents who hold a broad range of philosophical perspectives and physical ties to the land. Thus, the structure of the reserves decision process provided motivation for officials to seek a final compromise that met a wide array of public interests.

In the last phase of the reserve process – adoption of ordinances that designate urban and rural reserves - each government followed its established procedure for adoption of ordinances: notice to citizens; public hearings before its planning commission (in Metro’s case, recommendations from the Metro Planning Advisory Committee) and public hearings before its governing body. But in the more-than-two years leading to this final phase, there were additional advisory bodies established.

The RSC began its work in early 2008. RSC members were expected to represent social and economic interests to the committee and officials and to serve as conduits of communication back to their respective communities. In addition, RSC meetings were open to the public and provided an additional avenue for citizens to voice their concerns—either by asking that a steering committee member represent their concern to the committee or by making use of the public testimony period at the beginning of each meeting.

Once the three county advisory committees got underway, they, like the RSC, invited citizens were to bring concerns to committee members or make statements at the beginning of each meeting.

Fulfilling the requirements of DLCD's administrative rules on reserves and the reserves work program, the three counties and Metro developed a Coordinated Public Involvement Plan in early 2008 that provided guidance on the types of public involvement activities, messages and communications methods that would be used for each phase of the reserves program. The plan incorporated the requirements of Oregon law and administrative rules governing citizen involvement and reflects comments and feedback received from the Metro Council, Core 4 members, each jurisdiction's citizen involvement committee, other county-level advisory committees and the RSC. The Citizen Involvement Advisory Committee of the Oregon Land Conservation and Development Commission (LCDC) reviewed and endorsed the Public Involvement Plan.

The four governments formed a public involvement team, composed of public involvement staff from each county and Metro, to implement the Public Involvement Plan. The team cooperated in all regional efforts: 20 open houses, two "virtual open houses" on the Metro web site, additional online surveys, presentations, printed materials and analysis and summaries of comments. The team members also undertook separate county and Metro-specific public engagement activities and shared methodologies, materials and results.

Elected officials made presentations to community planning organizations, hamlets, villages, city councils, advocacy organizations, civic groups, chambers of commerce, conferences, watershed councils, public affairs forums, art and architecture forums, and many other venues. Staff and elected officials appeared on television, on radio news broadcasts and talk shows, cable video broadcasts and was covered in countless news articles in metro outlets, gaining publicity that encouraged public engagement. Booths at farmers' markets and other public events, counter displays at retail outlets in rural areas, library displays and articles in organization newsletters further publicized the opportunities for comment. Materials were translated into Spanish and distributed throughout all three counties. Advocacy organizations rallied supporters to engage in letter email campaigns and to attend public meetings. Throughout the reserves planning process the web sites of each county and Metro provided information and avenues for feedback. While there have been formal public comment periods at key points in the decision process, the reserves project team invited the public to provide comment freely throughout the process.

In all, the four governments made extraordinary efforts to engage citizens of the region in the process of designating urban and rural reserves. The public involvement plan provided the public with more than 180 discrete opportunities to inform decision makers of their views urban and rural reserves. A fuller account of the public involvement process the activities associated with each stage may be found at Staff Report, June 9, 2010, Metro Rec.123-155.

## IV. AMOUNT OF URBAN RESERVES

### A. Forecast

Metro developed a 50-year “range” forecast for population and employment that was coordinated with the 20-year forecast done for Metro’s UGB capacity analysis, completed in December, 2009. The forecast is based on national economic and demographic information and is adjusted to account for regional growth factors. The partner governments used the upper and lower ends of the 50-year range forecast as one parameter for the amount of land needed to accommodate households and employment. Instead of aiming to accommodate a particular number of households or jobs within that range, the partners selected urban reserves from approximately 400,000 acres studied that best achieve the purposes established by the Land Conservation and Development Commission [set forth in OAR 660-027-0005(2)] and the objectives of the partner governments.

### B. Demand and Capacity

Estimating land demand over the next 50 years is difficult as a practical matter and involves much uncertainty. The Land Conservation and Development Commission (LCDC) recognizes the challenge of estimating long-term need even for the 20-year UGB planning period. In the section of OAR Division 24 (Urban Growth Boundaries) on “Land Need”, the Commission says:

“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.”

OAR 660-024-0040(1). The uncertainties loom much larger for a 40 to 50-year estimate. Nonetheless, Metro’s estimate of need for a supply of urban reserves sufficient to accommodate housing and employment to the year 2060 is soundly based in fact, experience and reasonable assumptions about long-range trends.

The urban reserves estimate begins with Metro’s UGB estimate of need for the next 20 years in its *Urban Growth Report 2009-2030*, January, 2010 (adopted December 17, 2009). Metro Rec. 646-648; 715. Metro relied upon the assumptions and trends underlying the 20-year estimate and modified them where appropriate for the longer-term reserves estimate, and reached the determinations described below.

The 50-year forecast makes the same assumption on the number of households and jobs needed to accommodate the population and employment coming to the UGB from the seven-county metropolitan statistical area (MSA) as in the *Urban Growth Report*: approximately 62 percent of the MSA residential growth and 70 percent of the MSA employment growth will come to the metro area UGB. *COO Recommendation, Urban Rural Reserves, Appendix 3E-C*, Metro Rec. 599; *Appendix 3E-D*, Metro Rec. 606-607.

Metro estimates the demand for new dwelling units within the UGB over the next 50 years to be between 485,000 and 532,000 units. *COO Recommendation, Urban Rural Reserves, Appendix 3E-C*, Metro Rec. 599. Metro estimates between 624,300 and 834,100 jobs will locate within the UGB by 2060. *COO Recommendation, Urban Rural Reserves, Appendix 3E-D, Table D-3*, Metro Rec. 607. Staff Report, June 9, 2010, Metro Rec.121-122.

The region will focus its public investments over the next 50 years in communities inside the existing UGB and, as a result, land within the UGB would develop close to the maximum levels allowed by existing local comprehensive plan and zone designations. This investment strategy is expected to accommodate 70 to 85 percent of growth forecasted over that period. No increase in zoned capacity within the UGB was assumed because, at the time of adoption of reserves ordinances by the four governments, the Metro Council will not have completed its decision-making about actions to increase the capacity of the existing UGB as part of Metro's 2009 capacity analysis. For those areas added to the UGB between 2002 and 2005 for which comprehensive planning and zoning is not yet complete, Metro assumed the areas would accommodate all the housing and employment anticipated in the ordinances that added the areas to the UGB over the reserves planning period. Fifty years of enhanced and focused investment to accommodate growth will influence the market to use zoned capacity more fully.

Consistent with residential capacity analysis in the *Urban Growth Report*, vacant land in the existing UGB can accommodate 166,600 dwelling units under current zoning over the next 50 years. Infill and re-development over this period, with enhanced levels of investment, will accommodate another 212,600 units. This would leave approximately 152,400 dwelling units to be accommodated on urban reserves through 2060. *COO Recommendation, Urban Rural Reserves, Appendix 3E-C, pp. 5-6, Metro Rec. 602-603.*

Based upon the employment capacity analysis in the *Urban Growth Report*, the existing UGB has sufficient capacity – on vacant land and through re-development over the 50-year reserves period - for overall employment growth in the reserves period. However, this supply of land does not account for the preference of some industrial employers for larger parcels. To accommodate this preference, the analysis of the supply of larger parcels was extrapolated from the *Urban Growth Report*. This leads to the conclusion that urban reserves should include approximately 3,000 acres of net buildable land that is suitable for larger-parcel industrial users. *COO Recommendation, Urban Rural Reserves, Appendix 3E-D, Metro Rec. 609-610; Staff Report, June 9, 2010, Metro Rec.122.*

Metro assumed residential development in urban reserves, when they are added to the UGB over time, would develop at higher densities than has been the experience in the past, for several reasons. First, the region is committed to ensuring new development at the edges of the region contributes to the emergence of “great communities”, either new communities or as additions to existing communities inside the UGB. Second, because many urban reserves are “greenfields”, they can be developed more efficiently than re-developing areas already inside the UGB. Third, demographic trends, noted in the *Urban Growth Report* that is the starting point for Metro's 2010 capacity analysis, indicate increasing demand for smaller housing units. This reasoning leads to the assumption that residential development will occur in reserves, when added to the UGB, at 15 units per net buildable acre overall, recognizing that some areas (centers, for example) would settle at densities higher than 15 units/acre and others (with steep slopes, for example) would settle at densities lower than 15 units/acre. *COO Recommendation, Urban Rural Reserves, Appendix 3E-C, pp. 6-7; Staff Report, June 9, 2010, Metro Rec.121-122.*

Metro also assumed greater efficiencies in use of employment lands over the next 50 years. The emerging shift of industrial activity from production to research and development will continue, meaning more industrial jobs will be accommodated in high- floor-to-area-ratio (FAR) offices rather than low-FAR general industrial space. This will reduce the need for general industrial and warehouse building types by 10 percent, and increase the need for office space. Office space, however, will be used more efficiently between 2030 and 2060, reducing that need by five percent. Finally, the analysis assumes a 20-percent increase in FARs for new development in centers and corridors, but no such increase in FARs in industrial areas. *COO Recommendation, Urban Rural Reserves, Appendix 3E-C*, Metro Rec. 603-604; Staff Report, June 9, 2010, Metro Rec.121-122.

These assumptions lead to the conclusion that 28,615 acres of urban reserves are needed to accommodate 371,860 people and employment land targets over the 50-year reserves planning period to 2060. *COO Recommendation, Urban Rural Reserves, Appendix 3E-C*, Metro Rec. 601-603; *Appendix 3E-D*, Metro Rec.607-610; Staff Report, June 9, 2010, Metro Rec.121-122. The nine state agencies that served on the Reserves Steering Committee said the following about the amount of urban land the region will need over the long-term:

“The state agencies support the amount of urban reserves recommended by the Metro COO. That recommendation is for a range of between 15,000 and 29,000 acres. We believe that Metro and the counties can develop findings that, with this amount of land, the region can accommodate estimated urban population and employment growth for at least 40 years, and that the amount includes sufficient development capacity to support a healthy economy and to provide a range of needed housing types.” *Letter to Metro Regional Steering Committee, October 14, 2009*, Metro Rec. 1373.

Based upon the assumptions described above about efficient use of land, the four governments believe the region can accommodate 50 years’ worth of growth, not just 40 years’ of growth.

## **V. IMPLEMENTING URBAN RESERVES**

To ensure that urban reserves ultimately urbanize in a manner consistent with the Regional Framework Plan, Ordinance No. 10-1238 amended Title 11 (Planning for New Urban Areas) (Exhibit D) of Metro’s Urban Growth Management Functional Plan to require planning of areas of urban reserve prior to inclusion into the UGB. Title 11 now requires a “concept plan” for an urban reserve area prior to UGB expansion. A concept plan must show how development would achieve specified outcomes. The outcomes derive from the urban reserve factors in OAR 660-027-0050, themselves based in part on the characteristics of “great communities” identified by local governments of the region as part of Metro’s “Making the Greatest Place” initiative. Title 11 sets forth the elements of a concept plan, including:

- the general locations of types of uses
- the general locations of the urban services (including transportation systems) needed to support the uses

- estimates of the cost of the services to determine the feasibility of urbanization and to allow comparisons of urban reserves
- the locations of natural resources that will be subject to Title 3 and 13 of the UGMFP
- agreement among local governments and other service providers on provision of services to the area
- agreement among the local governments on annexation of the area to a city or cities and responsibility for planning and zoning.

Title 11 continues to limit development in areas added to the UGB to protect the opportunity for efficient urbanization during the time needed to adopt new local government plan provisions and land use regulations. Title 11, together with the comprehensive plans of the receiving local governments and Metro’s Regional Framework Plan (including the 2035 Regional Transportation Plan), will ensure land use and transportation policies and designations will allow mixed-use and pedestrian, bicycle and transit-supportive development once urban reserve areas are added to the UGB. Staff Report, June 9, 2010, Metro Rec.8-13.

## **VI. REASONS FOR URBAN AND RURAL RESERVES IN CLACKAMAS COUNTY**

### **A. Clackamas County: Urban Reserves**

#### Urban Reserves 1D and 1F: Boring

*General Description:* This Urban Reserve comprises approximately 4,200 acres, bordered by the cities of Gresham on the north and Damascus on the west. The eastern-most boundary of this Urban Reserve is located approximately two miles from the City of Sandy’s Urban Reserve. The community of Boring, which is identified as a Rural Community in the County Comprehensive Plan, is located in the southern part of this area, and its boundary is the southern edge of this Urban Reserve. Highway 26 forms the northern boundary of this Urban Reserve.

Development in this area is focused in the community of Boring, which has several commercial and employment uses and a small residential community. There is also an area of non-conforming commercial uses located at the eastern edge of this Urban Reserve, along the north side of St. Hwy. 212. Rural residential homesites mixed with smaller farms characterize the area west of 282<sup>nd</sup> Avenue. The area east of 282<sup>nd</sup> Ave., north of Boring, has several larger, flat parcels that are being farmed.

There are two significant buttes located in the northwest part of this Urban Reserve. These buttes have been identified as important natural landscape features in Metro’s February 2007 “Natural Landscape Features Inventory”. These buttes are wooded. Existing rural homesites are scattered on the slopes. There is minimal development potential on these buttes.

The area west of SE 282<sup>nd</sup> Ave., outside Boring, is identified as Conflicted Agricultural Land. The area east of SE 282<sup>nd</sup> Ave. (Area1F) is identified as Foundation Agricultural Land. This is the only Foundation Agricultural Land in Clackamas County included in an Urban Reserve.

*Conclusions and Analysis:* Designation of the Boring Area as an Urban Reserve is consistent with OAR 660-027. The Boring Urban Reserve provides one of Clackamas County’s few

identified employment land opportunities. The larger, flat parcels in Area 1F are suitable as employment land. This area is served by St. Hwy. 26 and St. Hwy 212, transportation facilities that have been identified by ODOT as having additional capacity. Development of this area for employment uses also would be a logical complement to the Springwater employment area in Gresham.

Portions of this Urban Reserve also satisfy some of the factors for designation as a Rural Reserve. Area 1F is comprised of Foundation Agricultural Land. Two buttes located in the northwest corner of this Urban Reserve are included in Metro's February 2007 "Natural Landscape Features Inventory". The City of Sandy has requested a Rural Reserve designation for Area 1F, to maintain separation between the Portland Metro Urban Growth Boundary and the City's urban area.

On balance, designation as an Urban Reserve is the appropriate choice. As explained below, designation as an Urban Reserve meets the factors for designation provided in OAR 660-027-0050. Area 1F is the only Urban Reserve in Clackamas County containing Foundation Agricultural Land. While this area does contain commercial farms, it also is impacted by a group of non-conforming commercial uses located near the intersection of the two state highways. The area west of SE 282<sup>nd</sup> is identified as Conflicted Agricultural Land. The two state highways and the rural community of Boring provide logical boundaries for this area.

The Boring Urban Reserve and the Urban Reserve that includes the Borland Area (Area 4C) are the only areas containing a significant amount of larger, flatter parcels suitable for employment uses. The Principles for concept planning recognize the need to provide jobs in this part of the region, and also recognize that the Boring Urban Reserve is identified principally to meet this need. There are no other areas with land of similar character in the eastern part of the region. Designation of Areas 1D and 1F as an Urban Reserve is necessary to provide the opportunity for development of employment capacity in this part of the region. These facts justify including this small area of Foundation Farmland in the Urban Reserve, in accord with OAR 660-027-0040(11).

The two buttes have little or no potential for development. While they could be designated as a Rural Reserve, such a designation would leave a small Rural Reserve located between the existing Urban Growth Boundary and the remainder of the Boring Urban Reserve. The buttes can be protected by the city which will govern this area when it is added to the Urban Growth Boundary. The Principles also recognize the need to account for these important natural landscape features during development of concept plans for this area.

The City of Sandy has objected to the designation of Area 1F as an Urban Reserve. ClackCo Rec.3286-3288. The City points to a 1998 Intergovernmental Agreement among Metro, Sandy, Clackamas County and, the Oregon Department of Transportation.<sup>6</sup> Among other things this IGA states a purpose to "designate areas of rural land to separate and buffer Metro's Urban Growth Boundary and Urban Reserve areas from the City's Urban Growth Boundary and Urban

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<sup>6</sup> The agreement was never signed by the Oregon Department of Transportation.

Reserve areas. The IGA also recognizes the desire to protect a view corridor along Hwy 26. The parties are negotiating an update to this agreement.

The Principles require concept planning for the Boring Urban Reserve to “recognize the need to provide and protect a view corridor considering, among other things, landscaping, signage and building orientation....” The 2 miles between the Boring Urban Reserve and the City of Sandy’s Urban Reserve area is being designated as a Rural Reserve, assuring separation of these two urban areas.

Designation of the Boring Urban Reserve is consistent with the factors for designation provided in OAR 660-027-0050.

- 1) The Boring Urban Reserve can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments. Metro’s Urban Study Area Analysis (Map A) demonstrates the relatively large amount of land suitable for development in this urban Reserve, particularly in Area 1F and the eastern half of Area 1D. The existing community of Boring also provides a focal point for commercial and residential development in this Urban Reserve. The buttes in the northwestern corner of this area, adjacent to Damascus and Gresham, have very little potential for additional urban-level development, but most of the rest of this Urban Reserve, comprised of larger lots with moderate or flat terrain, can be developed at urban densities.
- 2) The Boring Urban Reserve includes sufficient development capacity to support a healthy economy. This is one of the few areas in Clackamas County, adjacent to the Urban Growth Boundary, with access to a state highway, and possessing larger parcels and flat terrain conducive to development of employment uses. The area also is proximate to the Springwater employment area in Gresham. The existing community of Boring provides the opportunity for redevelopment providing the commercial uses supportive of a complete community.
- 3) The Boring Urban Reserve can be efficiently and cost-effectively provided with public facilities necessary to support urban development. While substantial investment will be necessary to provide facilities, compared to other areas in the region, the Boring Urban Reserve Area has a high or medium suitability rating (see Sewer Serviceability Ratings Map and Water Serviceability Map). ODOT has indicated that this area is “moderately suitable” for urbanization, which is one of the higher ratings received in the region. While the buttes and steeper terrain on the west will be difficult to develop with a road network, the rest of the Urban Reserve is relatively flat and unencumbered.
- 4) Most of the Boring Urban Reserve can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers. The buttes and associated steep slopes would be difficult to develop. The rest of the Urban Reserve has few limitations to development of multi-modal, urban neighborhoods.

- 5) The Boring Urban Reserve can be planned so that natural ecological systems and important natural landscape features can be preserved and enhanced. The buttes and associated steep terrain are the most significant features in this Urban Reserve. Parcelization and existing development, in addition to the physical characteristics of these areas make development potential extremely limited. The Principles note the need to recognize these important natural landscape features when a concept plans are developed.
- 6) The Boring Urban Reserve includes sufficient land suitable to provide for a range of housing types. This Urban Reserve has more land suitable for development than other Urban Reserves in Clackamas County. There is an existing community that will provide a focal point for the eventual urbanization of the Boring Urban Reserve.
- 7) Concept planning for the Boring Urban Reserve can be designed to avoid or minimize adverse effects on important farm and forest practices and on important natural landscape features on nearby land. The area along the western half of this Urban Reserve is identified as Conflicted Agricultural Land and is adjacent to the cities of Gresham and Damascus. The northern boundary is clearly delineated by Hwy 26. Most of the southern boundary is formed by the existing developed community of Boring. Hwy 212 provides a clear demarcation from the rest of the area south of this Urban Reserve. The size of this area also will allow planning to design the urban form to minimize effects on the agricultural areas to the north and east.

#### Urban Reserve 2A: Damascus South

*General Description:* The Damascus South Urban Reserve is approximately 1,240 acres. This Urban Reserve is adjacent to the southern boundary of the City of Damascus. Approximately 500 acres is located within the City of Damascus, although outside the Urban Growth Boundary. The southern and western boundaries of the Urban Reserve are clearly demarked by the steep terrain characterizing the Clackamas Bluffs, which are identified as an important natural landscape feature in Metro’s February 2007 “Natural Landscape Features Inventory”. The eastern boundary of the Urban Reserve is established by the Deep Creek Canyon, which also is identified as an important natural landscape feature.

This urban reserve is comprised of moderately rolling terrain, with a mix of farms and scattered rural residential uses on smaller parcels. There are several larger ownerships located east of SE 282<sup>nd</sup> Avenue. The entire area is identified as Conflicted Agricultural Land.

*Analysis and Conclusions:* Designation of the Damascus South Urban Reserve area is a logical extension of the City of Damascus, providing additional opportunity for housing and employment uses. Portions of this area are already located in the City of Damascus. Additional areas were identified as important developable urban land in the Damascus Concept Plan. The boundaries of the Damascus South Urban Reserve are formed by important natural landscape features.

This area was considered for designation as a Rural Reserve, but does not satisfy the factors stated in OAR 660-027-0060. The entire area is designated as Conflicted Agricultural Land.

Some of the land is located within the City of Damascus. The southern boundary of the Urban Reserve is established to exclude the Clackamas Bluffs, which are identified in Metro’s February 2007 “Natural Landscape Features Inventory”. The eastern boundary excludes the Noyer and Deep Creek canyons, which also were included in this inventory.

As explained in the following paragraphs, designation as an Urban Reserve is consistent with the factors for designation set forth in OAR 660-027-0050.

OAR 660-027-0050

- 1) The Damascus South Urban Reserve can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments. A large part of this area already is located within the City of Damascus. Parts of the Urban Reserve were planned for urban development in the Damascus Concept Plan. While there are several older subdivisions scattered throughout the area that may be difficult to redevelop, most of this area is comprised of larger parcels suitable for development at urban densities, with mixed use and employment uses. The terrain for most of the area is gently rolling, and there are no floodplains, steep slopes, or landslide topography that would limit development potential.
- 2) There is sufficient development capacity to assist in supporting a healthy economy. The eastern part of this area, in particular, is characterized by larger parcels, with few development limitations, that are suitable for development of employment uses.
- 3) The Damascus South Urban Reserve can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers. There have been no comments from local school districts indicating any specific concerns regarding provision of schools to this area, although funding for schools is an issue throughout the region. Technical assessments rate this area as having “high suitability” for the provision of sewer. Addition of the eastern part of this Urban Reserve will facilitate the provision of sewer to the existing urban area within the City of Damascus. ClackCo Rec. 795. ClackCo Rec. 796. This area is rated as having “high and medium suitability” for the provision of water. The ability to provide transportation facilities is rated as “medium” for this area, which has few physical limitations. ClackCo Rec. 797-798.
- 4) The Damascus South Urban Reserve can be developed with a walkable, connected system of streets, bikeways, recreation trails and public transit, provided by appropriate service providers. As previously explained, the physical characteristics of this area will be able to support urban densities and intensities necessary to create a multi-modal transportation system. Previous planning efforts, including the Damascus Concept Plan, demonstrate this potential.
- 5) Development of the Damascus South Urban Reserve can preserve and enhance natural ecological systems. The boundaries of this Urban Reserve avoid the steeper terrain of the Clackamas Bluffs and the Deep Creek Canyon. The area is large enough to provide the

opportunity for flexibility in the regulatory measures that create the balance between protection of important natural systems and development.

- 6) The Damascus South Urban Reserve includes sufficient land suitable for a range of needed housing types. As previously explained, there are few physical impediments to development in this Urban Reserve. This area also is adjacent to the developing urban area of Damascus, which also will be providing housing for this area.
- 7) There are no important natural landscape features identified Metro's 2007 "Natural Landscape Features Inventory" located in the Damascus south Urban Reserve. The boundaries of this Urban Reserve are designed to exclude such features from the Urban Reserve.
- 8) Development of this Urban Reserve can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves. This area is identified as Conflicted Agricultural Land, primarily because it is physically isolated from other nearby agricultural land. The Deep Creek and Noyer Creek canyons provide a physical boundary from nearby agricultural areas to the east. Similarly, these areas, and the Clackamas Bluffs, are not identified as areas where significant forest operations are occurring.

#### Urban Reserves 3B, 3C, 3D, 3F and 3G: Holcomb, Holly Lane, Maple Lane, Henrici, Beaver Creek Bluffs in Oregon City Area

*General Description:* These five areas comprise approximately 2150 acres, located adjacent to the City of Oregon City. The Holcomb area is approximately 380 acres, along SE Holcomb Rd., adjacent to Oregon City on the east. Terrain is varied, with several flat parcels that could be developed in conjunction with the Park Place area, which was recently included in the Urban Growth Boundary. This area is developed with rural residences. The area is comprised of Conflicted Agricultural Land.

The Holly Lane area is approximately 700 acres, and includes the flatter parcels along SE Holly Lane, Hwy. 213, and the steep canyon bordering Newell Creek, which is identified as an important natural landscape feature in Metro's February 2007 "Natural Landscape Features Inventory". There are landslide areas identified along the Newell Creek canyon (see Metro Urban and Rural Reserve Study Areas Landslide Hazard Map). Development in this area is sparse, except for rural residences developed along SE Holly Lane. This area is identified as Conflicted Agricultural Land.

The Maple Lane area is approximately 480 acres, located east of Oregon City. Terrain is characterized as gently rolling, with a few larger flat parcels located adjacent to Oregon City. The area is developed with rural residences, with a few small farms. The area is identified as Conflicted Agricultural Land.

The Henrici area is approximately 360 acres, located along both sides of Henrici Road., immediately south of Oregon City. Terrain for this area is moderate, and most of the area is developed with residences on smaller rural lots. There are a few larger parcels suitable for redevelopment. This area contains Conflicted Agricultural Land.

The 220 acre Beaver Creek Bluffs area is comprised of three separate benches located immediately adjacent to the City of Oregon City. The boundaries of this area generally are designed to include only tax lots on the plateau that drops down to Beaver Creek. Development in this area consists of rural residences and small farms. The area is identified as Important Agricultural Land.

*Conclusions and Analysis:* Designation of the Oregon City Urban Reserves is consistent with OAR 660-027. These five smaller areas have been identified in coordination with the City of Oregon City, and are designed to complete or augment urban development in the City. The areas designated take advantage of existing services inside the Urban Growth Boundary. In most cases, the boundaries of the reserves are formed by steep slopes (Henrici Road being the exception). While terrain poses some limitations on development, each area has sufficient developable land to make service delivery feasible.

None of the identified areas meet the factors of OAR 660-027-0060, for designation as Rural Reserves. With the exception of the Beaver Creek Bluffs, the Oregon City Urban reserve is Conflicted Farmland. The Beaver Creek Bluffs area, which is identified as having Important Agricultural Land, includes only those tax lots with land located on the plateau above the flatter area south of Oregon City. The important natural landscape features in the area (Newell Creek, Abernethy Creek and Beaver Creek) generally are excluded from the Urban Reserve.

The most significant issue for debate is whether or not to include the Newell Creek Canyon in the Urban Reserve. There is little or no development potential in this area, because of steep terrain and landslide hazard. The Principles recognize that concept planning for this area will have to recognize the environmental and topographic constraints posed by the Newell Creek Canyon. It also makes governance more sensible, allowing the City of Oregon City to regulate this area, instead of leaving an island subject to County authority.

Designation of the Oregon City Reserves is consistent with OAR 660-027-0050.

- 1) The Oregon City Urban Reserves can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments. All of the Urban Reserve area is adjacent to the City of Oregon City. Oregon City has indicated both a willingness and capability to provide service to these areas. Each area is appropriate to complement or complete neighborhoods planned or existing within Oregon City. In the case of the Holly Lane area, much of the Urban Reserve has little potential for development. The area along SE Holly Lane, however, does have flatter topography where urban development can occur, and Holly Lane has been identified by the City as an important transportation facility.
- 2) The Oregon City Urban Reserves, when considered in conjunction with the existing urban area, includes sufficient development capacity to support a healthy economy. The Henrici area has some potential for additional employment uses. The remaining areas are

smaller additions to the existing urban form of the City of Oregon City and will complete existing neighborhoods.

- 3) The Oregon City Urban Reserve can be efficiently and cost-effectively provided with public facilities necessary to support urban development. This Urban Reserve Area is considered to have a “high” suitability rating for sewer and water facilities. Oregon City has indicated an ability to provide these services, and the areas have been designed to include the most-easily served land that generally is an extension of existing development with the Urban Growth Boundary. Transportation is more difficult, as there is no additional capacity on I-205, and improvements would be costly. As previously noted, this is the case for most of the region. While topography may present some difficulty for developing a complete transportation network, this Urban Reserve area has been designed to take advantage of existing transportation facilities within Oregon City.
- 4) Most of the Oregon City Urban Reserve can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and transit. In most cases, development of this area will be an extension of urban development within the existing neighborhoods of Oregon City, which will allow completion of the described urban form. Newell Creek Canyon will remain largely undeveloped, so such facilities will not need to be provided in this area.
- 5) The Oregon City Urban Reserve can be planned so that natural ecological systems and important natural landscape features can be preserved and enhanced. Abernethy Creek and Beaver Creek and the steep slopes around these two creeks have been excluded from designation as an Urban Reserve. As previously explained, the Newell Creek Canyon has been included in the Urban Reserve. The Principles will assure that concept planning accounts for this important natural landscape feature, the area is recognized as having very limited development potential, and Oregon City is the logical governing authority to provide protective regulations.
- 6) Designation of these five areas as an Urban Reserve will assist Oregon City in providing a range of housing types. In most cases, development of this Urban Reserve will add additional housing.
- 7) Concept planning for the Oregon City Urban Reserve can be designed to avoid or minimize adverse effects on important farm and forest practices and on important natural landscape features on nearby land. The Beaver Creek Bluffs area is separated from the farmland to the south by a steep hillside sloping down to Beaver Creek. The other areas are adjacent to Conflicted Agricultural land. There are scattered small woodlots to the east, identified as “mixed Agricultural/Forest Land on ODF’s Forestland Development Zone Map, but these are generally separated by distance and topography from the Holly Lane, Maple Lane, and Holcomb areas. Important landscape features and natural areas in the vicinity generally form boundaries for the Urban Reserves. Concept planning can assure that development within the Urban Growth Boundary protects these features.

#### Urban Reserves 4A, 4B and 4C: Stafford, Rosemont and Borland

*General Description:* These three areas comprise approximately 4,700 acres. Area 4A (Stafford) is located north of the Tualatin River, south of Lake Oswego, and west of West Linn. Area 4B (Rosemont) is a 162 acre area located adjacent to West Linn’s recently urbanized Tanner Basin neighborhood. Area 4C (Borland) is located south of the Tualatin River, on both sides of I-205. Area 4C is adjacent to the cities of Tualatin and Lake Oswego on the west and

West Linn on the east. The southern boundary generally is framed by the steeper terrain of Pete's Mountain. East of Stafford Road, the adjacent area is not designated as either an Urban or Rural Reserve. West of Stafford Road, the adjacent area is designated as an Urban Reserve (Area 4D, Norwood).

This area is generally developed with rural residences. The Borland area also includes several churches and schools. There are very few parcels greater than 20 acres. The terrain of this area is varied. Most of area 4B is gently rolling, while the rest of the area east of Wilson Creek has steeper terrain. The area south of Lake Oswego, along Stafford Rd and Johnson Rd., generally has more moderate slopes. The Borland area, south of the Tualatin River, also is characterized by moderate slopes.

Wilson Creek and the Tualatin River are important natural landscape features located in this area. These two features and their associated riparian areas and floodplains are included in Metro's February 2007 "Natural Landscape Features Inventory".

This entire area is identified as Conflicted Agricultural Land, even though approximately 1100 acres near Rosemont Road are zoned Exclusive Farm Use. Commercial agricultural activity in this area is limited and mixed; wineries, hay production, horse raising and boarding, and nurseries are among the farm uses found in the Stafford, Rosemont and Borland areas. The Oregon Department of Forestry Development Zone Map does not identify any Mixed Forest/Agriculture or Wildland Forest located with this Urban Reserve.

*Conclusions and Analysis:* The designation of these three areas as an Urban Reserve is consistent with OAR 660-027-0050. The specific factors for designation stated in OAR 660-027-0050 are addressed in following parts of this analysis.

No area in Clackamas County engendered as much public comment and diversity of opinion as this Urban Reserve. The Stafford and Rosemont areas were of particular concern to property owners, neighborhood groups, cities and the Stafford Hamlet citizens group. Interested parties provided arguments for designation of some or all of the area north of the Tualatin River as either an Urban or Rural Reserve, or requested that this area remain undesignated. The cities of West Linn, Tualatin and Lake Oswego consistently expressed opposition to designation of any of this area as an Urban Reserve. This Urban Reserve does have several limitations on development, including areas with steep slopes and floodplains. On balance, however, designation as an Urban Reserve is the most appropriate decision.

Designation of this 4,700 acre area as an Urban Reserve avoids designation of other areas containing Foundation or Important Agricultural Land. It would be difficult to justify designation of Foundation Agricultural Land in the region, if this area, which is comprised entirely of Conflicted Agricultural Land, were not designated as an Urban Reserve (see OAR 660-027-0040(11)).

While acknowledging that there are impediments to development in this area, much of the area also is suitable for urban-level development. There have been development concepts presented for various parts of this area. ClackCo Rec. 3312. An early study of this area assessed its potential for development of a "great community" and specifically pointed to the Borland area as

an area suitable for a major center. ClackCo Rec. 371. Buildable land maps for this area provided by Metro also demonstrate the suitability for urban development of parts of this Urban Reserve See, “Metro Urban Study Area Analysis, Map C”.

An important component of the decision to designate this area as an Urban Reserve are the “Principles for Concept Planning of Urban Reserves”, which are part of the Intergovernmental Agreement between Clackamas County and Metro that has been executed in satisfaction of OAR 660-027-0020 and 0030. Among other things, these “Principles” require participation of the three cities and citizen involvement entities—such as the Stafford Hamlet—in development of concept plans for this Urban Reserve. The Principles also require the concept plans to provide for governance of any area added to the Urban Growth Boundary to be provided by a city. The Principles recognize the need for concept plans to account for the environmental, topographic and habitat areas located within this Urban Reserve.

Designation of this area as a Rural Reserve has been advocated by interested parties, including the City of West Linn. Application of the factors for designation (OAR 660-0227-0060) leads to a conclusion that this area should not be designated as a Rural Reserve. The entire area is comprised of Conflicted Agricultural Land. There are important natural landscape features in this area (Tualatin River and Wilson Creek). Protection of these areas is a significant issue, but can be accomplished by application of regulatory programs of the cities that will govern when areas are added to the Urban Growth Boundary. The Principles specifically require recognition of the development limitations imposed by these natural features, in the required development of concept plans.

Designation of the Stafford, Rosemont and Borland areas as an Urban Reserve is based upon application of the factors stated in OAR 660-027-0050.

- 1) This Urban Reserve can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments. Physically, this area is similar to the cities of West Linn and Lake Oswego, which are developing at urban densities. While the development potential of portions of this Urban Reserve is constrained by steep slopes and by the Tualatin River and Wilson Creek riparian areas, there are sufficient developable areas to create an urban community. The Borland Area has been identified as a suitable site for more intense urban development, including a town center. The Rosemont Area complements existing development in the Tanner Basin neighborhood in the City of West Linn. The Stafford Area has sufficient capacity to develop housing and other uses supportive of the more intense development in the Borland Area. As previously noted, potential development concepts have been submitted demonstrating the potential to develop this area at urban densities sufficient to make efficient use of infrastructure investments.
- 2) This Urban Reserve contains sufficient development capacity to support a healthy economy. The Borland Area has been identified as being suitable for a mixed- use, employment center. ClackCo Rec. 371. Additionally, there are a few larger parcels located on Johnson and Stafford Roads which may have potential for mixed use development.

- 3) This Urban Reserve can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers. As with all of the region's urban reserves, additional infrastructure will need to be developed in order to provide for urbanization. It is clear that development of this public infrastructure will not be "cheap" anywhere. Relative to other areas under consideration for designation, however, this Urban Reserve area is suitable. Technical assessments rated this area as highly suitable for sewer and water. ClackCo Rec. 795-796. The July 8, 2009, technical memo prepared by Clackamas County also demonstrates the suitability of this area for various public facilities. ClackCo Rec. 704. This area can be served by the cities of Tualatin, West Linn and Lake Oswego. These cities have objected to designation of this area as an Urban Reserve, but have not stated that they object because they would not be able to be an urban service provider for some part of the area.
- 4) Transportation infrastructure will be the most significant challenge. This is the case for most of the region. This Urban Reserve has physical characteristics—steep terrain, the need to provide stream crossings—that will increase the relative cost of transportation infrastructure. I-205 and I-5 in this area will need substantial improvements with consequent "huge" costs. ClackCo Rec. 850. As this April 9 letter points out, most of the region's state and federal facilities have limited additional capacity. The only significant exception is Highway 26, which is the site of the Clackanomah Urban Reserve. The Borland area has been identified as a "next phase" priority for high capacity transit. See, "Regional High Capacity Transit System Map". The cost of providing transportation facilities is a problem for most of the region's potential urban reserves. When evaluated with all of the factors, designation of these three areas as an Urban Reserve is appropriate.
- 5) This Urban Reserve can be planned to be walkable, and served with a well-connected system of streets, bikeways, recreation trails and public transit. The Borland Area is suitable for intense, mixed-use development. Other areas suitable for development also can be developed as neighborhoods with the above-described infrastructure. There will be substantial parts of this Urban Reserve that will have little or no development and consequently will not need the afore-mentioned facilities.
- 6) This Urban Reserve can be planned to preserve and enhance natural ecological systems and preserve important natural landscape features. The significance of the Tualatin River and Wilson Creek systems has been recognized. The Principles specifically identify the need to plan for these features, and recognize that housing and employment capacity expectations will need to be reduced to protect important natural features. Urbanization will occur in a city, which is obligated by state and regional rules to protect upland habitat, floodplains, steep slopes and riparian areas.
- 7) This Urban Reserve in conjunction with the Urban Reserve to the south (Area 4D, Norwood), includes sufficient land to provide for a variety of housing types. In addition to the developable areas within the Stafford, Rosemont and Borland areas, this Urban

Reserve is situated adjacent to three cities, and will augment the potential for housing in these existing cities.

- 8) This Urban Reserve can be developed in a way that avoids or minimizes adverse effects on farm and forest practices and adverse effects on important natural landscape features, on nearby land. This Urban Reserve is situated adjacent to three cities, and along I-205. It is identified as Conflicted Agricultural Land, and is adjacent on the south to another Urban Reserve and an undesignated area that is comprised of Conflicted Agricultural Land. This separation from significant agricultural or forest areas minimizes any potential effect on farm or forest practices. The Urban Reserve also is separated from other important natural landscape features identified on Metro's February 2007 "Natural Landscape Features Inventory". The ability to plan for protection of the Tualatin River and Wilson Creek has been discussed.

#### Urban Reserves 5G, 5H, 4H and 4D: Grahams Ferry, SW Wilsonville, Advance and Norwood

*General Description:* This Urban Reserve is comprised of three smaller areas adjacent to the City of Wilsonville (Grahams Ferry, SW Wilsonville and Advance), and a larger area located along SW Stafford Rd., north of Wilsonville and southeast of Tualatin (Norwood Area). The Norwood area is adjacent to an Urban Reserve in Washington County (I-5 East Washington County, Areas 4E, 4F and 4G). Area 5G is approximately 120 acres, relatively flat, adjacent to services in Wilsonville, and defined by the Tonquin Geologic Feature, which forms a natural boundary for this area. It is identified as Conflicted Agricultural Land.

Area 5H is a small (63 acre) site that is adjacent to services provided by the City of Wilsonville. Corral Creek and its associated riparian area provide a natural boundary for this area. It is identified as Important Farmland. Area 4H comprises approximately 450 acres, and is located adjacent to the City of Wilsonville. This part of the Urban Reserve has moderate terrain, and a mix of larger parcels and rural residences. This area is identified as Important Agricultural Land.

Area 4D comprises approximately 2,600 acres, and is adjacent to a slightly smaller Urban Reserve in Washington County. This area is parcelized, generally developed with a mix of single family homes and smaller farms, and has moderately rolling terrain. All of this area is identified as Conflicted Agricultural Land.

*Conclusions and Analysis:* Designation of these four areas as Urban Reserve is consistent with OAR 660-027. The three smaller areas are adjacent to the City of Wilsonville, and have been identified by the City as appropriate areas for future urbanization. ClackCo Rec. 1174. The boundaries of these three areas generally are formed by natural features. No Foundation Agricultural Land is included in any of the four areas. While Area 4D has limitations that reduce its development potential, inclusion as an Urban Reserve is appropriate to avoid adding land that is identified as Foundation Agricultural Land.

Area 5G does not satisfy the factors for designation as a Rural Reserve. The boundary of this area reflects the boundary of Tonquin Geologic Area, which is an important natural landscape feature identified as a Rural Reserve. Area 5H does meet the factors for designation as a Rural

Reserve, but its proximity to existing services in Wilsonville and the natural boundary formed by Corral Creek, separating these 63 acres from the larger Rural Reserve to the west, support a choice to designate this area as an Urban Reserve.

Similarly, parts of Area 4H could meet the factors for designation as a Rural Reserve. Again, the area also is suitable for designation as an Urban Reserve, because of its proximity to Wilsonville, which has indicated this as an area appropriate for urbanization. The eastern limits of this area have been discussed in some detail, based on testimony received from property owners in the area. The northeastern boundary (the Anderson property) is based on a significant creek. South of Advance Rd., the decision is to leave four tax lots west of this creek undesignated (the Bruck property), as these lots comprise over 70 acres of land designated as Important Agricultural Land. The part of this Urban Reserve south of Advance Road contains smaller lots, generally developed with rural residences.

Area 4D does not meet the factors for designation as a Rural Reserve. The entire area is comprised of Conflicted Agricultural Land, and has no important natural landscape features identified in Metro's February 2007 "Natural Landscape Features Inventory."

This Urban Reserve does meet the factors for designation stated in OAR 660-027-0050.

- 1) The Wilsonville Urban Reserve (total of the Grahams Ferry, SW Wilsonville, Advance Rd. and Norwood Areas) can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments. The three smaller areas adjacent to the City of Wilsonville all will take advantage of existing infrastructure. The City of Wilsonville has demonstrated an ability to provide necessary services and govern these three areas. The information provided by the City and Metro's Urban Study Area Analysis (Map C1) show that these three areas have physical characteristics that will support urban density. These three areas also will complement existing development in the City of Wilsonville.
- 2) The larger Norwood area, which has rolling terrain, and a mixture of smaller residential parcels and farms, will be more difficult to urbanize. This area is adjacent to Urban Reserves on the west, north and south. The Borland Road area, adjacent on the north is expected to develop as a center, with potential for employment and mixed-use development. The Norwood area can be urbanized to provide residential and other uses supportive of development in the Borland and I-5 East Washington County Urban Reserve areas.
- 3) The Wilsonville Urban Reserve contains land that generally will provide development capacity supportive of the cities of Wilsonville and Tualatin, and the Borland and I-5 East Washington County Urban Reserve areas. Viewed individually, these four areas do not have physical size and characteristics to provide employment land. As has been explained, and as supported by comments from the City of Wilsonville, development of these areas will complement the urban form of the City of Wilsonville, which historically has had sufficient land for employment. The 2004 decision added to the Urban Growth

Boundary between the cities of Wilsonville and Tualatin, land which was contemplated to provide additional employment capacity. The Wilsonville Urban Reserve, and in particular the Norwood area, will provide land that can provide housing and other uses supportive of this employment area.

- 4) The Wilsonville Urban Reserve can be efficiently and cost-effectively provided with public facilities necessary to support urban development. The comments from the City of Wilsonville and the Sewer Serviceability and Water Serviceability Maps demonstrate the high suitability of the three smaller areas adjacent to Wilsonville. The Norwood area (Area 4D) is rated as having medium suitability. Transportation facilities will be relatively easy to provide to the three areas adjacent to the City of Wilsonville. The steeper terrain and location of the Norwood area will make development of a network of streets more difficult, and ODOT has identified the I-5 and I-205 network as having little or no additional capacity, with improvement costs rated as “huge”. The decision to include this area as an Urban Reserve is based, like the Stafford area, on the need to avoid adding additional Foundation Agricultural Land. There are other areas in the region that would be less expensive to serve with public facilities, especially the necessary transportation facilities, but these areas are comprised of Foundation Agricultural Land.
- 5) The Wilsonville Urban Reserve areas can be planned to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit. As has been discussed, the three smaller areas adjacent to the City of Wilsonville can be developed to complete or complement existing and planned urban development in Wilsonville. The Norwood area will be somewhat more difficult to develop, but the terrain and parcelization are not so limiting that the desired urban form could not be achieved. Like Stafford, this part of the Wilsonville Urban Reserve will be more difficult to develop with the desired urban form, but is being added to avoid adding additional foundation Agricultural Land.
- 6) The Wilsonville Urban Reserve can be planned so that natural ecological systems and important natural landscape features can be preserved and enhanced. The boundaries of the areas comprising the Wilsonville Urban Reserve have been designed with these features providing the edges. The three areas adjacent to the City of Wilsonville will take advantage of existing plans for protection of natural ecological systems.
- 7) The Wilsonville Urban Reserve, in conjunction with land within adjacent cities, includes sufficient land suitable to provide for a range of housing types. The SW Wilsonville and Advance Road areas are particularly suited to provide additional housing, as they are located adjacent to neighborhoods planned in Wilsonville. As has been previously discussed the Norwood area has physical limitations, but these should not restrict as substantially the potential for housing.
- 8) Concept planning for the Wilsonville Urban Reserve can avoid or minimize adverse effects on important farm and forest practices and on important natural landscape features

on nearby land. The boundaries of this Urban Reserve have been designed to use natural features to provide separation from adjoining Rural Reserves that contain resource uses.

The Sherwood School District requested an Urban Reserve designation be applied to an area just south of the County line and the City of Sherwood. ClackCo Rec. 2504. Clackamas County and Metro agree to leave this area undesignated. This decision leaves the possibility for addition of this land to the Urban Growth boundary if the School District has a need for school property in the future and is able to demonstrate compliance with the standards for adjustments to the Urban Growth boundary.

## **B. Clackamas County: Rural Reserves**

### Rural Reserve 5I: Ladd Hill

*General Description:* This Rural Reserve Area is located west and south of Wilsonville, and adjacent to the French Prairie Rural Reserve (Area 4J). There is also a small part of this Rural Reserve located north of Wilsonville, extending to the County line, recognizing the Tonquin Geologic Area. The northern boundary of Area 5J is located along the boundary between the delineations of Conflicted and Important Agricultural Land. All of this Rural Reserve is located within three miles of the Portland Metro Urban Growth Boundary.

The area west of Ladd Hill Road contains the steeper slopes of Parrett Mountain, which is identified as an important natural landscape feature in Metro's February 2007 "Natural Landscape Features Inventory". The remainder of the area has moderately sloping terrain. The entire area is traversed by several creeks (Mill Creek, Corral Creek, Tapman Creek), which flow into the Willamette River, which also is identified as an important natural landscape feature. FEMA floodplains are located along the Willamette River. Landslide hazards are identified along Corral Creek.

With the exception of the Tonquin Geologic Area, all of Rural Reserve Area 5I is comprised of Important or Foundation Agricultural Land. The part of this area lying south of the Willamette River contains the Foundation Agricultural Land. The area contains a mixture of hay, nursery, viticulture, orchards, horse farms, and small woodlots. The Oregon Department of Forestry Development Zone Map identifies scattered areas of mixed forest and agriculture, and wildland forest (particularly on the slopes of Parrett Mountain).

*Conclusions and Analysis:* Designation of the Ladd Hill area as a Rural Reserve is consistent with OAR 660, Division 27. Except for the Tonquin Geologic Area, all of Rural Reserve Area 5I contains Important or Foundation Agricultural Land, and is located within three miles of an urban growth boundary. Pursuant to OAR 660-027-0060(4), no further explanation is necessary to justify designation as a Rural Reserve, with the exception of the Tonquin Geologic Area, which is identified as Conflicted Agricultural Land.

Designation of the Tonquin Geologic Area as a Rural Reserve is consistent with the Rural Reserve Factors stated in OAR 660-027-0060(3). This area has not been identified as an area suitable or necessary for designation as an Urban Reserve. The boundaries of the Rural Reserve have been established to recognize parcels that have physical characteristics of the Tonquin

Geologic Area, based on testimony received from various property owners in the area, and the City of Wilsonville. ClackCo Rec. 2608. For these stated reasons and those enunciated below, designation of this part of the Tonquin Geologic Area as a Rural Reserve is consistent with the factors provided in OAR 660-027-0060(3).

#### Rural Reserve 4J: French Prairie

*General Description:* This Rural Reserve Area is located south of the Willamette River and the City of Wilsonville, and west of the City of Canby. It is bordered on the west by I-5. This area is generally comprised of large farms. The area is generally flat. The Molalla and Pudding Rivers are located in the eastern part of this area. The Willamette, Molalla and Pudding Rivers and their floodplains are identified as important natural landscape features in Metro’s February 2007 Natural Landscape Features Inventory.”

All of this Rural Reserve is classified as Foundation Agricultural Land (identified in the ODA Report as part of the Clackamas Prairies and French Prairie areas). This area contains prime agricultural soils, and is characterized as one of the most important agricultural areas in the State.

*Conclusions and Analysis:* Designation of Area 4J as a Rural Reserve is consistent with OAR 660, Division 27. This entire area is comprised of Foundation Agricultural Land located within three miles of an urban growth boundary. Pursuant to OAR 660-027-0060(4), no further explanation is necessary to justify designation of this area as a Rural Reserve.

#### Rural Reserves 3E and 3H: Oregon City

*General Description:* This area lies east and south of the City of Oregon City. This area is bounded by the Willamette River on the west. The southern boundary generally is a line located three miles from the Portland Metro Area Urban Growth Boundary. A substantial part of Area 3H also is located within three miles of the City of Canby’s Urban Growth Boundary.

Area 3E, located east of Oregon City, is characterized by a mix of rural residential homesites, small farms, and small woodlots. Most of the area has a moderately rolling terrain. The area includes portions of the Clear Creek Canyon, and Newell and Abernethy Creeks, all of which are identified as important natural landscape features in Metro’s February 2007 “Natural Landscape Features Inventory”. Part of Area 3E also is identified by the Oregon Department of Forestry as a mixed forest/agricultural development zone. Most of Area 3E is identified as Conflicted Agricultural Land. There is an area identified as Important Agricultural Land, in the southeast corner of Area 3E.

Area 3H, located south of Oregon City, is characterized by larger rural residential homesites, particularly in the western part of this area, and farms. Beaver Creek and Parrot Creek traverse this area in an east-west direction. The Willamette Narrows and Canemah Bluff are identified as important natural landscape features in the Metro’s February 2007 “Natural Landscape Features Inventory” and form the western boundary of Area 3H. The Oregon Department of Forestry designates the Willamette Narrows as wildland forest. All of this area is classified as Important Agricultural Land, except for the area immediately east of the City of Canby, which is designated as Foundation Agricultural Land.

*Conclusions and Analysis:* The designation of Areas 3E and 3H as a Rural Reserve is consistent with OAR 660-027, Division 27. All of Area 3H is Important or Foundation Farmland, located within three miles of an urban growth boundary. Pursuant to OAR 660-027-0060(4), no further explanation is necessary to justify designation of Area 3H as a Rural Reserve.

The designation of Area 3E is appropriate to protect the Important Farm Land in the southeast corner of this area, and the area identified as mixed forest/agricultural land by ODF. Designation as a Rural Reserve also is justified to protect Abernethy Creek, Newell Creek and Beaver Creek and their associated riparian features, which are identified as important natural landscape features. Designation as a Rural Reserve of the portions of Area 3E not identified as Foundation or Important Agricultural Land, is consistent with the Rural Reserve Factors stated in OAR 660-027-0060(3), for the following reasons:

- 1) Abernethy Creek and Newell Creek and their associated riparian areas are identified as important natural landscape features in Metro's February 2007 "Natural Landscape Features Inventory". A portion of Beaver Creek also is located in this area; Beaver Creek was added to this inventory in a 2008 update.
- 2) This area is potentially subject to urbanization during the period described in OAR 660-027-0040(2), because it is located adjacent to and within three miles of the City of Oregon City.
- 3) Most of this area has gently rolling terrain, but there also are several steeply-sloped areas. There are several landslide hazard areas located within Rural Reserve Area 3E (see 1/25/09 Metro Landslide Hazard Map).
- 4) The designated Rural Reserve area comprises the drainage area for Abernethy and Newell Creeks which provide important fish and wildlife habitat for this area.

#### Rural Reserves 3H (parts) 4J, 2C and 3I: Canby, Estacada and Molalla

*General Description:* Rural Reserves have been designated adjacent to the cities of Canby (parts of Areas 3H and 4J) Estacada and Molalla. These Rural Reserves were designated after coordinating with all three cities, and the cities do not object to the current designations.

Rural Reserve Area 2C is located adjacent to the western boundary of the City of Estacada. This area includes the Clackamas River and McIver State Park. It is identified as Important Agricultural Land. Most of this Rural Reserve also is identified as wildland forest on the ODF Forestland Development Zone Map. All of this Rural Reserve is located within three miles of Estacada's Urban Growth Boundary.

Rural Reserves are located on the south, west and eastern boundaries of the City of Canby. All of this area is identified as Foundation Agricultural Land. The area north of the City, to the Willamette River, has been left undesignated, although this area also is identified as Foundation Agricultural Land. This area was left undesignated at the request of the City of Canby, in order to provide for possible future expansion of its Urban Growth Boundary. The Oregon Department of Agriculture preferred leaving the area north of the City undesignated, instead of

an area east of the City, which also was considered. All of the designated Rural Reserves are within three miles of the City of Canby.

Area 3I is located north and east of the City of Molalla. This area is located within 3 miles of Molalla's Urban Growth Boundary. All of the designated Rural Reserve is identified as Foundation Agricultural Land.

*Conclusions and Analysis:* Designation of the Rural Reserves around Canby and Estacada is consistent with OAR 660, Division 27. In the Case of Canby, the entire area is identified as Foundation Agricultural Land, and is located within three miles of Canby's Urban Growth Boundary. In the case of Estacada, the entire Rural Reserve area is identified as Important Agricultural Land, and is located within three miles of Estacada's Urban Growth Boundary. Rural Reserve 3I, near Molalla, is located within three miles of the urban growth boundary and also is identified as Foundation Agricultural Land. Pursuant to OAR 660-027-0060(4), no further explanation is necessary to justify the Rural Reserve designation of these areas.

#### Rural Reserve 4I: Pete's Mountain/Peach Cove, North of the Willamette River

*General Description:* This Rural Reserve is bounded by the Willamette River on the east and south. On the north, Area 4I is adjacent to areas that were not designated as an Urban or Rural Reserve. There are two primary geographic features in this area. The upper hillsides of Pete's Mountain comprise the eastern part of this area, while the western half and the Peach Cove area generally are characterized by flatter land. The Pete's Mountain area contains a mix of rural residences, small farms and wooded hillsides. The flat areas contain larger farms and scattered rural residences. All of Area 4I is located within three miles of the Portland Metro Urban Growth Boundary.

All of Rural Reserve 4I is identified as Important Agricultural Land (the "east Wilsonville area"), except for a very small area located at the intersection of S. Shaffer Road and S. Mountain Rd... The Willamette Narrows, an important natural landscape feature identified in Metro's February 2007 "Natural Landscape Features Inventory", is located along the eastern edge of Area 4I.

*Conclusions and Analysis:* Designation of this area as a Rural Reserve is consistent with OAR 660-027, Division 27. With the exception of a small area at the intersection of S. Shaffer Rd. and S. Mountain Rd., all of this area is identified as Important Agricultural Land and is located within three miles of an urban growth boundary. Pursuant to OAR 660-027-0060(4), the area identified as Important Agricultural Land requires no further explanation to justify designation as a Rural Reserve. The few parcels classified as Conflicted Agricultural Land are included to create a boundary along the existing public road.

#### East Clackamas County Rural Reserve (Area 1E and Area 2B)

*General Description:* This area lies south of the boundary separating Clackamas and Multnomah Counties. This area generally is comprised of a mix of farms, woodlots and scattered rural residential homesites. Several large nurseries are located in the area near Boring. The area south of the community of Boring and the City of Damascus contains a mix of nurseries, woodlots, Christmas tree farms, and a variety of other agricultural uses.

Most of the area is identified as Foundation or Important Agricultural Land. The only lands not identified as Foundation or Important Agricultural Land are the steeper bluffs south of the City of Damascus. Much of this steeper area is identified by the Oregon Department of Forestry as mixed farm and forest.

There are several rivers and streams located in this area. The Clackamas River, Deep Creek, Clear Creek and Noyer Creek, and the steeper areas adjacent to these streams, are identified as important natural landscape features in Metro's February 2007 "Natural Landscape Features Inventory".

All of this Rural Reserve is located within three miles of the Portland Metro Area Urban Growth Boundary, except for a small area in the eastern part of the Rural Reserve. This small area is located within three miles of the City of Sandy's Urban Growth Boundary.

*Conclusions and Analysis:* The designation of this area as a Rural Reserve is consistent with OAR 660-027, Division 27. Except for the steep bluffs located adjacent to the Clackamas River, all of this area is identified as Foundation or Important Agricultural Land and is located within three miles of an urban growth boundary. Pursuant to OAR 660-27-0060(4), no further explanation is necessary to justify designation as a Rural Reserve all of this area except for the aforementioned bluffs.

Designation as a Rural Reserve of the steep bluffs, not identified as Foundation or Important Agricultural Land, is consistent with the Rural Reserve Factors stated in OAR 660-027-0060(3).

- 1) This area is included in Metro's February 2007 "Natural Landscape Features Inventory".
- 2) This area is potentially subject to urbanization during the period described in OAR 660-027-0040(2), because it is located proximate or adjacent to the cities of Damascus, Happy Valley, and Oregon City, and the unincorporated urban area within Clackamas County.
- 3) Portions of this area are located within the 100 year floodplain of the Clackamas River. Most of the area has slopes exceeding 10%, with much of the area exceeding 20%. Portions of the area along Deep Creek are subject to landslides.
- 4) This hillside area drains directly into the Clackamas River, which is the source of potable water for several cities in the region. The Rural Reserve designation will assist protection of water quality.
- 5) These bluffs provide an important sense of place for Clackamas County, particularly for the nearby cities and unincorporated urban area. Development is sparse. Most of the hillside is forested.
- 6) This area serves as a natural boundary establishing the limits of urbanization for the aforementioned cities and unincorporated urban area and the Damascus Urban Reserve Area (Area 2A).

## C. Clackamas County: Statewide Planning Goals

### Goal 1- Citizen Involvement

In addition to participation in Metro’s process, Clackamas County managed its own process to develop reserves recommendations:

#### Policy Advisory Committee

The county appointed a 21-member Policy Advisory Committee (PAC) made up of 7 CPO/Hamlet representatives, 7 city representatives, and 7 stakeholder representatives. The PAC held 22 meetings in 2008 and 2009. The PAC made a mid-process recommendation identifying reserve areas for further analysis, and ultimately recommended specific urban and rural reserve designations. The PAC itself received significant verbal and written input from the public.

#### Public Hearings

In addition to the meetings of the PAC, the county held a number of public hearings as it developed the ultimate decision on reserves:

#### 2009

- Aug. 10: Planning Commission hearing on initial recommendations.
- Sept. 8: Board of County Commissioners (“BCC”) hearing on initial recommendations
- Feb. 25: BCC Hearing on Intergovernmental Agreement

#### 2010

- March 8, 2010: Planning Commission hearing on plan and map amendments.
- April 21, 2010: BCC hearing on plan and map amendments
- May 27, 2010: BCC reading and adoption of plan and map amendments, and approval of revised IGA.

Through the PAC, Planning Commission and BCC process, the county received and reviewed thousands of pages of public comment and testimony.

### Goal 2 – Coordination

“Goal 2 requires, in part, that comprehensive plans be ‘coordinated’ with the plans of affected governmental units. Comprehensive plans are “coordinated” when the needs of all levels of government have been considered and accommodated as much as possible.’ ORS 197.015(5); *Brown v. Coos County*, 31 Or LUBA 142, 145 (1996).

As noted in the findings related to Goal 1, Clackamas County undertook continuous and substantial outreach to state and local governments, including formation of the Technical Advisory Committee. For the most part, commenting state agencies and local governments were

supportive of the urban and rural reserve designations in Clackamas County. Where applicable, the specific concerns of other governments are addressed in the findings related to specific urban and rural reserves, below.

### Goal 3 - Agricultural Lands

The reserves designations do not change the county's Plan policies or implementing regulations for agricultural lands. However, the designation of rural reserves constrains what types of planning and zoning amendments can occur in certain areas, and therefore provide greater certainty for farmers and long-term preservation of agricultural lands.

### Goal 4 - Forest Lands

The text amendment does not propose to change the county's Plan policies or implementing regulations for forest lands. However, the text does establish rural reserves, which constrain what types of planning and zoning amendments can occur in certain areas, for the purpose of providing greater certainty for commercial foresters and long-term preservation of forestry lands.

### Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources

The text amendment does not propose to change the county's Plan policies or implementing regulations for natural resource lands. However, the text does establish rural reserves, which constrain what types of planning and zoning amendments can occur in certain areas, for the purpose of providing for long-term preservation of certain of the region's most important, identified natural features. The county has determined that other natural features may be better protected through an urban reserve designation, and the eventual incorporation of those areas into cities. In certain areas, for example Newell Creek Canyon, the protection of Goal 5 resources is enhanced by the adoption of planning principles in an Intergovernmental Agreement between the County and Metro.

### Goal 9 - Economy of the State

The proposed text amendment is consistent with Goal 9 because it, in itself, does not propose to alter the supply of land designated for commercial or industrial use. However, the text does establish urban reserves, which include lands suitable for both employment and housing. In Clackamas County, specific areas were identified as appropriate for a mixed use center including high intensity, mixed use housing (Borland area of Stafford) and for industrial employment (eastern portion of Clackanomah). These areas will be available to create new employment areas in the future if they are brought into the UGB.

### Goal 10 - Housing

The proposed text amendment is consistent with Goal 10 because it, in itself, does not propose to alter the supply of land designated for housing. However, the text does establish urban reserves, which include lands suitable for both employment and housing. One of the urban reserve factors addressed providing sufficient land suitable for a range of housing types. In Clackamas County, there is an area identified as appropriate for a mixed use center including high intensity, mixed use housing (Borland area of Stafford) and many other areas suitable for other types of housing.

## Goal 14 - Urbanization

The proposed text amendment is consistent with Goal 14. The program for identifying urban and rural reserves was designed to identify areas consistent with the requirements of OAR Chapter 660, Division 27. The text amendment does not propose to move the urban growth boundary or to change the county's Plan or implementing regulations regarding unincorporated communities. However, the amendment does adopt a map that shapes future urban growth boundary amendments by either Metro or the cities of Canby, Molalla, Estacada or Sandy.

## **VII. REASONS FOR URBAN AND RURAL RESERVES IN MULTNOMAH COUNTY**

### **A. Introduction**

Reserves designations proposed for Multnomah County were developed through analysis of the urban and rural reserves factors by the County's Citizen Advisory Committee (CAC), consideration of the analysis in briefings and hearings before the Multnomah County Planning Commission and Board of County Commissioners, discussion in regional forums including the Reserves Steering Committee, Core 4, and public and government input derived through the county Public Involvement Plan for Urban and Rural Reserves and the regional Coordinated Public Involvement Plan. MultCo Rec. 3865-3869.

The Multnomah County Board appointed a CAC to consider technical analysis of the statutory and administrative rule factors, to make recommendations to County decision makers, and to involve Multnomah County citizens and stakeholders in development of the proposed County reserves plan. The make-up of the 15 member committee was structured to include a balance of citizens with both rural and urban values. The rural members were nominated by County recognized neighborhood organizations from the four affected rural plan areas to the extent possible. The CAC developed a suitability assessment and reserves recommendations in sixteen meetings between May, 2008, and August, 2009.

The approach to developing the proposed reserves plan began with analysis of the study area by the CAC. The county study area was divided into areas corresponding to the four affected county Rural Area Plans, and further segmented using the Oregon Department of Agriculture (ODA) mapping and CAC discussion for a total of nine county subareas. MultCo Rec. 638-644. The phases of the CAC work included 1) setting the study area boundary; 2) identification of candidate urban and rural reserve areas; and 3) suitability recommendations based on how the subareas met the urban factors in OAR 660-027-0050 and the rural factors in -0060. The results of the suitability assessment are included in the report provided to the Planning Commission and Board of County Commissioners in August and September of 2009. MultCo Rec. 2932-3031.

The Multnomah County Planning Commission considered the CAC results and public testimony in a public hearing in August, 2009, and the Board of County Commissioners conducted a public hearing to forward recommendations to Core 4 for regional consideration in September, 2009. Additional Board hearings, public outreach, and regional discussion resulted in the Intergovernmental Agreement (IGA) between Multnomah County and Metro approved February

25, 2010. The IGA is a preliminary reserves decision that is the prerequisite to this proposed plan amendment as provided in the administrative rule. MultCo Rec. 9658-9663.

### CAC Analysis, Candidate Areas and Suitability Rankings

The initial phase of analysis by the CAC considered the location of the regional study area boundary in Multnomah County. This, together with an overview of the various studies and the factors was the content of CAC meetings 1 through 3. MultCo Rec. 4525-4530. The first major phase of the analysis, identifying Candidate areas for urban and rural reserve focused on the first rural factor, the potential for urbanization to narrow the amount of land for further study as rural reserve. This occurred in CAC meetings 3 through 9, and resulted in agreement that all of the study area in Multnomah County should continue to be studied for rural reserve. Data sources studied included the Oregon Departments of Agriculture and Forestry (ODA) and (ODF) studies, Landscape Features study, aerial photos, existing land use, and information from committee members, and the public. MultCo Rec. 4530-4542.

The urban candidate areas assessment focused on urban factors (OAR 660-027-0050(1) and (3)) to consider the relative efficiency of providing key urban services. This work relied on the technical memos and maps provided by the regional water, sewer, and transportation work groups comprised of technical staff from each of the participating jurisdictions. This information resulted in rankings on the efficiency of providing services to the study area. The CAC also considered information related to urban suitability including the Great Communities study, a report on industrial lands constraints, infrastructure rating criteria, and physical constraint (floodplain, slope, and distance from UGB) maps in their analysis. In addition, input from Multnomah County “edge” cities and other local governments, and testimony by property owners informed the assessment and recommendations. Rankings were low, medium, or high for suitability based on efficiency. Throughout this process effort was made to provide both urban and rural information at meetings to help balance the work. MultCo Rec. 4525-4542.

The suitability recommendations phase studied information relevant to ranking each of the urban and rural factors for all study areas of the county and took place in CAC meetings 10 through 16. MultCo Rec. 4543-4556. The approach entailed application of all of the urban and rural factors and suitability rankings of high, medium, or low for their suitability as urban or rural reserve based on those factors. Technical information included data from the prior phases and hazard and buildable lands maps, Metro 2040 design type maps, extent of the use of exception lands for farming, zoning and partitioning. During this period, the CAC continued to receive information from citizen participants at meetings, from local governments, and from CAC members. MultCo Rec. 890; 1055; 1059a; 1375; 1581; 1668; 1728. The group was further informed of information present in the Reserves Steering Committee forum, and of regional public outreach results. MultCo Rec. 4543-4546; 4551-4552. The product of the CAC suitability assessment is a report dated August 26, 2009, that contains rankings and rationale for urban and rural reserve for each area. MultCo Rec. 2932-3031.

## **B. Multnomah County: Urban Reserves**

### Urban Reserve 1C: East of Gresham

*General Description:* This 855-acre area lies east of and adjacent to the Springwater employment area that was added to the UGB in 2002 as a Regionally Significant Industrial Area (RSIA). MultCo Rec. 2983; 2985; 3226-3227. It is bounded by Lusted Rd on the north, SE 302<sup>nd</sup> Ave. and Bluff Rd. on the east, and properties on the north side of Johnson Creek along the south edge. The entire area is identified as Foundation Agricultural Land.

However, the urban reserve area contains three public schools within the Gresham Barlow School District that were built prior to adoption of the statewide planning goals. It also includes the unincorporated rural community of Orient. The area is the most suitable area proximate to Troutdale and Gresham to accommodate additional growth of the Springwater employment area and is the only area adjacent to the UGB on the northeast side of the region with characteristics that make it attractive for industrial use.

*How Urban Reserve 1C Fares Under the Factors:* The urban factors suitability analysis produced by the CAC and staff ranked this area as medium on most factors. The analysis notes that there are few topographic constraints for urban uses, including employment, that the existing rural road grid integrates with Gresham, and that it is near employment land within Springwater that has planned access to US Highway 26. Concern about minimizing adverse effects to farming was noted, although this factor was ranked medium also.

The rural reserve suitability assessment generally considers the larger Foundation Agricultural Land area between Gresham/Troutdale and the Sandy River Canyon as a whole. The analysis notes the existence of scattered groups of small parcels zoned as exception land in the southwest part of the area, including the Orient rural community. The lack of effective topographic buffering along the Gresham UGB, and the groups of small parcels in the rural community contributed to a “medium” ranking on the land use pattern/buffering factor (2)(d)(B). The CAC found the area as highly suitable for rural reserve, and indicated that the north half of the area was most suitable for urban reserve if needed.

*Why This Area was Designated Urban Reserve:* This area was ranked as the most suitable for urbanization in Multnomah County in the suitability assessment. Gresham indicated its ability and desire to provide services to this area primarily for employment. The area is also suitable for continued agricultural use. However, as noted above, the presence of the Orient community, areas of small parcels, and lack of topography that buffers the area from adjacent urban development make this the most appropriate area for urbanization.

Additional support for urban/industrial designation in this general area was received from several sources including Metro in the Chief Operating Officer’s report, the State of Oregon agency letter, and Port of Portland. MultCo Rec. 4662-4663; 4275; 2819-2820. Concern for protection of Johnson Creek was expressed by environmental stakeholders, and is addressed by holding the southern urban reserve edge to the north of the creek. MultCo Rec. 752. The position of the area

on the east edge of the region adds balance to the regional distribution of urban reserve, and employment land in particular. All of the rural land in this area is Foundation Agricultural Land, however, the proposed urban reserve is the best choice to address employment land needs in this part of the region.

### **C. Multnomah County: Rural Reserves**

#### Rural Reserve 1B: West of Sandy River (Clackanomah in Multnomah County)

*General Description:* This map area includes the northeast portion of the regional study area. MultCo Rec. 216. Subareas studied by the CAC in the suitability assessment include Government, McGuire and Lemon Islands (Area 1), East of Sandy River (Area 2), Sandy River Canyon (Area 3), and West of Sandy River (Area 4). MultCo Rec. 2961-2986. The Troutdale/Gresham UGB forms the west edge, the Columbia River Gorge National Scenic Area is the north boundary, and the Study Area edge and county line are the east and south boundaries. With the exception of the Government Islands group, all of this area is either Foundation or Important Agricultural Land. In addition, all except the southeast quadrant is within 3 miles of the UGB. MultCo Rec. 4407.

*How Rural Reserve 1B Fares Under the Factors:* The Foundation and Important Agricultural Land areas between the Gresham/Troutdale UGB and the east edge of the Sandy River canyon qualify as rural reserve because they are within 3 miles of the UGB. The Sandy River Canyon is a high value landscape feature and is made up of either Foundation or Important Agricultural Land. The canyon and associated uplands are not suitable for urbanization due to steep slopes associated with the river and its tributaries. The canyon forms a landscape-scale edge between urban areas on the west and rural lands to the east and ranked high in the suitability analysis on additional key rural factors of: sense of place, wildlife habitat, and access to recreation. The Government Islands area is not classified as either Foundation, Important, or Conflicted Agricultural Land, but is classified as “mixed forest” in the Oregon Department of Forestry study. The area ranked low under the farm/forest factors, and high on the landscape features factors related to natural hazards, important habitat, and sense of place.

*Why This Area was Designated Rural Reserve:* Rural reserve is proposed from the eastside of the UGB eastward to the eastern edge of the Sandy River Canyon except for the urban reserve area 1C (see Section III above). The east rural reserve edge corresponds approximately to the county Wild and Scenic River overlay zone, and maintains continuity of the canyon feature by continuing the reserve designation further than 3 miles from the UGB to the county line. An area adjacent to the city of Troutdale in the northwest corner of the area is proposed to remain undesignated in order to provide potential expansion for future land needs identified by the city. The Government Islands group remains rural land since it already has long term protection from urbanization in the form of a long-term lease between the Port of Portland and Oregon Parks and Recreation, and the Jewell Lake mitigation site. MultCo Rec. 2961-2965; 2973-2985.

## Rural Reserves 9A through 9F: West Multnomah County

This map area includes the north portion of the regional study area. Subareas studied by the CAC in the suitability assessment include NW Hills North (Area 5), West Hills South (Area 6), Powerline/Germantown Road-South (Area 7), Sauvie Island (Area 8), and Multnomah Channel (Area 9). MultCo Rec. 2986-3027.

### Areas 9A – 9C Powerlines/Germantown Road-South

*General Description:* This area lies south of Germantown Road and the power line corridor where it rises from the toe of the west slope of the Tualatin Mountains up to the ridge at Skyline Blvd. MultCo Rec. 3004-3015. The north edge of the area is the start of the Conflicted Agricultural Land section that extends south along the Multnomah/Washington county line to the area around Thompson Road and the Forest Heights subdivision in the city of Portland. The area is adjacent to unincorporated urban land in Washington County on the west, and abuts the City of Portland on the east. Most of the area is mapped as Important Landscape Features that begin adjacent to Forest Park and continue west down the slope to the County line. MultCo Rec. 1767. The area is a mix of headwaters streams, upland forest and open field wildlife habitat.

*How Rural Reserve 9A - 9C Fares Under the Factors:* The CAC ranked the area “medium-high suitability” for rural reserve after considering important landscape features mapping, Metro’s designation as a target area for public acquisition through the parks and greenspaces bond program, the extensive County Goal 5 protected areas, Metro Title 13 habitat areas, proximity to Forest Park, and local observations of wildlife use of the area. MultCo Rec. 369-391; 357; 392; 392a. The CAC further ranked factors for sense of place, ability to buffer urban/rural interface, and access to recreation as high. While there was conflicting evidence regarding capability of the area for long-term forestry and agriculture, the CAC ranked the area as medium under this factor. MultCo Rec. 3004-3014. The county agrees that the west edge of area 9B defines a boundary between urbanizing Washington County and the landscape features to the east in Multnomah County. Elements that contribute to this edge or buffer include the power line right-of-way, Multnomah County wildlife habitat protection, planned Metro West Side Trail and Bond Measure Acquisition Areas, and the urban-rural policy choices represented by the county line. MultCo Rec. 751; 1125; 3901-3907.

The CAC ranked the area “low suitability” for urban reserve generally, with the exception of areas 9A and 9B. Areas 9A and 9B resulted in a split of the CAC between “low” and “medium” rankings. Most of the area 9A – 9C contains topography that limits efficient provision of urban services, and, should urban development occur, would result in unacceptable impacts to important landscape features. Limiting topographic features include slopes that range from 10% in the majority of area 9B to above 25% in portions of 9C, and stream corridors and ravines interspersed throughout the area. MultCo Rec. 652. Due to these features, the area was ranked low for an RTP level transportation “grid” system, for a walkable, transit oriented community, and for employment land. The CAC also recognized that should urban development occur, it would be difficult to avoid impacts to area streams and the visual quality of this part of Landscape Feature #22 Rock Creek Headwaters.

*Why This Area was Designated Rural Reserve:* Among the urban factors in the Reserves rules are efficient use of infrastructure and efficient and cost-effective provision of services. These are also among the most important factors in the Great Communities study. MultCo Rec. 123-124. Multnomah County does not provide urban services and has not since adoption of Resolution A in 1983. MultCo Rec. 853-856. The County no longer has urban plan or zone designations; it contracts with the cities in the county for these services. This means urban services to Areas 9A - 9C would have to come from a city in a position to plan and serve new urban communities. As was the case when Metro considered addition of lands in Multnomah County on the west slope of Tualatin to the UGB in 2002, there is not a city in a position to provide urban services to Areas 9A to C. Beaverton is over two miles to the south. Metro assigned urban planning to Beaverton when Metro added the North Bethany area to the UGB in 2002. Given the obstacles to annexation of the unincorporated territory over that two miles, Washington County took on responsibility for the planning instead of Beaverton. Unlike Multnomah County, Washington County continues to provide planning services and maintains urban plan and zoning designations for unincorporated urban areas.

The only other city that could provide services is Portland. Portland has said, however, it will not provide services to the area for the same reasons it would not provide services to nearby “Area 94” when it was considered for UGB expansion in 2002. (Metro added Area 94 to the UGB. The Oregon Court of Appeals remanded to LCDC and Metro because Metro had failed to explain why it included Area 94 despite its findings that the area was relatively unsuitable for urbanization. Metro subsequently removed the area from the UGB.) Portland points to the long-standing, unresolved issues of urban governance and urban planning services, noting the difficulties encountered in nearby Area 93. The City emphasizes lack of urban transportation services and the high cost of improvements to rural facilities and later maintenance of the facilities. The City further points to capital and maintenance cost for rural roads in Multnomah County that would have to carry trips coming from development on both sides of the county line and potential impacts to Forest Park. MultCo Rec. 3201-3204; 3897-3907; 3895.

For these reasons, areas 9A – 9C rate poorly against the urban reserve factors.

The proposed rural reserve designation for all of area 9A – 9C recognizes and preserves the landscape features values that are of great value to the county. MultCo Oversize Exhibit. The small scale agriculture and woodlots should be able to continue and provide local amenities for the area. Rural reserve for this area is supported not only by the weight of responses from the public, but by the Planning Commission and the regional deliberative body MPAC as well. MultCo Rec. 4002-4005; 1917a-j; Oversize Exhibit.

#### Rural Reserves 9D and 9F: West Hills North and South, Multnomah Channel

*General Description:* This area extends from the Powerlines/Germantown Rd. area northward to the county line, with Sauvie Island and the west county line as the east/west boundaries. All of the area is proposed as rural reserve. Agricultural designations are Important Agricultural Land in 9D, and Foundation Agricultural Land in area 9F. All of area 9D is within three miles of the

UGB, and the three mile line from Scappoose extends south to approximately Rocky Point Road in area 9F.

*How Rural Reserve 9D and 9F Fare Under the Factors:* All of the Multnomah Channel area is an important landscape feature, and the interior area from approximately Rocky Point Rd. south to Skyline Blvd. is a large contiguous block on the landscape features map. MultCo Rec. 1767. This interior area is steeply sloped and heavily forested, and is known for high value wildlife habitat and as a wildlife corridor between the coast range and Forest Park. It is also recognized as having high scenic value as viewed from both east Portland and Sauvie Island, and from the US Highway 26 corridor on the west. Landscape features mapping south of Skyline includes both Rock Creek and Abbey Creek headwaters areas that abut the city of Portland on the east and follow the county line on the west.

The potential for urbanization north of the Cornelius Pass Rd. and Skyline intersection in area 9D, and all of 9F, was ranked by the CAC as low. Limitations to development in the Tualatin Mountains include steep slope hazards, difficulty to provide urban transportation systems, and other key services of sewer and water. Areas along Multnomah Channel were generally ranked low due to physical constraints including the low lying land that is unprotected from flooding. Additional limitations are due to the narrow configuration of the land between US Highway 30 and the river coupled with extensive public ownership, and low efficiency for providing key urban services. MultCo Rec. 3022-3027. Subsequent information suggested some potential for urban development given the close proximity of US Highway 30 to the area.

*Why This Area was Designated Rural Reserve:* This area is proposed for rural reserve even though urbanization potential is low. Of greater importance is the high sense of place value of the area. The significant public response in favor of rural reserve affirms the CAC rankings on this factor. In addition, the high value wildlife habitat connections to Forest Park and along Multnomah Channel, the position of this part of the Tualatin Mountains as forming edges to the urban areas of both Scappoose and the Portland Metro region, further support the rural reserve designation.

#### Rural Reserve 9E: Sauvie Island

*General Description:* Sauvie Island is a large, low lying agricultural area at the confluence of the Willamette and Columbia Rivers. The interior of the island is protected by a perimeter dike that also serves as access to the extensive agricultural and recreational areas on the island. It is located adjacent to the City of Portland with access via Highway 30 along a narrow strip of land defined by the toe of the Tualatin Mountains and Multnomah Channel. This area was assessed as Area 8 by the County CAC. MultCo Rec. 3016-3020. The island is entirely Foundation Agricultural Land, and is mapped as an important landscape feature. Large areas at the north and south extents of the island are within 3 miles of the Scappoose and Portland UGBs.

*How Rural Reserve 9E Fares Under the Factors:* The island ranked high on the majority of the agricultural factors, indicating suitability for long-term agriculture. It ranked high on landscape features factors for sense of place, important wildlife habitat, and access to recreation. The low

lying land presents difficulties for efficient urbanization including the need for improved infrastructure to protect it from flooding, and additional costly river crossings that would be needed for urban development. The CAC ranked the island low on all urban factors indicating low suitability for urbanization.

*Why This Area was Designated Rural Reserve:* The island is a key landscape feature in the region, ranking high for sense of place, wildlife habitat, and recreation access. The island defines the northern extent of the Portland-Metropolitan region at a broad landscape scale. These characteristics justify a rural reserve designation of the entire Multnomah County portion of the island even though potential for urbanization is low.

#### **D. Multnomah County: Statewide Planning Goals**

MCC Chapter 11.05.180 Standards for Plan and Revisions requires legislative plan amendments comply with the applicable Statewide Planning goals pursuant to ORS 197.175(2)(a). These findings show that the reserves plan amendments are consistent with the goals, and they therefore comply with them.

##### Goal 1- Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The process of studying, identifying, and designating reserves began in January of 2008, with formation of the regional Reserves Steering Committee, adoption of a Coordinated Public Involvement Plan to coordinate the work flow, and formation of county committees to assess reserve areas and engage the public. MultCo Rec. 4557-4562.

Multnomah County incorporated the Coordinated Public Involvement Plan into the plan followed for the county process, and this plan was reviewed by the Multnomah County Office of Citizen Involvement Board. MultCo Rec. 172-177. In addition to providing opportunity for public involvement listed below, the county plan incorporated a number of tools including internet pages with current and prior meeting agendas and content, web surveys, mailed notices to property owners, email meeting notifications, news releases and meeting and hearing notices, neighborhood association meetings, and an internet comment link.

Key phases of the project in Multnomah County included:

- The Multnomah County Reserves Citizen Advisory Committee (CAC) developed their suitability assessments and recommendations in 16 public meetings between May 2008 and July 30, 2009. MultCo Rec. 4525-4542. The Planning Commission conducted a hearing on Aug 10, 2009, to consider the CAC suitability recommendations and recommendations for reserve designations in the county. MultCo Rec. 1820-1919. Consensus of the Planning Commission endorsed the CAC recommendations.

- The Board adopted Resolution No. 09-112 at their September 10, 2009 public hearing, forwarding to Core 4 and the Reserves Steering Committee, urban and rural reserves suitability recommendations developed by the Multnomah County (CAC). MultCo Rec. 2689-2690. The Board focused on suitability of areas for reserves rather than on designations of urban and rural reserves pending information about how much growth can occur within the existing UGB and how much new land will be sufficient to accommodate long term growth needs.
- The Board adopted Resolution No. 09-153 at their December 10, 2009, public hearing, forwarding to Core 4, recommendations for urban or rural reserve for use in the regional public outreach events in January, 2010. MultCo Rec. 2894-3031. These recommendations were developed considering public testimony and information from the Regional Steering Committee stakeholder comment, discussion with Multnomah County cities, and information and perspectives shared in Core 4 meetings. MultCo Rec. 3032-3249; 2894-2898; 3934-3954.
- The Board approved the IGA with Metro at a public hearing on February 25, 2010. MultCo Rec. 3865-3874. Additional public and agency input was considered in deliberations including results of the January public outreach, results of deliberations by the regional Metropolitan Planning Advisory Committee, and interested cities.

Public outreach included three region wide open house events and on-line surveys. The first was conducted in July of 2008 to gather input on the Reserves Study Area Map. MultCo Rec. 213-215. The second occurred in April of 2009, for public input on Urban and Rural Reserve Candidate Areas - lands that will continue to be studied for urban and rural reserves. MultCo Rec. 903-908. The third regional outreach effort to gather input on the regional reserves map prior to refinement of the final map for Intergovernmental Agreements occurred in January of 2010. MultCo Rec. 3956-4009..

The Multnomah County Board of Commissioners heard briefings on the reserves project on 2/14/08, 4/16/09, and 8/20/09, and conducted public hearings indicated above. The Planning Commission conducted a public hearing on 8/10/09 and received regular briefings during the reserves project. MultCo Rec. 1918-1919.

Public testimony has been an important element in the process and has been submitted to Multnomah County in addition to public hearings in several ways including open house events that took place in July of 2008, April of 2009, and January of 2010, and in testimony provided at CAC meetings. MultCo Rec. 161; 205; 238; 267; 338; 403; 464; 599; 715; 890; 1055; 1159a; 1375; 1581; 1668; 1728.

#### Goal 2- Land Use Planning

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The County's Plan policies and map amendments put in place the framework needed to carry out the objectives of the reserves plan by identifying areas where rural resources will be protected

from urbanization. The County rural plan has been coordinated with Metro's urban plan to identify where urbanization should occur during the 50 year plan. The County's policies and map ensure that rural reserve areas will remain rural and not be included within urban areas. The amendments further contain policies and strategies to support the on-going planning processes to facilitate availability of urban reserve areas for urban use as appropriate.

#### Coordination with Multnomah County Cities

Understanding the land needs and service potential of cities is of critical importance because the County would look to a city to provide urban governance and services should areas designated urban reserve come into the UGB in the future. Input from cities with an interest in reserves within Multnomah County during CAC development of the suitability assessments and these reserve designations is briefly summarized below.

- Beaverton – The City has indicated that it may be able to provide urban governance for areas on the west edge of the county, however whether that city would eventually provide these services is uncertain, and timing for resolution of all outstanding issues that would set the stage for extending Beaverton governance to this area is likely many years away.
- Gresham – The City indicated in their 2/25/09 letter that areas east of the city should continue to be studied for urban reserve, recognizing that the recommendation is made without a complete picture of urban land needs. MultCo Rec. 528-529. There should be some rural reserve east of the city, the region should minimize UGB expansions, and the City wants to focus on areas within the current UGB. The City provided a follow up letter dated 10/24/09 requesting urban reserve between SE 302nd and the Gresham UGB. MultCo Rec. 3226-3227. That area is shown as urban reserve on the proposed reserves plan map.
- Portland – City coordination efforts have occurred regarding potential reserve designations, particularly along the west edge of Multnomah County. Focus has been on the efficiency of providing urban services, and how governance services could be provided by the City. The City has indicated that the county line is an appropriate urban/rural edge, has identified service difficulties, the importance of landscape features in the area, and stated their interest in focusing limited resources on existing centers, and corridors and employment areas rather than along the west edge of the County. Therefore, Portland recommended rural reserve for this area.
- Troutdale – Troutdale requested approximately 775 acres of land for expansion, including the area north of Division and east out to 302<sup>nd</sup> Ave., indicating a need for housing land and ability to provide services to the area. MultCo Rec. 2082-2086. The proposed plan map leaves an approximately 187 acre area adjacent to the city without reserves designation. Proposed Policy 5 provides for a review of the reserves plan that can consider this and other areas in the region 20 years after the plan is adopted.

Additional agency coordination efforts related to Multnomah County reserves that occurred in addition to the regional process included Port of Portland, City of Scappoose, Sauvie Island

Drainage District, and East and West Multnomah Soil and Water Conservation Districts. MultCo Rec. 514-525; 1132-01133; 667-668; 342-343.

### Goal 3- Agricultural Lands

Agricultural lands in the county are protected for farm use by existing zoning and plan policies, and these are unchanged by the proposed amendments. The proposed policies and map add a new element, rural reserve, that ensures protection from urbanization of farmland important to the long-term viability of agriculture in the County. This protection is consistent with the goal of maintaining agricultural lands for farm use.

### Goal 4- Forest Lands

Forest lands in the county are protected for forest use by existing zoning and plan policies that are unchanged by the proposed amendments. The proposed policies and map add long-term protection from urbanization of Goal 4 resources consistent with this goal by designating these areas as rural reserve.

### Goal 5- Natural Resources, Scenic and Historic Areas, and Open Spaces

The Goal 5 resources in the county are protected by existing zoning and plan policies that are unchanged by the proposed amendments. The reserves factors require consideration of the importance of resources of the type that are protected by Goal 5 plans though the Landscape Features factors. The factors also require consideration of how these resource areas could be protected when included within urban reserve and subsequently urbanized. Goal 5 protection will apply to land included within the UGB in the future. The reserves suitability assessment considered natural and scenic resources as it was developed, and existing county protections are maintained consistent with Goal 5. MultCo Rec. 860a-f.

### Goal 6- Air, Water and Land Resources Quality

The proposed plan policies and map have no bearing on existing waste management plans and are therefore consistent with this goal.

### Goal 7- Areas Subject to Natural Hazards

Existing zoning contains safeguards intended to protect rural development from identified hazards. The factors required consideration of areas of potential hazard including flood, landslide, and fire in forming reserves designations. MultCo Rec. 3007. Consideration of hazard areas in the reserves plan and continuation of existing protections is consistent with this goal.

### Goal 8 – Recreational Needs

The factors that applied to consideration of rural reserve to protect landscape features from urbanization include access to recreation areas including trails and parks. MultCo Rec. 3008-3009. Urban factors consider how parks can be provided in urban reserve areas. Existing plan

and zoning provisions for parks are unchanged by the proposed reserves plan. The proposed reserves designations are consistent with Goal 8.

#### Goal 9 – Economic Development

The proposed urban reserve east of Gresham includes land that has potential to support additional economic development. MultCo Rec. 2983. This puts in place the potential for greater diversity of economic development in this area while minimizing loss of economically important farm land consistent with this goal.

#### Goal 10 – Housing

The proposed reserves plan increases potential for additional housing opportunity by designating additional land as urban reserve consistent with this goal. MultCo Rec. 3865-3869.

#### Goal 11 – Public Facilities and Services

The reserves factors analysis used in consideration of urban reserve included assessment of how efficiently the key public facilities could be provided to potential reserve areas. MultCo Rec. 2982-2985. Further, the 50 year urban reserve plan allows service planning to occur over a longer time frame. These elements support timely orderly and efficient provision of services consistent with this goal.

#### Goal 12 – Transportation

The proposed reserves plan policies and map do not cause any change to the county rural transportation system. Transportation planning to support urban uses within the proposed urban reserve east of Gresham will occur at the concept planning stage prior to including areas within the UGB. The relative efficiency of providing adequate transportation services in potential reserve areas was considered in the factors analysis. The proposed plan policies and map are consistent with Goal 12.

#### Goal 13 – Energy Conservation

The evaluation of the suitability of land for urban reserve took into account the potential for efficient transportation and other infrastructure, and sites that can support walkable, well-connected communities. These are energy conserving approaches to urban development, and the proposed urban reserve ranks moderately well on these factors and is consistent with this goal. MultCo Rec. 2982-2985.

#### Goal 14 – Urbanization

The reserves plan and policies implement an approach to the transition from rural to urban land that increases understanding of the future location of new urban areas and the time to plan for the transition. Urban reserves are expected to thereby improve this process consistent with this goal.

## Goal 15 – Willamette River Greenway

Land planned under this goal in Multnomah County is located along Multnomah Channel and is zoned with the county Willamette River Greenway overlay zone. The reserves plan does not change that zoning. The proposed rural reserve along the channel protects the Greenway from urban development during the 50 year plan period, and this protection is consistent with the goal.

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## **VIII. REASONS FOR URBAN AND RURAL RESERVES IN WASHINGTON COUNTY**

### **A. Introduction**

Washington County A-Engrossed Ordinance No. 733 designates rural reserves and adopts urban reserves designated by Metro within unincorporated areas of rural Washington County (areas outside of the Metro urban growth boundary). Lands designated as rural reserves are provided long-term protection from urbanization, while urban reserves are lands identified as the first priority to be added to the region's urban growth boundary (UGB) if and when it is determined by Metro that additional capacity to accommodate population or employment growth is needed.

A-Engrossed Ordinance 733 adds new policies to the Washington County Comprehensive Plan designed to carry out the purpose of state law in ORS 195.137 – 195.145 and OAR 660-027. These policies include a new Policy 29 of the Rural/Natural Resource Plan element, establishing standards applicable to lands now designated by Washington County as rural reserves. The ordinance also creates two new maps. One identifies the rural reserves designated by the county, as well as the urban reserves adopted by Metro; the second map identifies the location of "Special Concept Plan Areas" in the county.

The ordinance also makes minor modifications to Rural/Natural Resource Plan Policy 3, Intergovernmental Coordination; Policy 23, Transportation; and Policy 27, Urbanization, to require coordination of urban and rural reserves in planning processes. The ordinance also amends Comprehensive Framework Plan for the Urban Area Policy 3, Intergovernmental Coordination; Policy 32, Transportation; and Policy 40, Regional Planning Implementation to make similar minor conforming changes.

The amendments made as a result of the reserves planning process are shown in Exhibits 1 through 9 of A-Engrossed Ordinance No. 733 and are made part of the Washington County Comprehensive Plan through the adoption of this ordinance

### Process Summary

In developing recommendations for urban and rural reserves in the Portland metro region, each of the four local governments directly collaborated and coordinated the primary tasks of the project (such as development of background information, primary technical analysis and regional scale public involvement. Beyond those core efforts however, each of the three counties (and Metro) utilized a different process to develop locally supported recommendations. The following outline summarizes the urban and rural reserves planning process in Washington County.

1) Project Management & Oversight:

i) Regional Partners:

In order to carry out the technical and policy work required to implement urban & rural reserves in the 3-county Metro region (the project), Metro and Clackamas, Multnomah and Washington Counties formed a partnership alliance. This partnership (the Regional Partners) agreed to jointly staff and fund the project.

ii) Core 4:

The Core 4 was comprised of one key elected official from each of the four implementing jurisdictions. This group provided policy level project oversight and management and was charged with assuring that the regional reserves designations represented a reasonable balance of the guiding factors of OAR 660-027. WashCo Rec. 5.

iii) Regional Project Management Team (PMT):

The PMT was comprised of primary staff (planning directors / managers) from each of the four jurisdictions. This team of planning experts directed and reviewed the technical analysis work and served as advisors to the Core 4. This Team was involved from the initial inception of the project in the implementation of the legislation creating the new concepts for urban and rural reserves in the Portland Metro region (Senate Bill 1011). WashCo Rec. 14.

2) Project Coordination

i) Project Consultants, Kerns & West (K&W):

In order to manage the policy level recommendations necessary to carry out this project, the Regional Partners solicited quotes and selected from respondents, the firm of Kerns & West to provide facilitation / mediation for the meetings and activities of the Core 4 and Regional Steering Committee. K&W provided these services throughout the process of developing final urban and rural reserves recommendations to Metro and the 3 counties.

ii) Project Coordination was also provided by the Core 4, PMT, Core 4 Technical Team and the Public Involvement Team.

3) Advisory Committees

i) Regional Project Steering Committee (RSC):

The RSC was made up of a variety of management level professionals representing a diverse array of interests. This Committee, co-led by the Core 4, was charged with overseeing the study of urban and rural reserves and to make recommendations relating to the final designation of reserve areas to the three counties and Metro.

ii) Washington County Reserves Coordinating Committee (WCRCC):

The WCRCC was formed to review the results of the project technical analyses and to develop policy and recommendations on urban and rural reserves in Washington County. Recommendations developed by the WCRCC were forwarded to the Regional Steering Committee and Core 4.

iii) Core 4 Technical Committee:

The Core 4 Technical Committee was comprised of planning staff from Metro and each of the three counties. These staff members carried out the technical analyses necessary to determine the relative qualifications of lands within the regional study area as urban reserves, rural reserves or neither. This committee was directly guided by the PMT and results of their work were submitted to local county advisory committees and, as appropriate, to the Regional Steering Committee.

4) Washington County Planning Directors

- i) The Washington County Planning Directors served as the technical advisory committee to the WCRCC and served to coordinate with their respective city councils and planning commissions in developing reserves recommendations. This committee met regularly throughout the reserves planning process to assure that the technical analysis process appropriately addressed local issues, concerns and needs, all jurisdictions in Washington County remained fully informed, and that all stakeholders and interested members of the general public were provided adequate opportunities for involvement in the reserves planning process.

5) Public Involvement

- i) Reserves Public Involvement Team
- ii) Public Involvement Plans WashCo. Rec.4013-4396
- a. Regional WashCo. Rec.4013-4024
  - b. Washington County WashCo. Rec.4026-4031

iii) Public Involvement Activities

6) Iterative Process:

The Five phases of the Urban and Rural Reserves project were:

- i) Phase 1: Establish committees and public involvement process;

The objectives of Phase 1 were to:

- Establish the Reserves Steering Committee (RSC) WashCo. Rec.4053-4054

- Establish County Coordinating Committees (WCRCC) WashCo. Rec. 1401; 1388-1400
- Create a Coordinated Public Involvement Process WashCo. Rec.4013-4052
- Develop the Analytical Approach to identifying urban & rural reserves

ii) Phase 2: Develop Reserve Study Areas;

The objectives of Phase 2 were to:

- Identify broad Reserve Study Areas WashCo. Rec. 2996; 3868-3872
- During the summer and early fall of 2008, the Regional Partners approved a Regional Reserves Study Area within which urban and rural reserves were to be identified.
- Review initial 40-50 year Population and Employment Forecasts WashCo. Rec. 3800; Metro 2005-2060 Population and Employment Forecast – May 19, 2008
- Review data needs and begin to assemble data

iii) Phase 3: Analyze Reserve Study Areas;

The objectives of Phase 3 were to:

- Analyze how Reserve Study Areas meet applicable urban and rural Reserve Factors of OAR 660-027 WashCo. Rec. 2930-3819
- Refine the 40-50 year Population and Employment Forecasts and Allocations Metro 2005-2060 Population and Employment Range Forecast – April 2009 draft
- Develop preliminary urban and rural Reserve recommendations WashCo. Rec. 2930-3819.

iv) Phase 4: Recommend Reserve Designations;

The objectives of Phase 4 were to:

- Finalize Reserve Areas WashCo. Rec. 1379-1385
- Draft and adopt Intergovernmental Agreements (IGAs) WashCo. Rec. 1379-1385; 1379; 9296.

v) Phase 5: Adoption of Urban and Rural Reserves. The objectives of Phase 5 were to:

- Draft and adopt ordinances incorporating conforming amendments to local Plans and Codes. WashCo Rec. 8060-8063; 9039-9043.
- Draft and adopt joint decision findings
- Submit implementing Plan and Code amendments to LCDC for review and acknowledgement

7. The Washington County Planning Directors and respective city staff reviewed the factors of OAR 660-027 along with the concepts of building “Great Communities” (WashCo.

Rec. 2930-3819) in order to develop "pre-qualifying concept plans" for areas being recommended as urban reserves.

8. The Washington County Urban & Rural Reserves Coordinating Committee reviewed the technical analyses and recommendations prepared by the Planning Directors, held regular public meetings, provided policy direction throughout each phase of the project, and forwarded final recommendations from Washington County to the Regional Reserves Steering Committee and Core 4.

### Stakeholder Requests and Responses

#### 1) Reserves Planning Process

The public process section of this report discusses the county's extensive public outreach during the reserve planning process. However, two groups were consistent in voicing concern during the county's analysis, subsequent recommendations to the Core 4, and the Core 4 deliberation period. These two groups were the *Washington County Farm Bureau*, which was a voting member of the Washington County Reserves Coordinating Committee (WCRCC), and *Save Helvetia*, a group consisting primarily of residents interested in protecting rural lands generally located north of Sunset Highway and east of the city of North Plains.

*Washington County Farm Bureau:* Throughout the technical analysis and review process leading to preliminary recommendations on urban and rural reserves, the consistent message from the Washington County Farm Bureau was that lands within the existing UGB should be used more efficiently and, with the exception of lands classified as "Conflicted" on the map developed by the Oregon Department of Agriculture, all lands in the study area within approximately one mile of a UGB should be designated as rural reserve. Farm Bureau members submitted a map and cover letter depicting their recommendations. WashCo. Rec. 2098-2099; 3026; 3814-3816.

The needs determination by county and city staff determined that the one-mile recommendation noted above would not address the county's urban growth needs over the 50-year reserves timeframe. The WCRCC on September 8, 2009 voted 11 to 2 in support of urban reserve areas of approximately 34,200 acres and rural reserve areas of approximately 109,750 acres in Washington County. In consideration of the concerns raised by the Farm Bureau as well as like-minded stakeholders, interest groups and community members, the Core 4 recommended a reduction of approximately 40 percent (34,200 acres to 13,561 acres) to the WCRCC's urban reserve recommendation. These adjustments represented the Core 4's judgment in balancing the need for future urban lands with the values placed on "Foundation" agricultural lands and lands that contain valuable natural landscape features to be preserved from urban encroachment. Rural reserve acreage increased during Core 4 deliberations, from the WCRCC recommendation above to 151,666 acres. The intergovernmental agreement (IGA) signed with Metro and approved by the Washington County Board of Commissioners on February 23, 2010 acknowledged these totals for urban and rural reserves. Amendments to the agreements are allowed pursuant to section C.4 of the agreement. Changes to some reserve boundaries were requested during the county ordinance process beginning in April 2010 and are discussed below.

*Save Helvetia*: This citizen group was established during the early stages of the urban and rural reserves planning process. The group's initial and preeminent concern was that all rural land within the reserves study area located north of Sunset Highway be designated as rural reserve. WashCo. Rec. 2229-2239; 3618. The group's mission statement includes the desire "*To encourage cities to accommodate population growth by maximizing infill and efficiently using land already inside city borders.*" The group also supported the Farm Bureau's position of recommending a rural reserve designation for all foundation farmland within one-mile of the UGB and called out the importance of preserving agricultural land for different farm sizes and uses.

Core 4 deliberations dramatically changed the reserve proposals recommended by the WCRCC for areas north of Highway 26. The original recommended urban reserve that extended north of Highway 26 to Phillips Road and east to the county border with Multnomah County was changed to a rural reserve designation with the exception of two small urban reserve areas (Urban Reserve Areas 8B and 8C) adjacent to the existing UGB and an undesignated area between Highway 26 and West Union Road. Other urban areas in the county were also reduced in size in order to minimize development impacts to valuable agricultural and natural resources. The Farm Bureau and Save Helvetia representatives in particular were present at open houses and presented public testimony at hearings. The Audubon Society of Portland, 1,000 Friends of Oregon, Coalition for a Livable Future and interested citizens also voiced concern at different points of the reserves process regarding future urban development north of Highway 26.

## 2) Ordinance No. 733 Hearings Process

Several reserves amendment requests came before the Washington County Planning Commission on April 21, 2010 and were forwarded to the Board for its consideration. The Board held its first public hearing on Ordinance No. 733 on April 27, 2010 and took additional testimony from individuals requesting amendments to the urban and rural reserves map. The Board requested staff to prepare issue papers for the specific requests and continued the hearing to May 11, 2010. On May 11, 2010, the Board directed staff to follow the map amendment process outlined in Section C.4. of the Metro-Washington County IGA for two of the requests (discussed in Section 3, below).

The two requests consisted of a proposal by staff to make "technical" changes that would place certain right-of-way areas into a single reserve designation (rather than designations split at the road's centerline), to correct for "parcel shifts" that occur when digital map layers are updated, to correct mapping errors, and to address the split reserves designation of a property in the vicinity of Roy Rogers Road. WashCo Rec. 8559-8582.

The second request was to add the 130-acre Peterkort property west of the North Bethany area to Urban Reserve Area 8C and remove it from Rural Reserve Area 8F. An issue paper regarding the Peterkort property was developed for the Board's review (reference record - issue paper 3). Further information about the Peterkort property is provided below. WashCo Rec. 8586-8590.

*O'Callaghan*: Located along the Rock Creek drainage southwest of the above referenced Peterkort site and along the northern edge of the western segment of Urban Reserve Area 8C (Bethany West) are two parcels owned by the O'Callaghan family. These parcels total

approximately 58 acres and are bordered on the east by the existing urban growth boundary and N.W. 185<sup>th</sup> Avenue. During the hearings process for Ordinance No. 733, a description and analysis of the request for an urban reserve designation for the property was included in Issue Paper 3 of the May 11 staff report to the Board. WashCo Rec. 8586-8590. The Board reviewed the issue paper and elected not to include this amendment request in the engrossed ordinance.

*City of Cornelius:* The city of Cornelius requested a number of adjustments to the urban reserve areas of interest to the city. These adjustments were generally referenced as “technical” changes intended to simplify future urbanization of those lands. There were two elements of the city’s request:

- 1) Add as urban reserves approximately 48 acres of land lying within the 100-year floodplain; (14.3 acres from undesignated lands and 34 acres from rural reserves);
- 2) In order to support the future expansion of city parks and open space, change approximately 87 acres of rural reserve lands to undesignated and change approximately 126 acres of undesignated land to rural reserves.

The city’s reasons listed for the requested changes were as follows:

- a) Using floodplain lines as a UGB requires difficult surveying and property line adjustment prior to annexation when floodplain does not match tax lot lines.
- b) Floodplain boundaries change over time, depending on stream flow, climate change and upstream activity; some floodplain designations are dated and inaccurate.
- c) The city does not allow development in the floodplain, except for certain bridges and pathways for pedestrians.

These requests were first presented to the Planning Commission on April 21, 2010 and to the Board on April 27, 2010 by city staff.

The Washington County Reserves Coordinating Committee recommendation of September 15, 2009 identified the subject properties as part of larger urban reserve areas on the north and south edge of Cornelius. Core 4 deliberations from October 2009 through February 2010 resulted in a change in designation from proposed urban reserve to proposed rural reserve for each of the above areas with the exception of the 126 acre undesignated area. The Core 4 actions did not alter the area's undesignated status.

At the May 25, 2010, public hearing on Ordinance No. 733, the Board of Commissioners decided to retain the Core 4 recommendations on these properties. WashCo. Rec. 8839-8841.

*Bobosky / Bendemeer:* The Bobosky property is a ten acre taxlot included within a small rural residential community known as Bendemeer, located north of West Union Road between NW Cornelius-Pass Road and NW Dick Road. On April 21, 2010, the Planning Commission heard testimony from Wendie Kellington and Wink Brooks on behalf of owners Steve and Kelli Bobosky to change the Bobosky property from rural reserve to urban reserve. The applicants asserted during the hearing that exception lands (AF-5 and AF-10 designations) do not serve to

promote continued agricultural use. The Planning Commission subsequently recommended that all properties within the Bendemeer subdivision be changed from rural to urban reserve.

The property in question ranked high for both urban and rural reserves in staff's analysis. The Oregon Department of Agriculture classified the properties as Foundation agricultural land. The city of Hillsboro developed a pre-qualifying concept plan that addressed how the area met the urban reserve factors. This area was originally designated as an urban reserve but was changed to a rural reserve designation during Core 4 deliberations. Ms. Kellington and the Boboskys provided testimony to the Board of Commissioners at their April 27, 2010 hearing.

A description and analysis of staff's recommendation for urban reserve was included in Issue Paper 4 of the May 11 staff report to the Board. The Board elected not to include this amendment request in the engrossed ordinance. WashCo Rec. 8601-8619.

*Black / Waibel Creek:* Tom Black presented oral testimony to the Planning Commission during the April 21, 2010 hearing to request a change from urban reserve to rural reserve for a 1,580 acre area north of Waibel Creek, south of Highway 26, west of the eastern terminus of Meek Road and east of the McKay Creek floodplain. This area is the northern half of urban reserve area 8A. Mr. Black noted concerns regarding preservation of historic resources, such as the Joseph Meeks property, and preservation of agricultural land. The commission evenly split on the recommendation, with four commissioners voting for additional review and four voting to deny the request.

Mr. Black's presented his testimony before the Board on April 27. Issue paper number 4 of the May 11, 2010 Staff report to the Board described staff's analysis of the area. The Board elected to not include this amendment request in the engrossed ordinance. WashCo Rec. 8601-8619.

*Tualatin Riverkeepers:* Brian Wegener of Tualatin Riverkeepers requested a change of designation for Area 6B (Cooper Mountain) from urban reserve to rural reserve. Mr. Wegener's testimony was presented to the Planning Commission on April 21, 2010 and subsequently to the Board on April 27th. The testimony asserted that Cooper Mountain contained many headwater streams and the area's steep slopes and shallow soils preclude efficient urban development. Mr. Wegener believes that the area could not be efficiently developed to urban densities without causing significant impacts to the environment.

This area was the subject of a pre-qualifying concept plan developed by the city of Beaverton, which provided evidence demonstrating compliance with the eight urban reserve factors. Exhibit B of the Metro/County reserves Intergovernmental Agreement (IGA) noted that concept planning for this area "should be undertaken as a whole in order to offer appropriate protection and enhancement to the public lands and natural features that are located throughout the area." These requirements have been included in new Plan Policy 29 enacted through Ordinance No. 733 as "Special Concept Plan Area A." A description and analysis of staff's recommendation for urban reserve was included in Issue Paper 4 of the May 11, 2010, staff report to the Board. The Board elected to not include this amendment request in the engrossed ordinance. WashCo Rec. 8601-8619.

*Amabisca:* Cherry Amabisca presented testimony to the Board on May 11, 2010, for several properties north of Highway 26. Specifically, the requested change was for a change in designation from urban reserve to rural reserve for the Standing properties (1N2 15, Lots 900 and 901) and other properties (1N2 21AA, Lots 100 and 1N2 15, Lots 1100, 1200, 1300, and 1400) totaling 78.5 acres. These properties collectively comprise urban area 8B. An additional request was to change the currently undesignated lands west of Helvetia Road (totaling 556.5 acres) to rural reserve.

The properties included in Ms. Amabisca's request ranked favorably as both an urban or rural reserve. The properties in the urban reserve area were identified as the location of future interchange improvements. The undesignated area was initially recommended as an urban reserve but was removed during the Core 4 deliberations. A description and analysis of the urban reserve area and the undesignated area was included in Issue Paper 4 of the May 11 staff report to the Board. The Board elected to not include this amendment request in the engrossed ordinance. WashCo Rec. 8601-8619.

*Peters:* Linda Peters forwarded a request to the Board via e-mail dated April 27, 2010 to make the following changes to the Urban and Rural Reserves map: to change the urban reserve designation in Urban Reserve Areas 8A (Hillsboro North), 6B (Cooper Mountain Southwest), and the urban reserve areas north of Council Creek (Urban Reserve Areas 7I - Cornelius North and a portion of 7B - Forest Grove North) to rural reserve and remove all the undesignated area around the cities of North Plains and Banks. Ms. Peters also requested that the Board retain the rural reserves designation for approximately 40 acres of right-of-way on the north side of Highway 26 between Jackson School Road and Helvetia Road.

Urban Reserve Area 8A (Hillsboro North) did not rank as high for rural designation as other areas of the county in staff's analysis. There were no changes to the area during the Core 4 deliberations. Hillsboro underwent extensive pre-qualified concept planning for this area and noted that the area has the potential to develop into a complete community. Preliminary analysis conducted by Metro indicates that the area can be readily served by sewer and water and the transportation system can be designed for connectivity.

Urban Reserve Area 6B (Cooper Mountain Southwest) was initially part of a larger urban reserve but was reduced in size to its current 1,777 acres during Core 4 deliberations. Beaverton provided a pre-qualified concept plan for this area that designated most of the area for future residential use. Exhibit B of the Metro/County reserves Intergovernmental Agreement (IGA) noted that concept planning for this area "*should be undertaken as a whole in order to offer appropriate protection and enhancement to the public lands and natural features that are located throughout the area.*" These requirements have been included in new Plan Policy 29 enacted through Ordinance No. 733 as "Special Concept Plan Area A."

Urban Reserve Area 7I (Cornelius North) was initially part of a larger urban reserve north of both Cornelius and Forest Grove but was reduced to its current size during Core 4 deliberations. Cornelius submitted a pre-qualified concept plan for the area that shows a mix of inner neighborhood and industrial uses in this area with linear parks along Council Creek and its tributaries. Future light-rail expansion from Hillsboro is projected for this area.

Urban Reserve Area 7B (Forest Grove North) was initially part of a larger urban reserve north of both Cornelius and Forest Grove but was reduced to its current size during Core 4 deliberations. The area ranked highly for both rural and urban reserves. Forest Grove has completed a pre-qualified concept plan for this area that shows residential use surrounding a "village center."

Banks and North Plains fall outside Metro's jurisdictional boundary. Undesignated land has been set aside around each city to allow for future growth over the 50-year reserves timeframe. It is the county's expectation that future planning will result in the application of urban and rural reserve designations in appropriate locations within these currently undesignated areas. These areas are noted as "Special Concept Plan Area B" in Exhibit B of the IGA and in Policy 29 of the Rural/Natural Resource Plan.

The county has proposed to change approximately 40 acres of the north side of Highway 26 between Jackson School Road and Helvetia Road from a rural reserve designation to an urban reserve designation. This change can be found on page 4 of Issue Paper 2, listed as map item #8 (WashCo Rec. 8559-8582). As with the above requested changes, the rationale for the change in designation is discussed in a broader policy context in Issue Paper 4 of the May 11 staff report to the Board. WashCo Rec. 8601-8619. The Board elected to not include any of the requested changes in the engrossed ordinance.

*Pumpkin Ridge:* The request to change the designation of Pumpkin Ridge Golf Course from rural reserve to undesignated was made by Gary Hellwege and attorney Greg Hathaway during their appearance at the Board hearing on April 27, 2010. Mr. Hellwege and Mr. Hathaway expressed concern that the flexibility to expand existing services at the golf course might be constrained by a rural reserve designation. The golf course is located immediately north of the city of North Plains.

The undesignated area around North Plains was reduced in size during Core 4 deliberations as it was determined that a reduction in acreage would still allow for adequate capacity for the city's future development. As part of this process, the Pumpkin Ridge property was removed from the undesignated area and made a rural reserve.

A description and analysis of the areas was included in Issue Paper 4 of the May 11, 2010, staff report to the Board. WashCo Rec. 8601-8619. The Board elected to not include this amendment request in the engrossed ordinance.

### Proposed Adjustments to Ordinance No. 733

At its hearing on May 11, 2010, the Board authorized staff to follow the amendment process described in the Metro-Washington County Reserves IGA relating to two categories of changes to the county's urban and rural reserves map. These changes are described below:

#### Technical Amendments

A variety of minor map amendments were recommended by staff to resolve technical issues with the initial mapping of the Core 4 recommendations and to alleviate the potential need for future amendments to local comprehensive plans. These minor map amendments are generally characterized as:

- (1) Gaps between urban and rural reserves that were not intended to be undesignated.
- (2) Digital map layer adjustments resulting from base-map changes which caused parcel line-work to not appropriately match the boundaries for reserves designations.
- (3) Stem of flag lot designated rural reserve dividing an undesignated area – stem should remain undesignated for consistency with adjoining lands.
- (4) Rural reserve designations of public road Rights-of-Way (ROW) adjoining urban or future urban areas could result in management and/or maintenance issues. Staff recommended during the hearings process for Ordinance No. 733 that in instances where roadways are utilized as boundaries for either urban reserves or undesignated lands, the entire ROW be designated urban reserve or remain undesignated. The Board of County Commissioners agreed with this issue and directed county staff to have the changes reviewed through the process defined in the Intergovernmental Agreement with Metro. WashCo Rec. 8533-8554.

#### Peterkort

At the April 21, 2010 Planning Commission and April 27, 2010 Board of County Commissioners hearings, representatives from the Peterkort family requested that the county reconsider their property's (1N1 18, Lot 100) rural reserve designation and add the property to Urban Reserve Area 8C, Bethany West. The Peterkort family stated that several major infrastructure improvements had been identified to serve the North Bethany development, all located on or adjacent to the Peterkort family lands.

In the technical analysis to determine conformance with the factors for designation of lands as urban reserves or rural reserves (OAR 660-027-0050 and 660-027-0060) Washington County staff found that the property qualified for designation as either rural reserve or urban reserve. The detailed findings on these qualifications are incorporated in the September 23, 2009 recommendations report from the Washington County Urban and Rural Reserves Coordinating Committee to the Regional Core 4 and Reserves Steering Committee.

The Washington County Reserves Coordinating Committee recommendation of September 23, 2009 identified the Peterkort property as part of a significantly larger urban reserve area that extended from the existing urban growth boundary north and east to the Multnomah County border, and to Jackson School Road on the west. Core 4 deliberations in December 2009 resulted in the conversion of most of the urban reserve lands north of Highway 26 to rural reserve. This property was among those changed to a rural reserve designation.

The entire 129-acre Peterkort site is important to the successful implementation of the North Bethany Community Plan and to important elements of the funding process on key transportation and sewer line links. The following key points support inclusion of the Peterkort site within Urban Reserves:

1. **Transportation:** Provides urban land for public ROW and supports the development of a key transportation system link serving the future development of the North Bethany Community.
2. **Sewer system connectivity:** The optimal alignment for a primary gravity flow sewer trunk line to serve North Bethany crosses the Peterkort property. **NOTE: construction of a pump station-based option could delay construction of sanitary sewer services to the North Bethany area by at least three years.**
3. **Wetlands mitigation:** The sewer plan identifies roughly 46 acres of valuable opportunities on the Peterkort property which can be used to mitigate wetland impacts caused by public infrastructure development in North Bethany.
4. **Enhancement of Natural Areas Program Target Area:** Lands on the Peterkort site will support connections to important regional natural areas. WashCo Rec. 8533-8554.

The following findings address the factors for designation of this property as Urban Reserves:

OAR 660-027-0050:

*(1) Can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments;*

As noted above, the Peterkort site provides the only practicable location for siting a gravity flow sewer line for the provision of sanitary sewer services to a portion of the North Bethany planning area. This site also provides the only reasonable route for an alternative transportation system link between this community and surrounding areas. Future development of this site would not only utilize the public and private investments currently being made in North Bethany, but would ultimately aid in funding long-term infrastructure construction and maintenance.

It is expected that future development of the Peterkort site would be designed to complement the North Bethany Community at urban densities that optimize both private and public infrastructure investments. The developable portion of the Peterkort property would be designed to connect to the North Bethany community and the surrounding community via a future road connection (Road 'A') and could be served by the planned sewer line.

*(2) Includes sufficient development capacity to support a healthy economy;*

Together with remaining buildable lands within the UGB and other urban reserve lands throughout the region there will be sufficient development capacity to support a healthy economy. The addition of the Peterkort property adds approximately 80 acres of developable land to Urban Reserve Area 8C. The area could likely be developed as the sixth neighborhood of North Bethany, featuring a walkable community centered around parks and mixed use areas.

*(3) Can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers;*

This site has been included in facilities planning discussions during development of the North Bethany Plan. The Beaverton School District has made commitments for needed facilities in this

area and has included discussion and consideration of potential urban reserves based growth impacts in the recent development of the 2010 update of their Long Range Facilities Plan. The Rock Creek Campus of Portland Community College is immediately adjacent to the southern boundary of this site. Other well-established facilities and services being extended to the North Bethany Community would also be expected to serve this site.

*(4) Can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers;*

The Peterkort site will be served by a collector road (Road 'A') extending along the northern portion of the site to connect the North Bethany community to SW 185<sup>th</sup> Avenue to the west. The northeastern edge of this property directly abuts planned connections to both on and off-street pedestrian facilities linking to planned neighborhood parks in North Bethany. This site offers a major opportunity to link trails in the broader Bethany area along the Rock Creek corridor. Public transit service is currently available immediately south of the site with multiple lines providing connections to Westside Light Rail Transit.

*(5) Can be designed to preserve and enhance natural ecological systems;*

Limited opportunities for wetlands mitigation are available in this area of the county. Therefore, a key focus of adding the Peterkort site to the urban area is the opportunity to improve and enhance the currently degraded wetlands along Rock Creek. The entirety of Urban Reserve Area 8C would be subject to certain requirements identified in the county's Rural/Natural Resource Plan Policy 29. This area, called out as Special Concept Plan Area C, would require the implementation of Metro's "Integrating Habitats" program in the concept and community planning of the reserve area. The "Integrating Habitats" program utilizes design principles to improve water quality and provide wildlife habitat.

*(6) Includes sufficient land suitable for a range of needed housing types;*

The Peterkort site will provide added opportunities to meet local housing needs. The 80 acres of buildable land on the site can be developed with a variety of different housing types which would be expected to complement those already planned in the North Bethany area.

Considering that employment growth in Washington County has been historically very strong, and that the area remains attractive to new business and holds potential for significant growth, housing demand in this area will continue to grow.

*(7) Can be developed in a way that preserves important natural landscape features included in urban reserves; and*

As previously noted, this site is traversed by Rock Creek and its associated floodplain which is included on the Metro Regional Natural Landscape Features Map. Rock Creek and its associated wetlands are considered an important target area for long-term water quality improvements in the Tualatin River Basin and provide vital habitat linkage for sensitive species. Together with the other lands in Urban Reserve Area 8C, this site will be subject to a special planning overlay (Special Concept Plan Area C) designed to address the important values of this riparian corridor

by requiring appropriate protection and enhancement through the use of progressive and environmentally sensitive development practices.

*(8) Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.*

Concept and community level planning in conformance with established county plan policies can establish a site design which will avoid or minimize adverse impacts on farm practices and natural landscape features in the area. As noted above, Urban Reserve Area 8C will include a planning overlay specifically targeting special protection for the identified natural landscape features in the area. It is important to note that even without this special plan policy, the existing regulatory framework in urban Washington County would require significant levels of protection and enhancement of the Rock Creek corridor at the time of development of surrounding lands.

## **B. Washington County: Urban Reserves**

The following findings provide an overview of and important references to the detailed analysis performed by Washington County to determine the amount of land that will be needed in Washington County to facilitate long-term planning for urbanization.

OAR 660-027-0050(2) – Does the land have enough development capacity to support a healthy economy?

A variety of methods were used to determine whether Candidate Urban Reserves would contain enough development capacity to form complete communities and support a healthy economy. Washington County staff utilized population and employment forecast data from Metro to develop a Land Needs Analysis for urban reserves that is outlined below. The complete analysis and methodology is fully detailed in the September 23, 2009, report and recommendations from the Washington County Urban and Rural Reserves Coordinating Committee to the Regional Reserves Steering Committee. WashCo. Rec. 3586-3609. In addition, the findings for OAR 660-027-0050(2) were supplemented by data presented by the National Association of Industrial and Office Properties (NAIOP), a business group focused on needs of industrial and related uses, as well as a stakeholder in the Reserves process and member of the Regional Reserves Steering Committee. WashCo. Rec. 6674.

### Land Needs Estimates

A significant component of the urban reserves planning process was consideration of the population and employment forecasts to determine the amount of land that should be included in urban reserves recommendations. Population and employment projections were important to identify the gap between how much growth can be accommodated inside the current UGB and what, if any, additional land needs should be considered.

OAR 660-027-0040 requires that “*Urban Reserves designated under this division be planned to accommodate estimated urban population and employment growth in the Metro area for at least 20 years, and not more than 30 years, beyond the 20-year period for which Metro has demonstrated a buildable land supply in the most recent inventory, determination and analysis*

*performed under ORS 197.296.*” Effectively, given that Metro is scheduled to make the next UGB expansion decision in 2010, the applicable planning period would run to between 2050 and 2060.

Metro provided initial 2005–2060 population and employment forecasts in May 2008. These forecasts covered the seven-county Portland-Beaverton-Vancouver Primary Metropolitan Statistical Area (PMSA) in its entirety. No county-specific allocations were provided to assist in determining potential county level needs. In spring of 2009, Metro provided updates of the 20 and 50 year Regional population and employment range forecasts again without specific county allocations.

Members of the WCRCC and the regional Reserves Steering Committee, along with staff, noted many times that a range of future land demand was relevant to the urban reserves discussions. Washington County staff determined that in order to appropriately address market trends and reasonable assumptions for future market demand, estimates of long-term sub-regional growth and related land needs was an important consideration in these discussions. Washington County therefore developed county-specific growth estimates which were in turn used in developing land needs estimates for consideration and refinement of candidate urban reserves. These allocations were based on Metro’s latest population and employment forecasts issued in April 2009. Metro 2005-2060 Population and Employment Range Forecast – April 2009 draft.

The county’s land needs analysis , combined with the detailed analysis of remaining growth capacity within Washington County’s 2007 UGB provided a clearer understanding of how much additional land might be needed to accommodate forecast long-term growth. Based on this information, in June 2009, the WCRCC recommended the candidate urban reserves in Washington County should be approximately 47,000 acres. WashCo Rec. 3011.

Beginning in June, 2009, the cities within Washington County began developing their Pre-qualified Concept Plans to assess how urban reserves, if brought into the UGB, could facilitate long-term growth needs and serve to complete each of their respective communities. This planning effort followed the general concepts of Region 2040 and provided opportunity for the cities to review their areas of interest and affirm if the identified areas were appropriate. These efforts further refined the candidate urban reserves recommendations to approximately 39,000 acres.

Following extensive review and consideration of all applicable issues and concerns raised by stakeholders in the county, on September 23, 2009, the WCRCC recommended approximately 34,300 acres as Washington County Urban Reserves. This recommendation was forwarded to the Regional Reserves Steering Committee and Core 4 on September 23, 2009. WashCo Rec. 2930-3818.

Released in September, 2009, and subsequently adopted in December, 2009, Metro’s most recent Urban Growth Report and related materials suggest a long-term land need for Urban Reserves to the year 2060 of between 15,700 and 29,100 acres. *COO Recommendation, Urban Rural Reserves, Appendix 3E-C*, Metro Rec. 601-603; *Appendix 3E-D*, Metro Rec.607-610. The Core 4 recommendations for urban reserves completed as of February 25, 2010 were generally based

upon these Metro estimates and resulted in the Core 4's recommendation for approximately 13,000 acres of urban reserves in Washington County.

#### Urban Reserves 4E, 4F and 4G: I-5 East - Washington County

*General Description:* These three coterminous areas are located east of Interstate 5 in the southeast corner of the county. The city of Tualatin forms the west boundary and Urban Reserve Area 4D in Clackamas County is immediately east. Interstate 205 forms the north boundary and the south boundary is generally Elligsen Road, with an area of approximately 78 acres extending south of this road to the county line. These three areas combined total approximately 1,565 acres, 919 acres of which are considered buildable. WashCo Rec. 9276-9295. Saum Creek in the northwest corner of the reserve is the primary drainage. Rolling terrain with incised drainages typify the area.

*How the Above Urban Reserves Fare Under the Factors:* Urban Reserve Area 4E was included in a Pre-Qualifying Concept Plan (PQCP) developed by the city of Tualatin. Urban Reserve Area 4F was not included in a PQCP and future governance of the area has yet to be determined. However, Urban Reserve Area 4G was subject to a PQCP developed by the city of Wilsonville. These PQCPs included a detailed review of the planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3495-3563; 3564-3574.

#### Urban Reserve Factors 1 through 4

The city of Tualatin prepared a pre-qualified concept plan for the area that extends from Interstate 205 south to Frobase Road (Urban Area 4E). Approximately 546 acres of the 841-acre concept plan area was calculated as net developable land after removal of constrained lands. This area is expected to support a population of approximately 4,000 new residents. Future arterials and collectors have been identified and cost estimates and locational analysis have been conducted for provision of water and sewer facilities. Technical staff supporting the Project Management Team (the Core 4 technical team) rated the area as high for sewer provision and medium for the provision of water. One neighborhood center is mapped in the concept plan that could support approximately 252-420 jobs on 6-10 acres. School assessments have been conducted that call for at least one elementary school. Current service level provision for Tualatin residents was extrapolated to the new area to determine future police, fire, and park needs. A trail system that will connect with the existing trail system in Tualatin has been designed around the stream network and in the buffer areas along I-5 and I-205. A preliminary system of arterials, collectors, and local roads has been identified to efficiently connect the new urban area.

The urban reserve area is larger than the area included in Tualatin's pre-qualified concept plan included in the September 23, 2009 staff report. South of Frobase Road, the land is gently rolling with the exception of two knolls approximately 500 feet in elevation.

The city of Wilsonville has committed to providing urban services to Urban Reserve Area 4G. This 454-acres area features approximately 223 buildable acres. The draft concept plan map

shows this area primarily as inner neighborhood with some employment designation due north of the city and adjacent to Interstate 5. Inner neighborhood assumes a residential mix of 50% SFR, 25% SFR attached, and 25% MFR at an average dwelling density of 10du/acre. The submitted concept plan notes that the area can facilitate "logical extensions of existing business parks, medical clinics, offices, and service centers along SW Parkway Avenue north of Elligsen Road and are a sufficient size to make efficient use of infrastructure investments." The city has indicated its ability to provide services, including parks, water, sewer, storm, and transit. Tualatin Valley Fire & Rescue (TVFR) can easily service the reserve area from an existing area station.

The plan notes that "the city conducts a thorough master planning process to ensure a safe and connected multi-modal system."

#### Urban Reserve Factors 5 through 8

Resource protection measures were discussed in the pre-qualified concept plan submitted by Tualatin and included in the appendix to the September 2009 staff report Environmentally constrained lands were removed from buildable land calculations, including riparian buffers of at least 50 feet as required by Clean Water Services. The city's existing regulatory framework will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization, including area designated as open space and natural areas where large stands of trees currently exist. The reserve area does not include any significant natural landscape features from Metro's 2007 Natural Landscape Features Inventory.

Sufficient buildable land is available for the range of housing types necessary in contributing to a complete community. The concept plan includes areas projected for medium to low density residential development. The surrounding area to the reserve (4E) is already currently developed or is a proposed urban reserve. Together with remaining buildable lands within the UGB and other urban reserve lands throughout the region there will be sufficient development capacity to support a healthy economy.

For Area 4G, Wilsonville has stated that the city's existing resource program will "ensure that natural resource values are preserved and where possible enhanced to compliment and improve natural ecological systems. Important natural resources within the urban reserve area will be considered for protection under the city's Goal 5 inventory process.

Housing capacity is improved with addition of the reserve area inside the city limits. With an expected increase in the jobs to population ratio for the city, the need exists to provide more housing options to those who work in the Wilsonville area.

An undesignated area currently in agricultural use occurs east of the southern extension of urban reserve area 4G and northeast of Wilsonville. That city's pre-qualified concept plan notes that agricultural areas will be buffered by elevation differences and preservation of existing trees and vegetation, where applicable.

*Why This Area was Designated Urban Reserve:* This area will provide dwelling capacity to accommodate future growth in Tualatin over the 50 year reserves timeframe. The area is highly parcelized and has relatively dense rural residential development. The area was ranked low under

consideration of rural reserve factors in staff's reserves analysis given the highly parcelized nature of the tax lots and the existing residential development. Existing road capacity is adequate to allow for cost-efficient expansion of the transportation network. The city of Tualatin has agreed to provide governance and needed urban services to the area.

Wilsonville has indicated in the concept planning submittals that the urban reserve areas are envisioned to complement the existing city and provide for the city's 20-year housing need and the 20-50 year housing/employment need.

#### Urban Reserve 5A: Sherwood North

*General Description:* This area would extend the city boundary north to the edge of the slope that overlooks the Tualatin River National Wildlife Refuge. The 123-acre area is currently undeveloped.

*How Urban Reserve 5A Fares Under the Factors:* Urban Reserve Area 5A contains three small areas of land that are included in a Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Sherwood to meet long-term growth needs. This PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo. Rec. 3479.

*Urban Reserve Factors 1 through 4:* The city of Sherwood has submitted a PQCP that includes this 123-acre reserve area as well as Urban Reserve Areas 5B (Sherwood West) and 5D (Sherwood South) into its concept planning for newly developable lands adjacent to the city. Approximately 60 acres of this area were mapped as buildable. The northwest corner of the reserve area is mapped as employment areas on the concept plan map. The remainder of the area is not designated for a particular use on the concept plan map. Future uses would likely be either open space, designated parks, or limited residential due to land constraints. WashCo Rec. 3479-3481.

#### Urban Reserve Factors 5 through 8

The existing regulatory framework in Washington County and Sherwood will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization of this area. The elevation difference between the edge of the urban reserve area and the Tualatin River National Wildlife Refuge will provide a buffer from urban development. The area was planned for employment and industrial development in Sherwood's draft pre-qualified concept plan. WashCo Rec. 3481-3482.

*Why This Area was Designated Urban Reserve:* Sherwood has included this area as an urban reserve to add capacity for industrial and employment needs. The northeast section of this urban reserve adjacent to Highway 99W and existing light industrial uses is designated industrial in the draft concept plan. The northwest area of the reserve was originally noted as part of a larger employment area. Much of this employment area as shown on the concept plan was included in a rural reserve during Core 4 deliberations after September 2009.

## Urban Reserve 5B: Sherwood West

*General Description:* Urban Reserve Area 5B is approximately 1,291 acres and is located on the west boundary of Sherwood. The area is bounded by Chapman Road to the south, Lebeau Road to the north, and generally extends approximately 3/4 mile west of the city. The area consists of parcels that are in residential or agricultural use, including small woodlots and orchards. Chicken Creek flows through the north section of the reserve. SW Chapman Road and SW Eddy Road are classified as collector streets in the county transportation plan. SW Elwert Road is classified as an arterial.

*How Urban Reserve 5B Fares Under the Factors:* Urban Reserve Area 5B is included in a larger Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Sherwood to meet long-term growth needs. This PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3479.

### Urban Reserve Factors 1 through 4

The city of Sherwood submitted a PQCP that considers this reserve area along with Urban Reserve Areas 5A (Sherwood North), 5A (Sherwood North) and 5F (Tonquin) into its planning for developable lands adjacent to the city. WashCo Rec. 9276-9295. According to analysis done by county staff, this area contains approximately 204 acres of developable land. The flatter, northwest corner of Urban Reserve Area 5D is planned for a Station Center surrounded by commercial development. This area, centered along Highway 99W between this urban reserve and Urban Reserve Area 5B to the northwest, can be integrated efficiently with existing development. Residential density in the station center is projected at 20 units per acre and 25 jobs per acre are projected on employment lands. Residential use is proposed for the rest of the reserve area at 10 units per acre. Capacity will allow for a variety of housing design types.

The area is within the boundaries of the Sherwood School District. Urban services can be provided by the city, and in the case of fire protection, Tualatin Valley Fire and Rescue. According to the submitted concept plan, a combination of public and private investment would be needed to service the newly urbanized areas.

Topography varies widely across the study area but the city anticipates that existing street and trail patterns can be continued with the addition of Urban Reserve Area 5B. The city will continue to work with Metro and regional partners to achieve a regional and local system of well-connected trails, bikeways, and streets.

### Urban Reserve Factors 5 through 8

The existing regulatory framework in Washington County and the City of Sherwood will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization of the south Sherwood area. Lands constrained from development include floodplain areas, slopes greater than 25 percent, vegetated corridor proxy areas, and Metro-

designated riparian and wildlife habitat. Clean Water Services standards are used to ensure protection and enhancement of riparian areas.

Vacant buildable lands, along with redevelopment and infill lands, will provide sufficient land to support a range of needed housing types and contribute to a healthy economy. This area can be designed to avoid or minimize potential adverse effects on surrounding farms and adjoining Natural Landscape Features. The Chicken Creek riparian corridor functions as a buffer between rural agricultural uses and potential urbanization, minimizing potential urban impacts to nearby farm uses west of the reserve boundary. WashCo Rec. 3479-3482.

*Why This Area was Designated Urban Reserve:* Future development in Sherwood is constrained to the east by the city limits of Tualatin and the north border is constrained by the presence of the Tualatin River National Wildlife Refuge. Designation of this area as an urban reserve allows for the continued development of Sherwood over the 50-year reserves timeframe by adding needed housing and employment capacity. The floodplain of Chicken Creek forms an effective buffer between the adjacent agricultural use to the west and future urban development should the reserve be brought into the UGB. The city has provided a concept plan for the area that illustrates residential areas and neighborhood centers at the border of the urban reserve area and the existing city. The plan notes that this area (and Areas 5A and 5D) can be efficiently developed while protecting existing natural ecological systems. WashCo Rec. 3481.

#### Urban Reserve 5D: Sherwood South

*General Description:* This 439-acre area is located south of the city of Sherwood and Brookman Road and extends west to Highway 99 and east to Ladd Hill Road. The area is a mix of exception lands (AF-5 and AF-10) and resource lands (AF-20) applied to the 57 parcels that comprise the area. The area is a mix of residential and small farm use. The east side of the reserve contains Christmas tree operations and timbered parcels without dwellings. Cedar Creek and its associated floodplain are present as are several tributaries that enter Cedar Creek within the reserve area. The east area of Urban Reserve Area 5D has greater topographical relief than the west area.

*How Urban Reserve Area 5D Fares Under the Factors:* Urban Reserve Area 5D is included in a Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Sherwood to meet long-term growth needs. This PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3479.

#### Urban Reserve Factors 1 through 4

The city of Sherwood submitted a PQCP that considers this reserve area along with Urban Reserve Areas 5B (Sherwood West), 5A (Sherwood North) and 5F (Tonquin) into its planning for developable lands adjacent to the city. WashCo Rec. 9276-9295. The flatter, northwest corner of Urban Reserve Area 5D is planned for a Station Center surrounded by commercial development. This area, centered along Highway 99W between this urban reserve and Urban Reserve Area 5B to the northwest, can be integrated efficiently with existing development.

Residential density in the station center is projected at 20 units per acre and 25 jobs per acre are projected on employment lands. Residential use is proposed for the rest of the reserve area at 10 units per acre. Capacity will allow for a variety of housing design types.

The area is within the boundaries of the Sherwood School District. Urban services can be provided by the city of Sherwood, and in the case of fire protection, Tualatin Valley Fire and Rescue. According to the submitted concept plan, a combination of public and private investment would be needed to service the newly urbanized areas.

The station community would provide for a walkable center in a key transportation hub. Sherwood staff noted that existing street patterns and trail systems could be extended if and when a reserve is brought into the UGB. WashCo Rec. 3480.

#### Urban Reserve Factors 5 through 8

The existing regulatory framework in Washington County and Sherwood will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization of the Sherwood south area. Lands constrained from development include floodplain areas, slopes greater than 25 percent, vegetated corridor proxy areas, and Metro-designated riparian and wildlife habitat. Clean Water Services standards are used to ensure protection and enhancement of riparian areas. Constrained lands constitute roughly a third of the area.

Although a portion of this area currently supports low-density single family development, the remaining vacant buildable lands, along with redevelopment and infill lands, will provide sufficient land to support a range of needed housing types and contribute to a healthy economy. This area can be designed to avoid or minimize potential adverse effects on surrounding farms and adjoining natural landscape features. WashCo Rec. 3481.

*Why This Area was Designated Urban Reserve:* The city's pre-qualified concept plan shows this urban reserve as a mix of constrained lands, residential areas, and a station center within a mixed-use neighborhood area shared between this urban area and urban reserve 5B. The 99-acre station area has a projected capacity of 2,475 jobs and 1,980 dwelling units. The area is within the Sherwood School District and can be served by existing service providers, including Tualatin Valley Fire and Rescue (TV F&R). Existing street and trails can be extended into this area. The station center encompasses several transportation corridor connections and can be designed to be a walkable center. WashCo Rec. 3482.

#### Urban Reserve 5F: Tonquin

*General Description:* Urban Reserve Area 5F is approximately 565 acres and is part of the larger Tonquin Scablands area. Portions of this area are included on Metro's 2007 Natural Landscape Features Inventory map. The area is comprised of the unincorporated land east of the city of Sherwood and includes portions of the Tualatin River National Wildlife Refuge, quarry operations, a gun club practice facility, and training area for Tualatin Valley Fire and Rescue. Much of the area is included in the county's Goal 5 inventory as a mineral and aggregate area. Rock Creek and Coffee Lake Creek are the principal drainages in the reserve area. Approximately 143 acres in this area are considered buildable lands. WashCo Rec. 9276-9295.

*How Urban Reserve 5F Fares Under the Factors:* A portion of Urban Reserve Area 5F is included in the Pre-Qualifying Concept Plans (PQCP) submitted by Tualatin to meet long-term industrial needs. The remainder of the area was shown as residential on the city of Sherwood's PQCP for the area. WashCo Rec. 3495-3518.

#### Urban Reserve Factors 1 through 4

The city of Tualatin included a 117-acre portion of this reserve in its PQCP included with the September 23, 2009, staff report. WashCo Rec. 3495-3518. Referred to in that document as "Knife River," the area occurs on the north and south sides of Tonquin Road and is of interest primarily for transportation connectivity to extend SW 124th Avenue and to expand the city's industrial land base. The core 4 technical team rated this area a high suitability for sewer service and medium suitability for provision of water service. For transportation, the area received a medium ranking indicating that this area is somewhat suitable for providing a transportation system capable of accommodating urban levels of development. The city has evaluated the area for walkability and notes that the Knife River area can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers. Cost estimates have been completed for provision of urban services to the area and together with remaining buildable lands within the UGB and other urban reserve lands throughout the region there will be sufficient development capacity to support a healthy economy.

The remaining area features predominately Goal 5-designated resources. Urban development in this area would likely be non-residential. The area could also serve employment lands. Potential exists for pedestrian and bike trail development along Coffee Lake Creek and Rock Creek.

#### Urban Reserve Factors 5 through 8

Future development of the area will need to account for the presence of significant natural features in the area, including creeks, floodplains, and wetlands. Parts of the area are in the county's mineral and aggregate overlay district and the Tonquin Geologic Area is included in Metro's Natural Features Inventory. A well-connected system of trails throughout the area can be designed to avoid or minimize potential adverse effects on adjoining natural landscape features. (WashCo Rec. 3495-3518.) Tualatin's concept plan did not designate residential use for this area due in part to the existing non-residential uses noted above. Farm and forest uses do not abut the reserve boundary and impacts to either resource are not anticipated.

*Why This Area was Designated Urban Reserve:* The natural features in this area can be protected and enhanced under the existing regulatory framework in Washington County, Sherwood and Tualatin. The 568 acres in Area 5F is located between the cities of Sherwood and Tualatin and is bordered on three sides by the existing UGB. This area includes quarry activity, Tualatin Valley Fire and Rescue training facilities and the Tualatin Valley Sportsman's Club. Capacity exists to provide land to support future business/industrial growth and will support important transportation connections. The city of Tualatin has developed general service costs estimates

and has agreed to provide governance and public facilities and services to eastern portion of this area.

### Urban Reserve 6A: Hillsboro South

*General Description:* Urban Reserve Area 6A abuts the southern edge of the City of Hillsboro and generally extends from the city limits south to Rosedale Road and from SW 209<sup>th</sup> Avenue on the east to SW River Road on the west. Area 6A covers approximately 2,007 acres. (WashCo Rec. 8845.) Urban Reserve Area 6A includes a variety of existing land uses including rural and suburban housing with connections to public water, a golf course (the Reserve Vineyards and Golf Club), landscape horticulture, greenhouse nurseries, orchards, field crops and small woodlands. Area 6A is divided north-south by Butternut Creek and its associated floodplain, the northwest corner of the area is traversed by Gordon Creek and the southeast corner of the area is traversed by Hazeldale Creek. This area is adjacent to the southeast corner of the city of Hillsboro.

*How Urban Reserve 6A Fares Under the Factors:* Urban Reserve Area 6A was included as part of a larger area in a Pre-Qualifying Concept Plan (PQCP) analyzed by the city of Hillsboro to meet long-term growth needs. This PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3110-3452.

#### Urban Reserve Factors 1 through 4

There are approximately 1,442 acres of gross buildable land on this site WashCo. Rec. 9075-9094 that can be efficiently and cost-effectively served by public facilities and services provided by the City of Hillsboro. Buildable lands within the UGB and Urban Reserve Area 8A can provide sufficient development capacity to support a healthy economy in Hillsboro and the region. The city has indicated that the lands in Area 6A can be designed to be walkable and appropriately served with a well connected system of streets, bikeways, recreation trails and public transit and can be efficiently and cost-effectively served with schools and other urban level facilities and services. The city's PQCP utilized 2040 Design Types and developed a summary of potential development capacity of the area. This summary estimates a housing capacity of over 10,200 dwelling units and an employment capacity of over 1,400 jobs. WashCo Rec. 3110.

#### Urban Reserve Factors 5 through 8

The riparian corridors and associated floodplains of Butternut, Gordon and Hazeldale Creeks can be protected and enhanced under the existing regulatory framework in Washington County and the city of Hillsboro. Buildable lands within the UGB, along with other urban reserve lands throughout the region, will provide sufficient development capacity to support a healthy economy. Future concept and community level planning can assure a site design that will preserve and enhance ecological systems. The city of Hillsboro has indicated that up to 925 acres of the South Hillsboro urban reserve area and adjoining undeveloped lands to the east may be dedicated to open space and parks and that these areas can be designed to preserve applicable

natural landscape features. Concept and community level planning in conformance with established city plan policies can establish a site design which will avoid or minimize adverse impacts on farm practices and natural landscape features in the area. WashCo Rec. 3110.

*Why This Area was Designated Urban Reserve:* A large segment of this urban reserve has been the focus of development projections and planning by the city of Hillsboro for over twenty years. In February 2008, the city of Hillsboro developed a Draft South Hillsboro Community Plan, which fully integrates a design for future development of Urban Reserve Area 6A into the surrounding area. This draft plan integrates a proposed new town center with a neighborhood centers, residential neighborhoods, a complex greenspace system (including the golf course, community and neighborhood parks, protected floodplains, wetlands and other open space) and a well-connected, multi-modal transportation system.

#### Urban Reserve 6B: Cooper Mountain Southwest

*General Description:* Urban Reserve Area 6B is located on the west-facing slopes of Cooper Mountain and is bordered by the existing UGB on the north and east, SW Scholls Ferry Road on the south and Tile Flat Road and Grabhorn Road on the west. Urban Reserve Area 6B includes approximately 1,777 acres. WashCo Rec. 8838. Urban Reserve Area 6B includes a variety of existing land uses including rural and suburban housing with connections to public water, landscape horticulture and plant nurseries, orchards, field crops, small woodlands and many areas of unmanaged vegetation. The area is characterized by a number of steep slopes and drainage ravines. This area adjoins the city of Beaverton on the east and the unincorporated Aloha area on the north.

*How Urban Reserve 6B Fares Under the Factors:* Urban Reserve Area 6B is a portion of a larger area included in a Pre-Qualifying Concept Plan (PQCP) analyzed by the city of Beaverton to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3056-3061.

#### Urban Reserve Factors 1 through 4

There are approximately 892 acres of gross buildable land in Urban Reserve Area 6B that could be developed at urban densities which is proposed to be served by the city of Beaverton. Buildable lands within the UGB and other urban reserve areas throughout the region will provide sufficient development capacity to support a healthy economy. As indicated by its pre-qualifying concept plan, the city of Beaverton has indicated that the lands in Urban Reserve Area 6B can reasonably be designed to be walkable and appropriately served with a well connected system of streets, bikeways, recreation trails and public transit and can be efficiently and cost-effectively served with schools and other urban level facilities and services. WashCo Rec. 3056-3058.

#### Urban Reserve Factors 5 through 8

Headwaters to two tributaries to the Tualatin River originate in the reserve, which are identified as local and regional Goal 5 resources. Steep slopes and public open space that will likely

constrain future development of the area. These limitations are addressed in the “Principles for Concept Planning of Urban Reserves” attached as Exhibit B to the Intergovernmental Agreement between Metro and Washington County that provides for implementation of urban and rural reserves in the county. These concept planning principles were established specifically to address concerns related to environmental impacts that could occur as a result of urbanization of the sensitive lands in Urban Reserve Area 6B. WashCo Rec. 3058-3061. Existing development standards implemented by Washington County, Clean Water Services and the city of Beaverton will provide protection and potentially require enhancement of designated significant resources.

*Why This Area was Designated Urban Reserve:* Urban Reserve Area 6B lies within a designated critical groundwater area and supports only limited commercial agricultural activities. Approximately thirty percent of the area is developed suburban home sites, is immediately adjacent to fully serviced urban development and provides opportunity to serve local market demand for housing. The city of Beaverton has agreed to provide governance and urban services to this area.

#### Urban Reserve 6C: Roy Rogers West

*General Description:* Urban Reserve Area 6C is located in the Bull Mountain area south of Scholls Ferry Road near the northwest corner of the city of Tigard. This reserve area is approximately 562 acres. Urban Reserve Area 6C includes a variety of existing land uses including rural housing, landscape horticulture, orchards, small woodlands and small scale agriculture. The southern portion of Urban Reserve Area 6C, east of Roy Rogers Road, is included in the preferred draft concept plan for the West Bull Mountain urban planning area. In order to provide appropriate transportation system links and to limit pumping of sewage and stormwater, the design relies upon expansion of the planning area to include this southern portion of Area 6C.

*How Urban Reserve 6C Fares Under the Factors:* Urban Reserve Area 6C included in Pre-Qualifying Concept Plans (PQCP) prepared by Washington County and the city of Tigard to address how the area would meet long-term growth. The area includes a portion of land that is part of the West Bull Mountain planning area. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3487-3490.

#### Urban Reserve Factors 1 through 4

There are approximately 340 acres of gross buildable land in Urban Reserve Area 6C that could be developed at urban densities and which could be efficiently and cost-effectively served by public facilities and services provided by the city of Tigard. Buildable lands within the UGB and other urban reserve lands throughout the region will provide sufficient development capacity to support a healthy economy. The city of Tigard has indicated that the lands in Urban Reserve Area 6C can reasonably be designed to be walkable and appropriately served with a well connected system of streets, bikeways, recreation trails and public transit and can be efficiently and cost-effectively served with schools and other urban level facilities and services. WashCo Rec. 3487-3489.

## Urban Reserve Factors 5 through 8

Urban Reserve Area 6C includes small scale drainage areas and forested upland wildlife habitat. This area can support a range of housing types which would be expected to develop at average densities ranging from 10 to 12 units per acre. WashCo Rec. 3489-3490. Although there are no designated significant landscape features within this urban reserve area, existing development standards implemented by Washington County, Clean Water Services and the city of Tigard will provide protection and potentially require enhancement of designated significant Goal 5 resources. The majority of Area 6C is naturally buffered from surrounding commercial agricultural activities by the broad floodplain of the Tualatin River and local tributaries or by established small woodlands.

*Why This Area was Designated Urban Reserve:* Urban Reserve Area 6C lies within a designated critical groundwater area and has very limited access to water for commercial agricultural operations. This area adjoins the West Bull Mountain Community Planning area in unincorporated Washington County and approximately 248 acres of this urban reserve area has been included in that planning study in order to provide appropriate transportation system connectivity and support the creation of a more complete community. The city of Tigard has agreed to provide governance and urban services to this area.

### Urban Reserve 6D: Beef Bend South

*General Description:* Urban Reserve Area 6D is located in the Bull Mountain area south of Beef Bend Road near the northwest corner of Tigard. This urban reserve is approximately 521 acres. Many of the taxlots within this urban reserve area are devoted to suburban housing with an average lot size of approximately 1.4 acres. The remainder of the area includes agricultural activities primarily focused on landscape horticulture, field crops and small woodlands.

*How Urban Reserve 6D Fares Under the Factors:* Urban Reserve Area 6D is included in a Pre-Qualifying Concept Plan (PQCP) analyzed by the city of King City to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3462-3464.

## Urban Reserve Factors 1 through 4

There are approximately 253 acres of gross buildable land in Urban Reserve Area 6D that could be developed at urban densities and which could be efficiently and cost-effectively served by public facilities and services provided by the city of King City. Buildable lands within the UGB and other urban reserve lands throughout the region will be sufficient development capacity to support a healthy economy. The city of King City has indicated that the lands in Urban Reserve Area 6D can reasonably be designed to be walkable and appropriately served with a well connected system of streets, bikeways, recreation trails and public transit and can be efficiently and cost-effectively served with schools and other urban level facilities and services. WashCo Rec. 3462.

## Urban Reserve Factors 5 through 8

This urban reserve includes a segment of the Tualatin River floodplain, which is included in Metro's Natural Landscape Features Inventory. The city has indicated that natural areas along the river would be protected. The Beef Bend South urban Reserve Area can support a range of housing types which would be expected to develop at average densities of approximately 10 units per acre. WashCo Rec. 3462-3463. The majority of Area 6D is buffered from surrounding commercial agricultural activities by the broad floodplain of the Tualatin River and local tributaries to the south and by Roy Rogers Road to the west. Lands to the north of Beef Bend Road are either developed or lie within Urban Reserve Area 6C.

*Why This Area was Designated Urban Reserve:* Urban Reserve Area 6D lies within a designated critical groundwater area and has very limited access to water for commercial agricultural operations. This area adjoins the western edge of the city of King City and will provide capacity to support projected housing and jobs growth in Washington County. WashCo Rec. 3602. King City has agreed to provide governance and urban services to this area.

### Urban Reserve 7A: David Hill

*General Description:* Urban Reserve Area 7A is located at the northwest corner of Forest Grove and generally extends along the northwestern edge of the UGB northeast and southwest of David Hill Road. The northeast edge of this area extends to Thatcher Road while the southwest boundary extends to Gales Creek Road. This area is approximately 340 acres. Urban Reserve Area 7A is generally characterized by rolling hillside lands containing diverse rural land uses. These uses range from small woodlands to a variety of small to moderate scale agricultural activities primarily focused on landscape horticulture. This urban reserve area was added by the Core 4 during its deliberations.

*How Urban Reserve 7A Fares Under the Factors:*

## Urban Reserve Factors 1 through 4

Due to location and general terrain, the David Hill site will be generally limited to residential use, park areas and open space. The city of Forest Grove has developed preliminary recommendations for the use of this area. There are approximately 134 buildable acres within this area. (WashCo Rec. 9276-9295.) The majority of areas with steeper slopes are recommended for clustered single family development, while areas of lesser slope are proposed as multi-family residential areas and a small area of neighborhood commercial. The David Hill area could reasonably be developed at urban densities which would efficiently utilize existing and future infrastructure investments and includes sufficient development capacity to support a healthy economy. These lands can be designed to be walkable and appropriately served with a well connected system of streets, bikeways, recreation trails and public transit and can be served with schools and other urban level facilities and services. WashCo Rec. 3089-3098.

## Urban Reserve Factors 5 through 8

The existing regulatory framework in Washington County and Forest Grove will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization of the David Hill area. The developable lands in this area can support a range of needed housing types and can be designed to avoid or minimize potential adverse effects on surrounding farms and natural landscape features. WashCo Rec. 3089-3098.

*Why This Area was Designated Urban Reserve:* The city of Forest Grove has agreed to provide governance and urban services to lands within Urban Reserve area 7A – David Hill. The buildable land within this area will provide opportunities to meet long-term housing needs in the city of Forest Grove. WashCo Rec. 3089-3090.

### Urban Reserve 7B: Forest Grove North

*General Description:* Urban Reserve Area 7B is located along the northern edge of Forest Grove and generally extends from the existing UGB north to Purdin Road between Highway 47 on the east and Thatcher Road on the west. This area is approximately 508 acres.

*How Urban Reserve 7B Fares Under the Factors:* Urban Reserve Area 7B is a small portion of a Pre-Qualified Concept Plan (PQCP) area analyzed by the city of Forest Grove to meet long-term growth needs. This PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3089-3098.

## Urban Reserve Factors 1 through 4

Urban Reserve Area 7B contains approximately 508 acres. Roughly 374 acres are considered buildable with few constraints. (WashCo Rec. 9276-9295.) This area can reasonably be developed at urban densities that would efficiently utilize existing and future infrastructure investments. Buildable lands within the UGB and other urban reserve areas in the region include sufficient development capacity to support a healthy economy. The city of Forest Grove has recommended a variety of uses for this area, including Industrial, Office, Residential, Mixed-Use and Agricultural Services. The city has also indicated that these lands can be designed to be walkable and appropriately served with a well connected system of streets, bikeways, recreation trails and public transit and can be efficiently and cost-effectively served with schools and other urban level facilities and services. WashCo Rec. 3089-3098.

## Urban Reserve Factors 5 through 8

The existing regulatory framework in Washington County and Forest Grove will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization of the Forest Grove North area. The developable lands in this area can support a range of needed housing types and can be designed to avoid or minimize potential adverse effects on surrounding farms and adjoining natural landscape features. WashCo Rec. 3089-3102.

*Why This Area was Designated Urban Reserve:* Urban Reserve Area 7B will add needed jobs and housing capacity to support the employment continuing growth in Washington County. This area was derived from a much larger proposed urban reserve within a PQCP developed by the city of Forest Grove. The larger PQCP area was over 3,100 acres and was designed to meet long-term growth needs for the city of Forest Grove through the year 2060. The city of Forest Grove has agreed to provide governance and needed urban services to this urban reserve area.

#### Urban Reserve 7C: Cornelius East

*General Description:* Urban Reserve Area 7C is located along the eastern edge of the city of Cornelius and generally extends north of Tualatin Valley Highway to the north and east to the floodplains of Council Creek and Dairy Creek. This area also includes a 6.5-acre parcel of land adjoining the eastern limits of the city of Cornelius south of Tualatin Valley Highway between the highway and Southern Pacific Railroad line. Urban Reserve Area 7C is approximately 137 acres. The area supports approximately 96 detached single family homes and a small number of commercial activities.

*How Urban Reserve 7C Fares Under the Factors:* Urban Reserve Area 7C is a small portion of a Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Cornelius to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3071-3075.

#### Urban Reserve Factors 1 through 4

This urban reserve contains approximately 118 acres of buildable land together with a variety of infill and redevelopment opportunity sites. This area could reasonably be developed at urban densities which would efficiently utilize existing and future infrastructure investments. Buildable lands within the UGB, along with other urban reserve lands within the region provide sufficient development capacity to support a healthy economy. The city of Cornelius has indicated that these lands can be designed to be walkable and appropriately served with a well-connected system of streets, bikeways, recreation trails and public transit and can be efficiently and cost-effectively served with schools and other urban level facilities and services. WashCo Rec. 3071-3072.

#### Urban Reserve Factors 5 through 8

The existing regulatory framework in Washington County and the city of Cornelius will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization of Urban Reserve Area 7C. Although a significant portion of this area currently supports low-density single family development, the remaining vacant buildable lands, along with redevelopment and infill lands will provide sufficient land to support a range of needed housing types. This area can be designed to avoid or minimize potential adverse effects on surrounding farms and adjoining natural landscape features. The broad floodplains of Council Creek and Dairy Creek provide effective buffers between urban and rural uses in the area. WashCo Rec. 3072-3075.

*Why This Area was Designated Urban Reserve:* Urban Reserve Area 7C will add needed housing capacity to support continuing employment growth in Washington County. The city has indicated a need to include approximately 40 acres of this urban reserve in a 2010 UGB expansion designed to meet short term growth needs. The established land use pattern in the area is suburban residential and the area is isolated from surrounding large block agricultural lands by the broad floodplains of Council Creek and Dairy Creek, which will buffer urban development from surrounding commercial agricultural operations. Lands south of Tualatin Valley Highway are separated from surrounding farm and forest lands by the Southern Pacific Railroad line approximately 600 ft. south of the highway. The city of Cornelius has agreed to provide governance and all needed urban services to this area.

#### Urban Reserve 7D: Cornelius South

*General Description:* Urban Reserve Area 7D is located at the southeastern corner of Cornelius between the existing city limits and the Tualatin River floodplain on the west and SW 345<sup>th</sup> Avenue on the east. The urban reserve is approximately 211 acres.

*How Urban Reserve 7D Fares Under the Factors:* Urban Reserve Area 7D is a small portion of a Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Cornelius to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3071-3075.

#### Urban Reserve Factors 1 through 4

Urban Reserve Area 7D contains approximately 173 acres of buildable land with few development constraints. WashCo Rec. 9276-9295. This area could reasonably be developed at urban densities which would efficiently utilize existing and future infrastructure investments. Buildable lands within the UGB along with other urban reserve lands within the region provide sufficient development capacity to support a healthy economy. The city of Cornelius has indicated through its PQCP for the area that these lands can be designed to be walkable and appropriately served with a well-connected system of streets, bikeways, recreation trails and public transit and can be efficiently and cost-effectively served with schools and other urban level facilities and services. WashCo Rec. 3071-3072.

#### Urban Reserve Factors 5 through 8

The existing regulatory framework in Washington County and Cornelius will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization of the urban reserve. The developable lands in this area can support a range of needed housing types and can be designed to avoid or minimize potential adverse effects on surrounding farms and adjoining natural landscape features. WashCo Rec. 3072-3075.

*Why This Area was Designated Urban Reserve:* This urban reserve area will add needed housing capacity to support continuing growth in Washington County. The relatively large parcels of undeveloped land will support the larger scale development projects that can make the most

efficient and cost effective use of public facilities and services. The city of Cornelius has agreed to provide governance and needed urban services to this area. This area includes a 41-acre parcel owned by the Hillsboro School District, which has indicated a need to develop a new high school on this site within the next three to five years.

#### Urban Reserve 7E: Forest Grove South

*General Description:* Urban Reserve Area 7E is located along the southeastern edge of the city of Forest Grove adjoining the southern edge of the UGB south of Highway 47 at the southern terminus of Elm Street. The northwest border of the urban reserve follows the existing Forest Grove city boundary while the remaining borders of the area are defined by the 100 year floodplain of the Tualatin River. This area includes portions of two tax lots covering approximately 38 acres of those lots lying outside of the 100 year floodplain. This area is generally characterized by relatively flat agricultural lands. The city of Forest Grove prepared a pre-qualifying concept plan for this area to address how it met the urban reserve factors.

*How Urban Reserve 7E Fares Under the Factors:* Urban Reserve Area 7E is a small portion of a Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Forest Grove to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3089-3102.

#### Urban Reserve Factors 1 through 4

Forest Grove's PQCP indicated that this site will likely be committed to industrial use due to its limited size, relative isolation and existing industrial uses in the immediate area. The urban reserve could be developed at urban industrial densities which would efficiently utilize existing and future infrastructure investments. The site is within close proximity to the Pacific & Western rail line and has access to Highway 47.

#### Urban Reserve Factors 5 through 8

The existing regulatory framework in Washington County and Forest Grove will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization of this urban reserve area. The developable lands in the area can be designed to avoid or minimize potential adverse effects on surrounding farms and natural landscape features.

*Why This Area was Designated Urban Reserve:* The city of Forest Grove has agreed to provide governance and urban services to lands within this urban reserve. There are approximately 36 acres of buildable land within this area that will provide opportunities to support jobs growth in the city of Forest Grove.

#### Urban Reserve 7I: Cornelius North

*General Description:* Urban Reserve Area 7I is located along the northern edge of the city of Cornelius and generally extends north of Council Creek, north and east to Long Road and the

floodplain of Dairy Creek. The western border is Cornelius-Schefflin Road. Area 7I includes approximately 624 acres.

*How Urban Reserve 7I Fares Under the Factors:* Urban Reserve Area 7I is a portion of a Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Cornelius to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3071-3075.

#### Urban Reserve Factors 1 through 4

The urban reserve contains approximately 470 acres of buildable land with limited development constraints. WashCo Rec. 9276-9295. This area could reasonably be developed at urban densities which would efficiently utilize existing and future infrastructure investments. Buildable lands within the UGB and other urban reserve lands within the region provide sufficient development capacity to support a healthy economy. The city of Cornelius has prepared a pre-qualifying concept plan, which indicated that these lands can be designed to be walkable and appropriately served with a well connected system of streets, bikeways, recreation trails and public transit and can be efficiently and cost-effectively served with schools and other urban level facilities and services. WashCo Rec. 3071-3072.

#### Urban Reserve Factors 5 through 8

The existing regulatory framework in Washington County and Cornelius will preserve and support enhancement of natural ecological systems potentially impacted by future urbanization of the urban reserve. The concept plan map shows a mix of inner neighborhood and industrial uses for the reserve area, consistent with the county's suitability analysis, with buffers along Council Creek and its tributaries and open space adjacent to Dairy Creek. The developable lands in this area can support a range of needed housing types and can be designed to avoid or minimize potential adverse effects on surrounding farms and adjoining natural landscape features. WashCo Rec. 3074.

*Why This Area was Designated Urban Reserve:* This urban reserve will add needed jobs and housing capacity to support the continuing growth in Washington County. Approximately 178 acres of this area (~28% of total land in Urban Reserve Area 7I) has been recommended by Cornelius for UGB expansion in 2010. This area can help support Metro recommendation for roughly 3,000 acres of land suitable for large-parcel industrial use, which provides capacity for specific industrial uses such as the existing high-tech industrial sector. WashCo Rec. 3067. Cornelius has indicated a need for approximately 150 acres of industrial land. The relatively large parcels of undeveloped land in this urban reserve can support the larger scale developments that facilitate efficient and cost-effective provision of public facilities and services. These parcels would accommodate the establishment of a large industrial site of approximately 100 acres. The city of Cornelius has agreed to provide governance and needed urban services to this area.

## Urban Reserve 8A: Hillsboro North

*General Description:* Urban Reserve Area 8A is located along the northwest edge of the city of Hillsboro and generally extends from the city limits/UGB north to Sunset Highway and west from NW Shute Road to the eastern edge of the 100 year floodplain of McKay Creek. The urban reserve also contains Waibel Creek, which runs north-south, with the northern portion featuring Storey Creek, which runs east-west. This area is situated northwest of existing industrial and employment lands north of Hillsboro, is adjacent to the Hillsboro Airport and totals approximately 2,712 acres in size.

### How Urban Reserve 8A Fares Under the Factors

Urban Reserve Area 8A is a portion of a larger Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Hillsboro to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3113-3137.

### Urban Reserve Factors 1 through 4

There are approximately 2,265 acres of buildable land on this site that could be developed at urban densities which could be efficiently and cost-effectively served by public facilities and services provided by the city of Hillsboro. WashCo Rec. 3117-3137. Buildable lands within the UGB and other urban reserve lands in the region will provide sufficient development capacity to support a healthy economy. Hillsboro prepared a pre-qualifying concept plan which identified how the industrial areas within this urban reserve can be designed to include pedestrian facilities along with an appropriate system of well-connected streets, bikeways, recreation trails and public transit service.

### Urban Reserve Factors 5 through 8

The natural ecological systems within Waibel and Storey Creeks and their associated floodplains on this site will be protected and enhanced under the existing regulatory framework in Washington County and Hillsboro. Both concept and community level planning can assure a site design that will preserve and enhance ecological systems. This urban reserve area can be designed to preserve natural landscape features. Concept and community level planning in conformance with established city plan policies can establish a site design which will minimize adverse impacts on farm practices and natural landscape features in the area. WashCo Rec. 3133-3137.

*Why This Area was Designated Urban Reserve:* Urban Reserve Area 8A was specifically selected for its key location along the Sunset Highway and north of existing employment land in Hillsboro and also because of the identified need for large-lot industrial sites in this region. WashCo Rec. 3124-3128. This area's pattern of relatively large parcels can help support the Metro recommendation for roughly 3,000 acres of large-parcel areas which provide capacity for emerging light industrial high-tech or biotech firms such as Solarworld and Genentech.

Transportation needs for this sector and other development in the reserve can be met by Highway 26, which provides a high-capacity transit link to other areas of the region. Additionally, industrial development in this area will be proximate to existing and future labor pools residing in Hillsboro and nearby cities. These lands will also provide opportunities to attract new industries which would help diversify and balance the local and regional economy.

#### Urban Reserve 8B: Shute Road Interchange

*General Description:* Urban Reserve Area 8B is located at the northwest quadrant of the intersection of Sunset Highway and NW Shute Road. This site totals approximately 88 acres and includes land within the 100 year floodplain of Waibel Creek. The existing UGB and the corporate limits of Hillsboro run along the eastern border of the site, while the southern boundary runs along Sunset Highway and is contiguous to Urban Reserve Area 8A. Lands to the north and west of the site are agricultural lands.

*How Urban Reserve 8B Fares Under the Factors:* Urban Reserve Area 8B is a small portion of a Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Hillsboro to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3113-3137.

#### Urban Reserve Factors 1 through 4

There are approximately 60 acres of buildable land within this urban reserve that could be developed at urban densities and served efficiently and cost-effectively by public facilities and services provided by the City of Hillsboro. Buildable lands within the UGB along with other urban reserve lands throughout the region will provide sufficient development capacity to support a healthy economy. In conjunction with existing urban lands to the east, this area could be designed to be walkable and to include pedestrian facilities along with a well-connected system of streets, bikeways, recreation trails and public transit service. WashCo Rec. 3132.

#### Urban Reserve Factors 5 through 8

The natural ecological systems within the tributary of Waibel Creek and its associated floodplain on this site will be protected and potentially enhanced under the existing regulatory framework in Washington County and Hillsboro. Both concept and community level planning can assure a site design that will preserve and enhance ecological systems. Independent of other urban reserve lands in the region, this site is of adequate size to support a mix of housing types and, following a detailed community planning process, could be developed in a way that preserves applicable natural landscape features. Concept and community level planning in conformance with established city plan policies can establish a site design which will minimize adverse impacts on farm practices and natural landscape features in the area. Adjoining lands are not designated rural reserves.

*Why This Area was Designated Urban Reserve:* Urban Reserve Area 8B sits at the northwest corner of a major highway interchange which has recently received funding commitments for

significant improvements. This interchange is located at the northwestern edge of a very large technology-based industrial area. This site will provide flexibility in planning for needed interchange improvements as well as other infrastructure needs (e.g. sewer and stormwater management) for developing urban lands to the east.

### Urban Reserve 8C - Bethany West

Note: Urban Reserve Area 8C is comprised of 2 separate collections of parcels which are further identified as: *Urban Reserve Area 8C- Bethany West / PCC Rock Creek*; and *Urban Reserve Area 8C- Bethany West / West Union* – separate findings and conclusions for these subareas are provided below.

### Study Area 8C – Bethany West / PCC Rock Creek

*General Description:* Including the Peterkort site, the PCC Rock Creek portion of Study Area 8C is approximately 173 acres in size. This land is located near the intersection of NW Springville Rd. and NW 185<sup>th</sup> Avenue at the northern end of the PCC Rock Creek Campus. This area abuts the current UGB along its eastern and southern boundaries.

One of the Metro conditions for the ordinance that brought North Bethany into the UGB called for the county to “recommend appropriate long-range boundaries for consideration by the Council in future expansions of the UGB or designation of urban reserves.” Additional urban land to the immediate west of the North Bethany Community Planning Area is necessary for the provision of sanitary sewer and storm drainage and to assist in the funding for a primary road link to SW 185<sup>th</sup> Avenue.

Following the directives of the Board of County Commissioners at its May 25, 2010 public hearing on Ordinance No. 733, the Peterkort site was included within this Urban Reserve subarea. In order to address a number of concerns raised in relation to the wetlands and floodplains on the Peterkort site as well as within the "West Union" portion of Urban Reserve Area 8C, a Special Concept Plan Area overlay was added to Ordinance No. 733 (Special Concept Plan Area C). This special plan overlay requires application of the “Integrating Habitats” approach to planning and development of these lands. Independent findings for inclusion of the Peterkort site are provided above under **Section B** of these findings. Additional information relating to the Peterkort site is included in the record on pages 8533 to 8540.

*How Urban Reserve 8C Fares Under the Factors:* Note that this urban reserve area is included as an important element of the North Bethany Community Planning area. See associated findings related to the Peterkort site under **Section B** of these findings. This section of Urban Reserve Area 8C is a small portion of a Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Beaverton to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3062.

#### Urban Reserve Factors 1 through 4

Together with the West Union portion of this area, approximately 141 acres of this reserve area is considered buildable land with few development constraints. Ref Record p.) The land is reasonably flat and contains a portion of Rock Creek and its associated floodplain. The established regulatory framework in Washington County will protect and potentially require buffers from and enhancement to this important landscape feature.

This area will support extension and/or expansion of public facilities (e.g. sewer and storm drainage) from adjoining urban areas, especially the new North Bethany community. Urban services are currently being provided to lands immediately east and south of this area. Although constrained by floodplain and related buffers, developable portions of this area can be connected to surrounding trails and roadways within the North Bethany community. Public transit currently serves adjacent lands to the south. The developable portions of this area \, together with other urban reserves and lands already inside the UGB, provide sufficient development capacity to support a healthy economy.

#### Urban Reserve Factors 5 through 8

The natural ecological systems within the segments of Rock Creek and associated floodplain on this site will be protected and potentially enhanced under the existing regulatory framework in Washington County, as well as through the application of Special Concept Plan Area requirements. These requirements state that future concept and community planning of the area must take into account Metro's "Integrating Habitats" program to ensure that future development protects natural features. Lands on this site can provide stormwater management, wetlands mitigation and provide public facility links to support housing and related urban development in adjoining urban areas.

Concept and community planning of the developable portion of Urban Reserve Area 8C would be considered as part of the North Bethany development scheme. The area would be planned as one of a series of walkable neighborhoods oriented around parks and mixed use areas and would be designated to provide a variety of housing types. Incorporating the "Integrating Habitats" program as required by Special Concept Plan Area C language (WashCo Rec. 9044-9046) into the planning for this area will ensure the preservation of landscape features. As in the North Bethany planning process, impacts to farm uses in the adjoining rural area will be considered and mitigated.

*Why This Area was Designated Urban Reserve:* This urban reserve will support critical infrastructure links to the North Bethany Community planning area located immediately east of this site. These lands will also support required connections to primary transportation, sewer and stormwater facilities, as well as key opportunities for wetlands mitigation on currently degraded wetlands along Rock Creek. A final financing plan for North Bethany did not include funding projections from the lands within Urban Reserve Area C; however, a new neighborhood could provide the opportunity for additional funding to support the provision of infrastructure such as Road A.

### Urban Reserve 8C: Bethany West / West Union:

*General Description:* The West Union segment of this urban reserve is located within the northwestern quadrant of the intersection between NW West Union Road and NW 185<sup>th</sup> Avenue. This site is approximately 132 acres and includes home sites and a small commercial site at the intersection of NW 185<sup>th</sup> Avenue and NW West Union Road. This site is bordered on the east and south by the UGB and to the north and west by Rock Creek. Approximately 28 % of this site lies within the 100 year floodplain of Rock Creek.

*How Urban Reserve 8C Fares Under the Factors:* This portion of Urban Reserve Area 8C is a small area included in a larger Pre-Qualifying Concept Plan (PQCP) area analyzed by the city of Beaverton to meet long-term growth needs. The PQCP analysis included a detailed review of the initial planning area and provided findings demonstrating conformance with the "Factors for Designation of Lands as Urban Reserves" under OAR 660-027-0050. WashCo Rec. 3062.

#### Urban Reserve Factors 1 through 4

Together with the PCC Rock Creek portion of this area, there are approximately 141 acres of buildable land in this urban reserve that could be developed at urban densities which could be efficiently and cost-effectively served by public facilities and services. WashCo Rec. 3062. This site could also support the extension of services designed to improve the efficiency of service to surrounding urban lands. Buildable lands within the UGB along with other urban reserve lands throughout the region will provide sufficient development capacity to support a healthy economy. Development in the surrounding area includes pedestrian facilities along with a well-connected system of streets, bikeways, recreation trails and public transit service. The pre-qualifying concept plan submitted by city of Beaverton indicates that the site can be reasonably linked to these facilities and services.

#### Urban Reserve Factors 5 through 8

The natural ecological systems within the segments of Rock Creek and associated floodplain on this site will be protected and potentially enhanced under the existing regulatory framework in Washington County. Both concept and community level planning can assure a site design that will preserve and enhance ecological systems. Independent of other urban reserve lands in the region, this site is of adequate size to support a broad mix of housing types and, following a detailed community planning process, could be developed in a way that preserves adjoining natural landscape features. Rock Creek and its associated broad floodplain (averaging over 800 feet in width at this location) provides an excellent buffer between the potential urbanization of this site and surrounding rural reserve lands. Concept and community level planning in conformance with established county plan policies can establish a site design which will avoid or minimize adverse impacts on farm practices and natural landscape features in the area.

*Why This Area was Designated Urban Reserve:* The West Union segment of this urban reserve is located at the intersection of two major urban arterials (NW West Union Road and NW 185<sup>th</sup> Avenue) and is physically isolated from surrounding rural resource lands by Rock Creek and its floodplain. This site provides opportunity to extend and expand gravity flow sewer service as

well as large scale stormwater management facilities to this site as well as the North Bethany community planning area located to the northeast.

### **C. Washington County: Rural Reserves**

#### 1. Introduction

The following general comments are applicable to the specific subarea findings below:

#### Undesignated Area

Undesignated areas appeared under two different scenarios in the final recommendations contained in the September 23, 2009 staff report. Area around Banks and North Plains were left undesignated to provide the opportunity for each city to undergo UGB management and urban reserves planning under Oregon Administrative Rule 660-021. It is the county's expectation that such planning will result in application of urban reserve designations in appropriate locations and quantities within these currently undesignated areas. WashCo Rec. 9044-9046.

The other type of undesignated area was derived from the iterative GIS analysis that resulted in a rural reserve suitability determination for lands outside the UGB. These undesignated areas were shown on Map 36 in the appendix to the September 23, 2009 staff report. WashCo Rec. 3033. These areas did not qualify as a rural or urban reserve under the applicable factors. During Core 4 deliberations from October 2009 to February 2010, many previously undesignated areas were folded into adjacent rural reserves with the exception of the areas around North Plains and Banks and five undesignated areas adjacent to either a proposed urban reserve or the existing UGB. Technical map amendments adopted June 15 by the Board of Commissioners adjusting the total acreage of urban and rural reserve areas for the purposes of correcting mapping errors, "parcel shifts" when digital map layers are updated, and right-of-way adjustments to reserves boundaries. These adjustments increased the net amount of undesignated area outside the UGB by approximately 105 acres, primarily through the right-of-way adjustments. In addition, the Core 4 left some areas as undesignated for future consideration – these include North of Sunset Hwy near Urban Reserve Area 8B near Roy Rogers Road.

#### Subject to urbanization-OAR 660-027-0060(2)(a);(3)(a)

Staff divided the subject to urbanization factor into three classifications: high, medium, and low. These three classifications were applied to the 41 sub-areas in the rural reserve study area. Areas considered highly subject to urbanization were the initial areas of interest by cities. Medium subject to urbanization areas began from the outer edge of the city interest areas and included areas where potential urbanization over the reserves 50-year timeframe was possible. Low subject to urbanization areas were those areas in the study area beyond the medium subject areas, where urbanization potential was least likely. WashCo Rec. 3969. Fair market value was evaluated through a number of analytical iterations, yet staff found the application of "fair market value" independent of other indicators did not provide a conclusive indication of lands that may be subject to urbanization. WashCo Rec. 2972.

#### Safe Harbor factor- OAR 660-027-0060(4)

This factor [OAR 660-027-0060(4)] allows for a county to "deem that Foundation Agricultural Lands or Important Agricultural Lands within three miles of a UGB qualify for designation as rural reserves under section (2) without further explanation under OAR 660-027-0040(10)." Staff was compelled to conduct a more rigorous analysis of county agricultural land given the broad application of foundation farmland to the county study area. Staff did not use the three mile "safe harbor" factor as it would not reasonably capture the extent of analysis staff conducted to arrive at rural reserve recommendations. This factor is therefore not applicable to the rural reserve area findings and is not addressed therein.

#### Agricultural and Forestry Considerations - OAR 660-027-0060(2)

Agricultural and forestry considerations were applied to the above rule separately when considering which areas were most suitable as rural reserves. The study area was classified into 41 sub-areas included in four tiers. Tier 1 areas ranked as the highest priority for rural reserves based on either agricultural, forestry, or natural landscape feature considerations. A composite map for all Tier 1 areas resulted in the final map noting those areas most suitable for rural reserves. WashCo Rec. 3024.

The map results from the ODA analysis are limited to a total of three classifications in the 2007 Agricultural Lands Inventory: Foundation, Important, and Conflicted lands. The overwhelming majority of the acreage in Washington County was considered foundation land; this designation was broadly applied and made no further distinction among those agricultural areas. (As an example, the entirety of Hagg Lake and relatively large blocks of forestland were classified as foundation land.) To better apply the rural reserve factors found under OAR 660-027-0060, staff believed a more intensive agricultural analysis was important to the rural reserve designation process. Components of this analysis included parcelization, dwelling density, potential crop productivity based on successive agricultural inputs, and possession of a water right or inclusion within the Tualatin Valley Irrigation District. WashCo Rec. 2971-2980.

Staff asked both the Department of Agriculture and the county Farm Bureau for quantitative information that would help us better address Factor (2)(d), which calls for a consideration of the sufficiency of agricultural infrastructure in the rural area. A quantitative response specific to agricultural infrastructure was not provided by the ODA or Farm Bureau. This factor is briefly addressed in the findings below. Generally, staff could not find quantitative information that established a threshold for continued viability of agricultural suppliers when considering this factor relative to a 'tipping point' when considering this factor and the associated loss of farm acreage.

To map forestlands, staff used the Oregon Department of Forestry's (ODF) Wildland Forest Inventory mapping data from 2008. This data more accurately assessed on-the-ground conditions relative to forest lands by including eight separate land use categories. ODF recommended larger blocks of forested land in the outer edges of the study area for protection. Cite. These areas (Wildland Forest) were included as Tier 1 candidates for rural reserve recommendation. The ODF inventory states that *Wildland Forest* areas need to be protected in order to sustain long-

term forestry operations for forest land.<sup>7</sup> Tier ranking determinations for forestry were facilitated by this greater level of detail.

#### Natural Features Considerations - OAR 660-027-0060(3)

Natural feature considerations were applied to the above rule separately from agricultural and forestry considerations. Tier 1 areas for natural landscape features ranked as the highest priority for rural reserves. A composite map for Tier 1 forestry, agriculture, and natural feature areas resulted in a final map noting the areas most suitable for rural reserve designation. WashCo Rec. 3024.

Metro's Natural Landscape Features map formed the basis of staff's natural landscape features analyses. This map included county floodplains as well as the Hagg Lake watershed and natural areas such as the Tonquin Scablands, Killen Wetlands, and Wapato Lake. WashCo Rec. 3028. Staff additionally considered the county's Goal 5 Significant Natural Resource inventory as suitable for rural reserve designation. This includes areas protected for floodplain, riparian corridor, and/or wildlife habitat value. Areas with slopes over 25% were also included as pertinent information in determining rural reserve designation under this factor given constraints on urban development in these areas. Finally, a criterion that included a "sense of place" [factor (3)(e)] was met by including all areas above 350 feet in elevation as suitable for rural reserve designation in addition to those natural areas that might shape and define a regional identity perspective. Limiting urban development above 350 foot elevation level helps provide a sense of place by preserving viewpoints and minimizing residential density. The composite map for the above features revealed a reserves map that included all areas of the Chehalem Mountains as suitable for rural reserve designation.

## 2. Rural Reserve Descriptions

### Rural Reserve 5C: East Chehalem Mountains

*General Description:* This 15,152 acre reserve area has a similar land use pattern as reserve 6E, with larger agricultural lots on the valley floor and smaller parcels in the Chehalems. The Tualatin River flows through the northern portion of the reserve. The larger sub-basins that flow into the Tualatin include Heaton Creek, Baker Creek, and Chicken Creek. Key natural landscape features include the river and the Tualatin River National Wildlife Refuge. Scholls Ferry and Scholls Sherwood Roads are the primary arterials.

Urban Reserve Area 5A (Sherwood North - 123 acres) is located on the rural reserve's northern border, while Urban Reserve Area 5B (Sherwood West - 1,280 acres) occurs on the east border of the reserve and Urban Reserve Areas 6D (Beef Bend South - 519 acres) and 6C (Roy Rogers West - 557 acres) are located on the north border. An undesignated area of approximately 199 acres is located immediately west of SW Roy Rogers Road. The area was initially included in a rural reserve but was changed to undesignated during Core 4 deliberations from February 8, 2010, to the date of the IGA adoption between the county and Metro on February 25, 2010. Land

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<sup>7</sup> As described in *Forests, Farms and People: Land Use Changes on Non-Federal Land in Western Oregon, 1973-2000*, Oregon Department of Forestry, May, 2002.

originally recommended as undesignated between Mountain Home and Scholls-Sherwood Roads was added to the rural reserve recommendations based on public input and discussion among the county planning directors, elected officials, and the Core 4.

Rural Reserve Area 5C best qualifies as a rural reserve through agricultural factors and natural features factors.

#### Findings: Designation of Lands as Rural Reserves

Factor (2)(a) is addressed under the *general comments* section in the rural reserves introduction.

#### Agricultural Considerations Under Factor (2)(b-d)

A portion of this reserve area was identified as Tier 1 suitability for agriculture in the September 23, 2009, staff report. The Tier 1 area correlates roughly to the Tualatin River floodplain south to Scholl's-Sherwood Road, extending east to Roy Rogers Road. Proposed urban reserves immediately west of Sherwood and King City were ranked as Tier 3 areas for agriculture based on degree of parcelization and proximity to urban areas.

Capability for agricultural operations was determined by an evaluation of existing agricultural uses, soil class, and availability of water. Approximately one third of the reserve area is located within the Chehalem Mountains. Class II and Class III soils are the dominant soil classes with pockets of Class IV soils immediately adjacent to the river. Additional Class IV (and Class VI) soils occur in the Chehalems in those areas noted as Tier 3 or Tier 4 in the county's agricultural analysis. The most capable area for agricultural operations is within the Tualatin River's floodplain. The larger farm operations (greater than 35 acres) in this reserve are located within a half-mile to three-quarters of a mile of the river, generally between Scholls-Sherwood Road and Scholls Ferry Road.

The Tualatin floodplain in this reserve area is the southern limit of the TVID. TVID boundaries and existing water rights were mapped to help define agricultural infrastructure. Numerous water rights exist within the floodplain. WashCo Rec. 3015. Scattered rights to groundwater and surface water also occur in the foothills. Availability of water was an important consideration in staff's analysis of capable farm areas given assumptions of climate change impacts and expected limitations to in-stream flow over the reserves timeframe.

The area of existing large lot agricultural use is likewise most suitable for long-term agricultural operations due to existing use patterns and the degree of parcelization elsewhere within the reserve. Most of the lots in the southern portion of this reserve (the Chehalems) are less than 15 acres, resulting in a greater degree of parcelization than elsewhere. Residential density in this area of the Chehalems is greater relative to the Chehalem area in adjacent Rural Reserve Area 6E to the west.

#### Forestry Considerations Under Factor (2)(b-d)

Based on aerial photos, forested areas in this reserve occur primarily along the Tualatin River riparian corridor and in the riparian areas of the river's tributaries. A number of smaller

residential parcels are timbered. Commercial, large-scale forestry operations do not occur in this reserve.

Land designated by ODF as *Wildland Forest* occurs on either side of Highway 219 near the Yamhill County line. Areas designated as *Wildland Forest* were included as Tier 1 areas suitable for rural reserve based on the department's analysis. Most of the mountain is in contiguous timber and is either in small-woodlot cultivation or unmanaged forest use. Future commercial forestry operations may be constrained due to existing parcelization of the area, steepness of the topography, and existing and future transportation limitations.

#### Natural Landscape Feature Considerations Under Factor (3)(a-h)

Factor (3)(a) is addressed under the *general comments* section of the rural reserves introduction.

The Tualatin River and the Chehalem Mountains are prominent natural features in this proposed reserve. The river's floodplain serves important hydrological functions related to flood water retention and discharge and additionally serves important biologic functions such as its use as a wildlife dispersal corridor and provision of critical habitat for anadromous fish. The Chehalem Mountains provide upland habitat and have the potential as a wildlife corridor for east-west dispersal. Both features are significant identifiers for a sense of place at a local and regional level.

The river's floodplain can also function as a buffer between the mixed farm and residential use found in the Chehalems and the transition to urban uses north of the river.

Several units of the Tualatin River National Wildlife Refuge form an effective natural buffer between resource lands and the cities of Sherwood, King City and Tualatin. The refuge also provides a regional sense of place by providing natural habitat features in close proximity to urban areas.

Consideration was given to provision of recreational access to natural features in the area. A segment of the trail alignment for the proposed Tonquin Trail connecting Sherwood, Wilsonville, and Tualatin borders the 88-acre section of the reserve to the northeast. Changes are not anticipated to the transportation system that would limit existing or future access to recreational opportunities.

#### Rural Reserve 5I: Parrett Mountain

*General Description:* This reserve consists of approximately 1,922 acres centered around Parrett Mountain and 88 acres east of Baker Road in the Tonquin Scablands area. The Parrett Mountain area is west of Baker and Tooze Roads and bounded by Highway 99W east to the county boundary at SE Ladd Hill Road. Parrett Mountain Road divides the topography of the area with most of the parcels north of the road in forest use and parcels south of the road in agricultural and residential use. Proposed urban reserve area 5D (539 acres) is on the north border of the reserve. Rural reserve area (in Clackamas County) is located south and west of the smaller Tonquin area of the reserve. Immediately east of this unit is the city of Tualatin and north is Urban Reserve Area 5F (568 acres). The area best qualifies as a rural reserve through forestry and natural features factors.

Cedar Creek and its tributaries are the predominant natural landscape features in addition to Parrett Mountain.

#### Findings: Designation of Lands as Rural Reserves

##### Agricultural Considerations Under Factor (2)

Factor (2)(a) is addressed under the *general comments* section in the rural reserves introduction.

##### Agricultural Considerations Under Factor (2)(b-d)

This rural reserve area was ranked at Tier 4 (lowest ranking) for agriculture in staff's analysis. The area was mapped as conflicted land in the Oregon Department of Agriculture's (ODA) agricultural inventory. The west unit of this reserve area consists primarily of the uplands of Parrett Mountain and is unsuitable for agricultural operations due to topography and lack of prime soils. Exceptions exist south of Parrett Mountain Road, which is relatively flat and is capable of sustaining long-term agriculture, and north of Parrett Mountain adjacent to Highway 99. Both areas are primarily residential or in limited farm use.

The east unit of the reserve consists primarily of Coffee Lake and is unsuitable for agricultural use.

##### Forestry Considerations Under Factor (2)(b-d)

Forest cover is generally limited to the undeveloped areas of Parrett Mountain. Some forest cover occurs within the riparian corridor of Cedar Creek adjacent to Highway 99 and in isolated pockets between Cedar Creek and the north slope of the mountain. Commercial forestry operations are not present and the area does not appear to be in active woodlot management, based on aerial photos. However, the area is capable of sustaining forestry based on soil type and the existing forest cover. Moderate-sized forestry operations and small woodlot management is possible.

The ODF forest inventory includes much of Parrett Mountain as *Wildland Forest* with the exception of an existing subdivision centered on either side of Labrousse Road. South of Parrett Mountain Road the map shows the area as *Mixed Forest & Agriculture*. The *Wildland Forest* section of Parrett Mountain was ranked as a Tier1 area in staff's analysis given the *Wildland Forest* designation.

##### Natural Landscape Feature Considerations Under Factor (3)(a-h)

Factor (3)(a) is addressed under 'general comments' in the rural reserves introduction.

Areas included on Metro's Natural Features Inventory area were included as Tier 1 areas for rural reserve designation in staff's analysis. This includes the 88 acres in the Tonquin Scablands area. The Parrett Mountain area was also included as a Tier 1 consideration given the regional sense of place that is found in the area. Parrett Mountain likely contains suitable habitat for wildlife, including big game cover, and also provides a buffer between the city of Sherwood and rural areas south of the mountain.

Consideration was given to provision of recreational access and no changes are expected to the transportation system that would limit any existing access to recreational opportunities.

#### Rural Reserve 6E: Central Chehalem Mountains

*General Description:* This 25,381-acre rural reserve is almost evenly divided by the Tualatin River, which is a key natural feature of the reserve. The Chehalem Mountains are also a prominent natural feature. The north half of this reserve area is typified by farm parcels adjacent to and north of the river. South of the river and Highway 219, the lots are smaller and uses are more varied, including residential use, nursery use, and small farm and forest use parcels. The Chehalem foothills start in this southern half and extend south-southwest to the county line. The upper drainages in the Chehalems feed into the McFee Creek basin. The reserve area is divided by several arterials, including Highway 219, Farmington Road, and River Road. Proposed urban area 6B (Cooper Mountain Southwest) abuts the northeast corner of the reserve and Urban Reserve area 6A (Hillsboro South) is located northeast of the junction of Rosedale and River Roads.

Two undesignated areas are located on the north boundary. One area of approximately 358 acres is located between the Tualatin River and Minter Bridge Road south of the Hillsboro city limits. The area has remained undesignated throughout the reserves mapping changes. The other undesignated portion near Rural Reserve Area 6E is approximately 568 acres and encompasses the quarry area between Farmington Road and Clark Hill Road. This area was initially recommended as an urban reserve by the WCRCC in the September 23, 2009, staff report. The status of the area was changed to undesignated with the release of the Bragdon/Hosticka Urban and Rural Reserves map of 12/08/09. A small amount of additional undesignated acreage area was added to the area during Core 4 deliberations from February 8, 2010 to the date of the IGA adoption between the county and Metro on February 23 and 25, 2010.

Rural Reserve Area 6E best qualifies as a rural reserve through application of the agricultural, forestry, and natural features factors.

#### Findings: Designation of Lands as Rural Reserves

#### Agricultural Considerations Under Factor (2)

Factor (2)(a) is addressed under the *general comments* section of the rural reserves introduction.

#### Agricultural Considerations Under Factor (2)(b-d)

Much of the central area of this reserve was classified as Tier 1 for agricultural operations and is capable of supporting agricultural operations over the 50-year reserves timeframe. The Tier 1 defined area includes the area from Bald Peak Road east to Highway 210 and from Highway 219 east to River Road and is bounded by the Tualatin river floodplain. The majority of the area is considered Foundation farm land on the Oregon Department of Agriculture map. WashCo Rec. 2998. Capability was determined through soil class and availability of water. Availability of water was an important consideration in staff's analysis of capable farm areas given assumptions of climate change impacts and expected limitations to in-stream flow over the reserves timeframe.

Class II and class III soils predominate, with isolated pockets of Class I soils and some Class IV soils immediately adjacent to the river. Class III and IV predominate in the Chehalem Mountains. Numerous parcels in the river's floodplain are included in the Tualatin Valley Irrigation District and existing water rights are widespread. Numerous water rights also exist outside the water district in the Chehalem foothills. WashCo Rec. 3015. As with Rural Reserve 8E, the area is potentially some of the most productive land in the study area for agricultural purposes, based on Staff's analysis.

The majority of parcels in the Tier 1 area are 35 acres or larger and are currently in agricultural use. This area discussed above under Tier 1 considerations is a component of the larger sub-area 25. These farm parcels are typically on the valley floor, gradually transitioning to smaller lots and more residential use as one moves south into the Chehalem foothills. The gradual transition to residential lots containing pasture or small woodlots acts as an effective buffer to the existing agricultural uses on the valley floor.

As noted above, TVID boundaries and existing water rights were mapped to help define agricultural infrastructure. Infrastructure to support agricultural uses is likely sufficient given the predominance of relatively large agricultural operations throughout the valley floor.

#### Forestry Considerations Under Factor (2)(b-d)

Aerial photos show that forest canopy in the Tier 1 agricultural area described above is limited to a few streams. Forested areas in this reserve occur south of the Tualatin River in the Chehalem Mountains. Commercial forestry operations do not occur in this reserve.

An area designated *Wildland Forest* by the Oregon Department of Forestry is present at the crest of the Chehalems adjacent to the county line. Staff included this area as suitable for rural reserve based on this forestry consideration. WashCo Rec. 3027. No other *Wildland Forest* designations occur in the reserve area. Existing parcelization of the area, steepness of the topography, and existing and future transportation limitations preclude large-scale forestry operations.

#### Natural Landscape Feature Considerations Under Factor (3)

Factor (3)(a) is addressed under the *general comments* section in the rural reserves introduction.

The Tualatin River and the Chehalem Mountains are prominent natural features in this proposed reserve. The river floodplain serves important hydrological functions related to flood water retention and discharge and additionally serves important biologic functions such as provision of a wildlife dispersal corridor and critical habitat provisions for anadromous fish. Both features are also significant identifiers for a sense of place at a local and regional level. Additionally, Jackson Bottoms is a regionally significant wetland that provides wintering habitat for ducks, geese, and swans as well as other migrants. This area also provides a sense of place year-round as a natural area.

Urban Reserve Area 6A abuts south Hillsboro and Urban Reserve Area 6B abuts the western boundary. The floodplain of the Tualatin River helps form the west boundary of Urban Reserve Area 6A. Existing floodplains can function as buffer areas between future development in the proposed urban reserve and the agricultural uses south of Rosedale Road and west of River

Road. Urban Reserve Area 6B consists primarily of the southwest slopes of Cooper Mountain. The topography of the area creates an effective buffer between agricultural uses on the valley floor and the more intense residential development located east of the Metro-owned and operated 231-acre Cooper Mountain Nature Park located on the mountain's upper slopes. The park provides an additional buffer between urban and rural uses. Consideration was given to provision of recreational access to natural features in the area.

#### Rural Reserve 7F: Hagg Lake

*General Description:* This approximately 25,652 acre area includes land west and southwest of Forest Grove to the study area boundary. Gales Creek Road forms the northern edge and Highway 47 its eastern edge. With the exception of the Gales Creek and Tualatin River floodplains, the reserve area is characterized by incised ravines and rolling topography to an elevation of approximately 1,000 feet. The predominant landscape features are Gales Peak and Hagg Lake. Commercial forestry operations occur throughout much of the area with farm parcels within the Gales Creek floodplain and on either side of the Highway 47 corridor. The area best qualifies as a rural reserve through forestry factors.

The community of Dilley is located between Forest Grove and Gaston west of Highway 47.

Findings: Designation of Lands as Rural Reserves

Agricultural Considerations Under Factor (2)

Factor (2)(a) is addressed under 'general comments' for the rural reserves introduction.

Agricultural land in this reserve is located in the area between Gales Creek south to the hills around Hagg Lake as well as land between Old Highway 47 and Highway 47. The Patton Valley Road area south to the county line is also in agricultural use. The area in the vicinity of Gales Creek was ranked as Tier 1 for agriculture in the staff analysis. Row crops are the predominant agricultural use in the area. Several large parcels in nursery use occur in the vicinity of SW Stringtown Road and SW Ritchey Road.

Soil classes in the Tier 1 area are predominantly Class II and Class III. Availability of water was an important consideration in staff's analysis of capable farm areas given assumptions of climate change impacts and expected limitations to in-stream flow over the reserves timeframe. Virtually all of the flat area of Rural Reserve 7F is currently in farm use and is capable of supporting agriculture over the reserves timeframe.

Agricultural infrastructure in the area is likely to be sufficient given the on-going agricultural use in the farm areas noted above. The towns of Forest Grove, Cornelius and Hillsboro are close enough to the reserve to provide agricultural support such as machinery purchase and repair as well as supply and distribution outlets.

Forestry Considerations Under Factor (2)

The majority of this reserve includes the mountainous west end of the study area. The area northeast of Hagg Lake rises to approximately 1,000 feet in elevation and gradually increases to approximately 1,600 feet northwest of the lake. Virtually all of the area is commercial forest

land, including a number of contiguous parcels held by Stimson Lumber Company. Most of the hilly terrain in the reserve is included as *Wildland Forest* in ODF's forest inventory and was therefore proposed as a high priority for rural reserve designation by staff. This area includes the largest contiguous block of forested land in the Washington County reserves study area.

Stimson Lumber Company maintains an active log processing facility in Scoggins Valley that provides an outlet for much of the timber harvested in the hills above Hagg Lake. The cities of North Plains and Banks also have mills that provide log processing. Logging supply and equipment repair facilities can be found in surrounding communities, including McMinnville in Yamhill County.

### Natural Landscape Feature Considerations Under Factor (3)

Factor (3)(a) is addressed under *general comments* in the rural reserves introduction.

Much of the reserve area, including the foothills north of Hagg Lake and the Gales Creek floodplain, occur on the Natural Landscape Features Inventory (cite source). Significant portions of the reserve are either in a floodplain or in areas where slopes are greater than 25%. The area is considered Wildlife Habitat in the county's Goal 5 Inventory with the recognition that the contiguity of the forest cover provides important habitat throughout the life cycle of big game species and other mammals. Most of the topography is over 350 feet in elevation, providing a visual sense of place and a relatively undisturbed mountainous area close to the county's westernmost cities.

The Reserve area provides some measure of separation between the cities of Forest Grove and Gaston, limiting the type of development that could extend beyond each city's boundary.

Hagg Lake is one of the county's most significant recreational facilities. Access to the area is via Scoggins Valley Road, an improved two-lane road. Access to the recreational potential of the Gales Creek watershed is provided by Gales Creek Road, also a two-lane improved road.

### Rural Reserve 7G: West Chehalem Mountains

*General Description:* This diverse area of approximately 26,898 acres includes the west end of the Chehalem Mountains, farm lots of varying sizes, residential parcels with pasture and/or woodlots, and timbered parcels. Numerous perennial tributaries of the Tualatin River originate in this reserve, including Davis, Christenson and Mill Creeks. The Tualatin River floodplain is the predominant natural feature and forms the northern boundary of the area, with Highway 47 serving as the western boundary. Bald Peak Road forms the area's southern boundary and Highway 219 forms the eastern boundary. The small community of Laurelwood is located southeast of the town of Gaston. Roads south of Cornelius and Forest Grove include Tongue Lane, Blooming Fern Hill Road, and Golf Course Road. Urban Reserve Area 7D (Cornelius South) is located adjacent to Cornelius at the north boundary of the reserve area. A 1,013-acre undesignated area south of Cornelius was initially recommended as an urban reserve by the WCRCC in September, 2009. The status of the area was changed to undesignated (without acreage adjustments) with the release of the Bragdon/Hosticka Urban and Rural Reserves map of December 8, 2009. The area remained unchanged from this designation during the rest of the Core 4 deliberative process into February 2010.

The area best qualifies as a rural reserve through agricultural factors.

#### Findings: Designation of Lands as Rural Reserves

##### Agricultural Considerations Under Factor (2)

Factor (2)(a) is addressed under the *general comments* section in the rural reserves introduction.

The majority of the relatively flat land in this reserve is currently devoted to agriculture use. Nursery operations are not uncommon south of the Tualatin River floodplain. The area comprising the floodplain boundaries south to Simpson Road and north to the Forest Grove city limits was ranked as the highest suitability for agriculture (Tier 1) in this reserve. Class I soils are located between Golf Course Road and Blooming Hill Road with Class II and Class III soils in the remaining area. The land use pattern supports this area as being highly suitable for agricultural use. The larger parcels in the area are currently in farm use and most are located within the Tualatin Valley Irrigation District. Water rights are present throughout much of the valley floor.

Staff presumes that an adequate agricultural infrastructure currently exists in the surrounding area given the number of farm operations in this reserve.

##### Forestry Considerations Under Factor (2)

The remaining area of the reserve includes the western end of the Chehalem Mountains, which are characterized by smaller lots, variable topography, and multiple uses, including small hobby farms, residential parcels, and larger lots north of Dixon Mill Road that historically have been used for forestry operations. Metro has recently purchased approximately 1,143 acres that were in historic forestry use for the Chehalem Ridge Natural Area, a new regional park that is currently undeveloped. The new park area was mapped as *Mixed Forest and Agriculture* on the ODF inventory.

##### Natural Landscape Feature Considerations Under Factor (3)

Factor (3)(a) is addressed under the *general comments* section in the rural reserves introduction.

The important natural landscape features of the area include the west end of the Chehalem Mountain Ridge, the Wapato Lake area north of Gaston and a section of the Tualatin River that flows through this reserve. Each of these features was ranked as the highest priority for rural reserve in the staff analyses. The Fernhill Wetlands complex south of Forest Grove provides regionally important wintering habitat for ducks, geese, swans, and other migratory birds. Including this feature, as well as other County Goal 5 inventoried resources in a rural reserve will protect important fish and wildlife habitat from the effects of urbanization and provides a regional sense of place that would be lost with urban encroachment. Water quality can be maintained by limiting impervious surfaces and urban development in the Chehalem area where tributaries to the river are located. The floodplain helps form a natural boundary between the urban uses in Forest Grove and Cornelius and the farmland south of those cities.

Consideration was given to provision of recreational access to natural features in the area. Changes are not anticipated to the transportation system that would limit existing or future access to recreational opportunities.

#### Rural Reserve 7H: West Fork Dairy Creek

*General Description:* This wedge-shaped area is approximately 15,696 acres northwest of Forest Grove and west of the city of Banks. State Highway 47 and Gales Creek Road define the east and west boundaries, respectively. Highway 47 is classified as a principal arterial on the county's Transportation Plan and Gales Creek Road as an arterial. David Hill and the west fork of Dairy Creek and its tributaries are the predominant landscape features. Much of the area is characterized by farm parcels over 30 acres with scattered residential dwellings. Urban Reserve Areas 7A (David Hill) and 7B (Forest Grove North) abut the northern edge of Forest Grove. Land around Banks has been left undesignated to allow for that city's future growth. The area qualifies as a rural reserve through agricultural, forestry, and natural landscape features factors.

#### Findings: Designation of Lands as Rural Reserves

##### Agricultural Considerations Under Factor (2)

Factor (2)(a) is addressed under the *general comments* section of the rural reserves introduction.

The agricultural land in this reserve is farmed up to the lower slopes of the hills that encircle the floodplain of the west fork of Dairy Creek. This area has been in agricultural use for decades and is capable of maintaining that use. The reserve contains large blocks of contiguous Class II soils and also has the largest contiguous block of parcels within the Tualatin Valley Irrigation District. Availability of water was an important consideration in staff's analysis of capable farm areas given assumptions of climate change impacts and expected limitations on water removal from in-stream flow over the reserves timeframe. Large areas west, southwest and north of Banks have water rights outside of the irrigation district. WashCo Rec. 3015.

Parcels in the agricultural area are contiguous and typically over 35 acres in size, which can facilitate large-scale farming operations.

Agricultural infrastructure in the area is likely sufficient given the ongoing agricultural use in the farm areas noted above. The towns of Forest Grove, Cornelius, and Hillsboro are close enough to the reserve to provide agricultural support such as machinery purchase and repair and supply and distribution outlets.

##### Forestry Considerations Under Factor (2)

As noted above, the agricultural area in the reserve is ringed by forested hills to an elevation of approximately 500 feet northwest of Banks and just over 1,100 feet in the David Hill area. Based on aerial photographs, much of the forested area in the reserve has been harvested in the past and continues to be in commercial rotation or small-scale woodlot management. With the exception of smaller parcels on the lower slopes of David Hill and exception lands northwest of Banks, the forested lands of this reserve include very limited residential development.

The majority of David Hill is ranked as *Wildland Forest* by the ODF as is a wedge of land at the north edge of the reserve between SW Cedar Canyon Road and Highway 47. WashCo Rec. 2999. Staff ranked these areas as Tier 1 and Tier 2 (i.e. most suitable) in applying the forestry element under this factor. The ODF ranked the remaining hill areas above the floodplain as *Mixed Forest & Agriculture*. Staff determined through the analyses iterations that these (non-Tier 1) hill areas be left undesignated given the lack of priority for either forestry or agriculture. During Core 4 deliberations, the undesignated areas within this reserve were assimilated into surrounding rural reserves, with the exception of undesignated area around the city of Banks.

David Hill is buffered by Hillside Road to the north and Gales Creek Road to the south, effectively creating a forested island above the valley floor. Cedar Canyon Road separates the forested uses northwest of Banks from the agricultural uses on the valley floor.

### Natural Landscape Feature Considerations Under Factor (3)

Factor (3)(a) is addressed under the *general comments* section in the rural reserves introduction.

The west fork of Dairy Creek and David Hill are the predominant natural landscape features in the reserve area. The David Hill area and much of the surrounding hill areas contain slopes too excessive for efficient and cost-effective urban development and are included as Tier 1 (forestry) lands for this reason alone. Residential development in the hill areas is limited and contiguous blocks of forest in varying age classes are not uncommon, providing a variety of habitat potential for wildlife. Feeder streams to the west fork tributaries originate in the surrounding hills and help to maintain water quality and quantity for Dairy Creek, a stream recognized by the Oregon Department of Fish and Wildlife as important for anadromous and resident fish.

David Hill is the highest hill in this reserve area and provides views from its summit north to the Tualatin Mountains and south to Yamhill County. The Dairy Creek floodplain covers both this reserve and Rural Reserve Area 8E (Dairy Creek) to the east and encompasses the largest contiguous agricultural area in the county. Both features serve to provide a sense of place. The floodplain further functions as a natural buffer from the urban uses south to Forest Grove.

### Rural Reserve 8E: Dairy Creek

*General Description:* This area of approximately 19,182 acres consists of the relatively flat agricultural land located north of the city of Forest Grove to Highway 26. Highway 47 defines the western boundary and McKay Creek defines the east boundary. The east and west forks of Dairy Creek meet in the approximate center of the reserve to form the main stem of Dairy Creek, which flows southeast through the southern half of this reserve. Cornelius-Schefflin Road, Zion Church Road, Verboort Road, and Martin Road are classified as arterials in the county's Transportation Plan. The small communities of Verboort and Roy are located within this reserve. Urban Reserve Areas 7I (Cornelius North) and 7C (Cornelius East) are located at the southern edge of the reserve adjacent to Cornelius. Urban Reserve Area 8A (Hillsboro North) is located on the northeast boundary of this area. The area qualifies as a rural reserve through agricultural and natural landscape features factors.

## Findings: Designation of Lands as Rural Reserves

### Agricultural Considerations Under Factor (2)

Factor (2)(a) is addressed under the *general comments* section in the rural reserves introduction.

This reserve area continues to be a key agricultural sector of the county due to the contiguity of larger parcels in agricultural use, the proximity to perennial water from McKay Creek and the east and west forks of Dairy Creek, and the presence of high-value farm soils. Class II soils predominate in this reserve and relatively large areas of Class I soils occur between Zion Church Road and North Plains, west of Gordon Road, and the vicinity of Scotch Church and Glencoe Roads. The area benefits from being centrally located between the cities of Hillsboro, North Plains, Banks, Forest Grove and Cornelius relative to agricultural infrastructure such as seed and feed distribution, farm equipment repair, and transportation capacity. This area has been in long-term farm use and maintains the capability for long-term agricultural use.

### Forestry Considerations Under Factor (2)

This area is recommended as a rural reserve given its agricultural importance and suitability under factor (3) below. Forest cover is limited in this reserve to the riparian corridors of Dairy Creek and McKay Creek.

### Natural Landscape Feature Considerations Under Factor (3)

Factor (3)(a) is addressed under the *general comments* section in the rural reserves introduction.

The east and west forks of Dairy Creek meet in the approximate center of the reserve, creating a large floodplain area that serves important hydrologic and biological functions. Stormwater retention and release, water quality, and lower water temperatures are facilitated by limits on impervious surface area and its associated run-off. The creek and associated tributaries provide full life cycle habitat as migration corridors, rearing area for young, and feeding and resting areas for anadromous and native fish and amphibians. The east and west forks of Dairy Creek are the main cutthroat trout spawning and rearing areas within the Tualatin sub-basin. Species of concern found in the drainage include the northern red-legged frog and steelhead trout.

The entire reserve consists of flat to gently rolling topography that is almost exclusively in agricultural use. Views south into the reserve from Highway 26 provide a sense of place by connecting Metro area residents to close-in farmland identified through numerous public comment submittals as important elements in the regional identity.

Trails and parks are currently not found in this reserve area but adequate access to potential trail areas, such as along the riparian corridors, is available through the existing road network.

### Rural Reserve 8F: Highway 26 North

*General Description:* Highway 26 (Sunset Highway) forms the southern boundary of this approximately 21,446-acre rural reserve. The north and west boundaries are defined by the edge of the study area and the east boundary is formed by Rock Creek. The area is characterized by several tributaries flowing south from the Tualatin Mountains, including Waibel, Storey, and

Holcomb Creeks. Sections of McKay Creek and the East Fork of Dairy Creek also flow through this reserve area. The topography of the area is characterized by the foothills of the Tualatin Mountains. Tributary ravines are common in the area, particularly in the eastern half. NW Cornelius Pass Road and NW West Union Road are designated arterials in the county's Transportation Plan; collector roads include NW Shady Brook, NW Jackson School, NW Helvetia, and NW Phillips Roads. Urban Reserve Area 8C (West Bethany) occurs as two small units located on the east boundary adjacent to the regional UGB. The area best qualifies as a rural reserve through agricultural and natural landscape features factors.

The community of Helvetia is located in this reserve.

Findings: Designation of Lands as Rural Reserves

Agricultural Considerations Under Factor (2)

Factor (2)(a) is addressed in the *general comments* section in the rural reserves introduction.

Land in existing agricultural use extends from the south reserve boundary north to the foothills of the Tualatin Mountains. The larger parcels, such as those located adjacent to Jackson School Road and Mountindale Road, are in agricultural use. Class II soils predominate north of West Union Road. Areas of Class I soils exist south of West Union Road in the vicinity of Jackson School road and on either side of Helvetia Road. Relatively large areas of Class I soil occur north of North Plains and Mountindale Road. Mountainous areas of the reserve tend to be Class III and IV soils. Water rights are concentrated along McKay and Dairy Creeks and intermittently along Waibel Creek and Rock Creek. Water rights are sporadic throughout the rest of the reserve. WashCo Rec. 3015. Residential and small farm use is typical in the foothills, where parcels are generally smaller than those on flatter terrain to the south. Availability of water was an important consideration in staff's analysis of agricultural lands given assumptions of climate change impacts and expected limitations to in-stream flow over the reserves timeframe.

The majority of this reserve ranked as Tier 2 and Tier 3 for rural reserve designation. Relative to other rural areas of the county, dwelling density and parcelization is high throughout much of the reserve, particularly in the Helvetia area. WashCo Rec. 3021-3022. Also, agricultural productivity ratings developed by applying the Huddleston methodology ranked considerably lower throughout this reserve than rural reserve areas in the Tualatin River floodplain and the Dairy Creek basin between Banks and Forest Grove. The most productive agricultural areas in the reserve are located northwest of North Plains in the Mountindale area. WashCo Rec. 3017.

Forestry Considerations Under Factor (2)

The majority of this reserve area is in agricultural use. Forested parcels and rural residential areas occur in the foothills of the Tualatin Mountains. The ODF inventory included several areas designated *Wildland Forest* at the northern edge of the study area, including north of the Highway 26/Highway 6 junction as well as areas at the county's east edge northeast of North Plains. All areas designated *Wildland Forest* in the ODF inventory had Tier 1 suitability in the county's forestry analysis. The foothills are typified by scattered woodlots and soils are potentially suitable for long-term forestry operations. Existing parcelization and dwelling density would likely limit larger commercial forestry operations.

## Natural Landscape Feature Considerations Under Factor (3)

Factor (3)(a) is addressed under the *general comments* section in the rural reserves introduction.

Rock Creek, McKay Creek, and the East Fork of Dairy Creek flow through this reserve and several important tributaries - including Bledsoe Creek, Jackson Creek, and Holcomb Creek - originate in the Tualatin Mountain foothills. These streams are critical for enhancement of water quality and quantity necessary for resident and anadromous fish habitat. Downstream flow for agriculture is dependent on the tributary streams in this reserve. Relatively large floodplain areas exist in the Mountaindale area north of Highway 26 and north of North Plains, providing a buffer between rural uses and the city.

Elevations over 350 feet were included as Tier 1 areas for rural reserves to address factor (3)(e) relative to a sense of place. Portions of the hills above this elevation were also included in Metro's Natural Features Inventory given their significance as headwaters to Rock Creek. Foothills to the Tualatin Mountains provide a natural buffer between agricultural uses closer to the Sunset Highway and the more intensive residential use further north. Access to recreation areas such as Forest Park and Sauvie Island in Multnomah County are provided through several roads that run north-south in this reserve. The Banks-to-Vernonia State Trail from Stub Stewart State Park to the city limits of Banks occurs in this reserve and is likewise unimpeded from recreational access.

## **IX. CONSISTENCY WITH REGIONAL AND STATE POLICIES**

### **A. Regional Framework Plan**

#### Policy 1.1: Urban Form (1.1.1(a); 2.3)

The determination of the amount of urban reserves needed to accommodate growth to the year 2060 was based upon the current focus of the 2040 Growth Concept on compact, mixed-use, pedestrian-friendly and transit-supportive communities and a new strategy of investment to use land more efficiently. The reserves decision assumes that residential and commercial development will occur in development patterns more compact than the current overall settlement pattern in the UGB. In addition, amendments made by the reserves decisions to Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan place greater emphasis than the previous version of Title 11 on “great communities” that achieve levels of intensity that will support transit and other public facilities and services.

#### Policy 1.4: Economic Opportunity (1.4.1)

The four governments selected urban reserves with factor OAR 660-027-0050(2) (healthy economy) in mind. Rating potential urban reserves for suitability for industrial development, using staff maps and the *Business Coalition Constrained Land for Development and Employment Map* produced by Group McKenzie, resulted in designation of thousands of acres suitable for industrial and other employment uses as urban reserves. These reserves are distributed around the region to provide opportunities in all parts of the region.

Policy 1.6: Growth Management (1.6.1(a))

See finding for Policy 1.1.

Policy 1.7: Urban/Rural Transition

The four governments inventoried important natural landscape features outside the UGB and used those features to help make a clear transitions from urban to rural lands. The findings above explain how the governments applied the landscape features factors in OAR 660-027-0060(3) in designation of urban and rural reserves and demonstrate the use of natural and built features to define the extent of urban reserves.

Policy 1.11: Neighbor Cities

The four governments reached out to the non-Metro cities within the three counties and to Columbia, Yamhill and Marion counties and their cities to hear their concerns about designation of reserves near their boundaries. All expressed an interest in maintenance of separation between the metro urban area and their own communities. The four governments were careful not to designate urban reserves too close to any of these communities. As the findings above indicate, the counties consulted with “neighbor cities” within their borders about which lands near them should be left un designated so they have room to grow, and which lands to designate rural reserve to preserve separation. The city of Sandy asked Metro and Clackamas County to revise the three governments’ agreement to protect a green corridor along Hwy 26 between Gresham and Sandy. At the time of adoption of these decisions, the three governments agreed upon a set of principles to guide revision to the agreement to use reserves to protect the corridor.

Policy 1.12: Protection of Agriculture and Forest Resource Lands (1.12.1; 1.12.3; 1.12.4)

See section II of the findings for explanation of the designation of farmland as urban or rural reserves. Metro’s Ordinance No. 10-1238A revises Policy 1.12 to conform to the new approach to urban and rural reserves.

Policy 1.13 Participation of Citizens

See sections III and IX (Goal 1) of the findings for full discussion of the public involvement process. The findings for each county (sections VI, VII and VIII) discuss the individual efforts of the counties to involve the public in decision-making.

Policy 2.8: The Natural Environment

The four governments inventoried important natural landscape features outside the UGB and used the information to identify natural resources that should be protected from urbanization. The findings above explain how the governments applied the landscape features factors in OAR 660-027-0060(3) in designation of rural reserves for long-term protection of natural resources.

**B. Statewide Planning Goals**

Goal 1 - Citizen Involvement

The four governments developed an overall public involvement program and, pursuant to the Reserve Rule [OAR 660-027-0030(2)], submitted the program to the State Citizen Involvement

Advisory Committee (CIAC) for review. The CIAC endorsed the program. The four governments implemented the program over the next two and a half years. Each county and Metro adapted the program to fit its own public involvement policies and practices, described above. In all, the four governments carried out an extraordinary process of involvement that involved workshops, open houses, public hearings, advisory committee meeting open to the public and opportunities to comment at the governments' websites. These efforts fulfill the governments' responsibilities under Goal 1.

### Goal 2 - Land Use Planning

There are two principal requirements in Goal 2: providing an adequate factual base for planning decisions and ensuring coordination with those affected by the planning decisions. The record submitted to LCDC contains an enormous body of information, some prepared by the four governments, some prepared by their advisory committees and some prepared by citizens and organizations that participated in the many opportunities for comment. These findings make reference to some of the materials. The information in the record provides an ample basis for the urban and rural reserve designated by the four governments.

The four governments coordinated their planning efforts with all affected general and limited purpose governments and districts and many profit and non-profit organizations in the region (and some beyond the region, such as Marion, Yamhill and Polk Counties and state agencies) and, as a result, received a great amount of comment from these governments. The governments responded in writing to these comments at several stages in the two and one-half year effort, contained in the record submitted to LCDC. See Attachment 2 to June 3, 2010, Staff Report, Metro Rec.\_\_. These findings make an additional effort to respond to comments from partner governments (cities, districts, agencies) on particular areas. These efforts to notify, receive comment, accommodate and respond to comment fulfill the governments' responsibilities under Goal 2.

### Goal 3 - Agricultural Lands

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations for lands subject to Goal 3. Designation of agricultural land as rural reserve protects the land from inclusion within an urban growth boundary and from re-designation as urban reserve for 50 years. Designation of agricultural land as urban reserve means the land may be added to a UGB over the next 50 years. Goal 3 will apply to the addition of urban reserves to a UGB. The designation of these urban and rural reserves is consistent with Goal 3.

### Goal 4 - Forest Lands

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations for lands subject to Goal 4. Designation of forest land as rural reserve protects the land from inclusion within an urban growth boundary and from re-designation as urban reserve for 50 years. Designation of forest land as urban reserve means the

land may be added to a UGB over the next 50 years. Goal 4 will apply to the addition of urban reserves to a UGB. The designation of reserves is consistent with Goal 4.

#### Goal 5 - Natural Resources, Scenic and Historic Areas and Open Spaces

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations for lands inventoried and protected as Goal 5 resource lands. Designation of Goal 5 resources as rural reserve protects the land from inclusion within an urban growth boundary and from re-designation as urban reserve for 50 years. Designation of Goal 5 resources as urban reserve means the land may be added to a UGB over the next 50 years. Goal 5 will apply to the addition of urban reserves to a UGB. The designation of reserves is consistent with Goal 5.

#### Goal 6 - Air, Water and Land Resources Quality

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations intended to protect air, water or land resources quality. Nor does designation of reserves invoke state or federal air or water quality regulations. The designation of reserves is consistent with Goal 6.

#### Goal 7 - Areas Subject to Natural Hazards

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations intended to protect people or property from natural hazards. Nonetheless, the four governments consulted existing inventories of areas subject to flooding, landslides and earthquakes for purposes of determining their suitability for urbanization or for designation as rural reserve as important natural landscape features. This information guided the reserves designations, as indicated in the findings for particular reserves, and supported designation of some areas as rural reserves. Goal 7 will apply to future decisions to include any urban reserves in the UGB. The designation of reserves is consistent with Goal 7.

#### Goal 8 - Recreational Needs

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations intended to satisfy recreational needs. The designation of reserves is consistent with Goal 8.

#### Goal 9 - Economic Development

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations for lands subject to Goal 9. All urban and rural reserves lie outside the UGB. No land planned and zoned for rural employment was designated rural reserve. Designation of land as urban reserve helps achieve the objectives of Goal 9. Much urban reserve is suitable for industrial and other employment uses; designation of land suitable

for employment as urban reserve increases the likelihood that it will become available for employment uses over time. The designation of reserves is consistent with Goal 9.

#### Goal 10 - Housing

All urban and rural reserves lie outside the UGB. No land planned and zoned to provide needed housing was designated urban or rural reserve. The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations and does not remove or limit opportunities for housing. The designation of reserves is consistent with Goal 10.

#### Goal 11 - Public Facilities and Services

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations and does not place any limitations on the provision of rural facilities and services. The four governments assessed the feasibility of providing urban facilities and services to lands under consideration for designation as urban reserve. This assessment guided the designations and increases the likelihood that urban reserves added to the UGB can be provided with urban facilities and services efficiently and cost-effectively. The designation of reserves is consistent with Goal 11.

#### Goal 12 - Transportation

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations and does not place any limitations on the provision of rural transportation facilities or improvements. The four governments assessed the feasibility of providing urban transportation facilities to lands under consideration for designation as urban reserve, with assistance from the Oregon Department of Transportation. This assessment guided the designations and increases the likelihood that urban reserves added to the UGB can be provided with urban transportation facilities efficiently and cost-effectively. The designation of reserves is consistent with Goal 12.

#### Goal 13 - Energy Conservation

The designation of urban and rural reserves does not change or affect comprehensive plan designations or land regulations and has no effect on energy conservation. The designation of reserves is consistent with Goal 13.

#### Goal 14 - Urbanization

The designation of urban and rural reserves directly influences future expansion of UGBs, but does not add any land to a UGB or urbanize any land. Goal 14 will apply to future decisions to add urban reserves to the regional UGB. The designation of urban and rural reserves is consistent with Goal 14.

Goal 15 - Willamette River Greenway

No land subject to county regulations to protect the Willamette River Greenway was designated urban reserve. The designation of urban and rural reserves is consistent with Goal 15.



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1165**

Amending Exhibits 2 (Findings) and 3 (Record Index) to Ordinance No. 1161 that Amended Multnomah County Comprehensive Framework Plan; and the Multnomah County Plan and Sectional Zoning Maps Relating to Urban and Rural Reserves, and Declaring an Emergency

**The Multnomah County Board of Commissioners Finds:**

- a. The Multnomah County Planning Commission recommended that the Board adopt an Ordinance adding new policies and strategies to the County's Comprehensive Plan and amending the plan and zoning map with respect to urban and rural reserves.
- b. On May 13, 2010, the Board adopted Ordinance No. 1161 relating to urban and rural reserves as recommended by the Planning Commission.
- c. Detailed findings in support of Ordinance 1161 entitled: Reasons for Designating Areas in Multnomah County as Urban Reserves or Rural Reserves; were attached as Exhibit 2 and incorporated by reference. A Record Index listing all the evidence in the County's Record related to Urban and Rural Reserves designations was attached as Exhibit 3.
- d. The legislative changes made by Ordinance 1161 implement an IGA with Metro and complete the reserves designation process that relied on the coordinated efforts of Multnomah, Clackamas and Washington Counties and Metro (Jurisdictions).
- e. Exhibit 2 contains findings that support the county's decision in part I, and findings that support the regional decision in part II. The regional or "overall" findings in part II describe the extent of both urban and rural reserves in all three counties, and explain why the amount of urban and rural land designated meets the legal requirements in Oregon Administrative Rule Division 27.
- f. As the findings in Exhibit 2 part II have been changed by other parties and these findings must be identical in all of the ordinances adopted by the Jurisdictions, it is necessary to adopt the amended findings. The Record Index, Exhibit 3, to Ordinance 1161, is updated to include new evidence submitted to the Board in the hearing leading to adoption of Ordinance 1161.

**Multnomah County Ordains as follows:**

**Section 1.** The amended attached Exhibit 2 entitled: Reasons for Designating Areas in Multnomah County as Urban Reserves or Rural Reserves and Exhibit 3, Record Index listing all the evidence in the County's Record related to Urban and Rural Reserves designations to Ordinance No. 1161, are adopted and incorporated by reference.

**Section 2.** This ordinance, being necessary for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared and the ordinance takes effect upon its signature by the County Chair.

FIRST READING AND ADOPTION:

\_\_\_\_\_  
June 17, 2010



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Jeff Cohen, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

*Sandra Duffy*

\_\_\_\_\_  
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

Washington County  
County Clerk

A-ENGROSSED ORDINANCE 733

An Ordinance Amending Elements of the  
Comprehensive Plan to Add Policies and Maps  
and any other Amendments Necessary to  
Designate Rural Reserves and Adopt Urban  
Reserves Designated by Metro

The Board of County Commissioners of Washington County, Oregon ("Board") ordains:

SECTION 1

A. The Board recognizes that the Rural/Natural Resource Plan Element of the Comprehensive Plan (Volume III) was readopted with amendments, by way of Ordinance No. 307, with portions subsequently amended by Ordinance Nos. 342, 383, 411, 412, 458, 459, 462, 480, 482, 499, 539, 547, 572, 574, 578, 588, 598, 606, 609, 615, 628, 630, 631, 637, 643, 648, 649, 653, 662, 671 and 686.

B. The Board recognizes that the Comprehensive Framework Plan for the Urban Area element of the Comprehensive Plan (Volume II) was readopted with amendments on September 9, 1986, with portions subsequently amended by Ordinance Nos. 343, 382, 432, 459, 471, 480, 483, 516, 517, 526, 551, 555, 561, 571, 572, 588, 590, 598, 608-610, 612-615, 620, 624, 631, 632, 637, 643, 649, 662, 666, 669, 671, 683, 686, 694, 712 and 726.

C. Subsequent ongoing planning efforts of the County indicate a need to clarify the reserves designation process as provided in the intergovernmental agreement (IGA) between county and Metro, to provide for coordination among counties, cities and Metro in their planning efforts, including any implementing strategy, with respect to urban and rural reserves, and to

1 make further map changes to add a Special Concept Plan Area C, to reflect the rights-of-way, to  
2 address property designation, and to correct minor mapping errors.

3 D. The Board takes note that from time to time such changes to the planning  
4 documents are necessary for the benefit of the residents of Washington County, Oregon.

5 E. Under the provisions of Washington County Charter Chapter X, the Department  
6 of Land Use and Transportation has carried out its responsibilities, including preparation of  
7 notices, and the County Planning Commission has conducted one or more public hearings on the  
8 proposed amendment(s) and has submitted its recommendation to the Board. The Board finds  
9 that this Ordinance is based on that recommendation and any modifications made by the Board,  
10 as a result of the public hearings process.

11 F. The Board finds and takes public notice that it is in receipt of all matters and  
12 information necessary to consider this Ordinance in an adequate manner, and that this Ordinance  
13 complies with the Statewide Planning Goals and other relevant standards and criteria set forth in  
14 Chapters 195, 197 and 215 of the Oregon Revised Statutes, the Washington County Charter, and  
15 the Washington County Community Development Code.

16 SECTION 2

17 The following exhibits, attached hereto and incorporated herein by reference, are adopted  
18 as amendments to the designated documents as follows:

19 A. Exhibit 1 (3 pages), amending the proposed Policy 29, relating to Rural and  
20 Urban Reserves designations, of the Rural/Natural Resource Plan;

21 B. Exhibit 2 (49 pages), amending the Rural/Natural Resource Plan by the creation  
22 of a new map entitled "Rural and Urban Reserves" in Policy 29;





1 sections, and making any technical changes not affecting the substance of these amendments as  
2 necessary to conform to the Washington County Comprehensive Plan format.

3 SECTION 7

4 This Ordinance shall take effect thirty (30) days after adoption.

5 ENACTED this 15 day of June, 2010, being the sixth reading  
6 and sixth public hearing before the Board of County Commissioners of Washington County,  
7 Oregon.

8 BOARD OF COUNTY COMMISSIONERS  
9 FOR WASHINGTON COUNTY, OREGON

10 **ADOPTED**

*Desai R. Shete*  
11 CHAIRMAN

*Barbara Hejtmanek*  
12 RECORDING SECRETARY

	<u>READING</u>
13 First	<u>April 27, 2010</u>
14 Second	<u>May 11, 2010</u>
15 Third	<u>May 18, 2010</u>
16 Fourth	<u>May 25, 2010 (engrossment ordered)</u>
Fifth	<u>June 8, 2010</u>
Sixth	<u>June 15, 2010</u>

	<u>PUBLIC HEARING</u>
13 First	<u>April 27, 2010</u>
14 Second	<u>May 11, 2010</u>
15 Third	<u>May 18, 2010</u>
16 Fourth	<u>May 25, 2010</u>
Fifth	<u>June 8, 2010</u>
Sixth	<u>June 15, 2010</u>

17 VOTE: Aye: Strader, Rogers, Schouten Nay: \_\_\_\_\_  
18 Recording Secretary: Barbara Hejtmanek Date: 6-15-10

**ORDINANCE NO. ZDO-223**

**An Ordinance Amending the Clackamas County Comprehensive Plan For The Adoption Of Urban Reserves and Rural Reserves.**

WHEREAS, Senate Bill 1011 requires Metro and the three Metro counties to designate Urban Reserves and Rural Reserves; and

WHEREAS, Metro and Clackamas County have held numerous public open houses; and the Clackamas Reserves Policy Advisory Committee (PAC) has been meeting since April, 2008; and

WHEREAS, the PAC and the Clackamas County Planning Commission have held extensive public meetings, open houses and hearings, and made recommendations to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners voted at a public hearing on April 21, 2010 to approve amendments to the Clackamas County Comprehensive Plan adopting Urban Reserves and Rural Reserves, and directed staff to prepare an appropriate ordinance; and

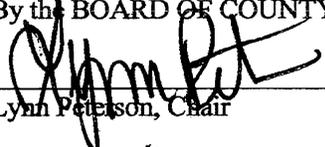
WHEREAS, pursuant to an Intergovernmental Agreement between Clackamas County and Metro, elected officials of Metro, and Clackamas County met and recommended minor revisions to the Urban and Rural Reserves map approved on April 21, 2010, NOW, THEREFORE,

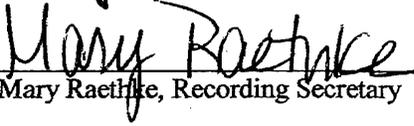
The Board of Commissioners of Clackamas County ordains as follows:

- Section 1:** Chapter 4 of the Clackamas County Comprehensive Plan and Map IV-9 are hereby amended as shown in Exhibit A hereto.
- Section 2:** The Board of Commissioners adopts the findings attached hereto as Exhibit B, and authorizes staff to complete citations to the record.
- Section 3:** This ordinance shall be effective 90 days from the date of its adoption.

ADOPTED this 27th day of May, 2010.

By the BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Lynn Peterson, Chair

  
\_\_\_\_\_  
Mary Raethke, Recording Secretary



1 On April 10, 2009, pursuant to OAR 660-025-0150(1)(b), the Director issued Order No.  
2 001767 remanding the City's decision for further consideration consistent with OAR chapter  
3 660, division 21. The order concluded that the City erred by not providing sufficient justification  
4 for inclusion of large, flat parcels for industrial, commercial and institutional uses, and by not  
5 justifying a "livability" need for the same type of lands. The order also concluded that the City  
6 misapplied the priorities for selecting which lands to include as urban reserves as a result of its  
7 reliance on specific identified land needs. In DLCD Order No. 001767, the Director either  
8 sustained or rejected each of the valid objections pursuant to OAR 660-025-0140(6).

9 Pursuant to OAR 660-025-0150(4), four parties filed valid appeals of  
10 DLCD Order No. 001767:

- 11 • City of Newberg
- 12 • 1000 Friends of Oregon, and the Friends of Yamhill County
- 13 • Mike and Cathy Stuhr
- 14 • Amy and Lee Does

15 On May 14, 2009 the Department submitted a report to the Commission responding to  
16 the appeals, pursuant to OAR 660-025-0160(2) and (3).

17 On May 26, 2009 the City of Newberg, and Mike and Cathy Stuhr each filed written  
18 exceptions to the Department's report to the Commission pursuant to OAR 660-025-0160(4).

19 The Commission heard the appeal on June 5, 2009. During that meeting the Commission  
20 heard oral argument from the City, the Department, those parties that appealed the Director's  
21 decision, and from objector Grace Schaad in accordance with OAR 660-025-0085(5) as required  
22 by OAR 660-025-0160(1). The Commission continued this agenda item to a special meeting set  
23 for July 21, 2009, and exercised its discretion to request new information pursuant to OAR 660-  
24 025-0160(5) and OAR 660-025-0085(5)(d) by asking the parties to submit up to 10 additional  
25 pages of argument.

26 On July 7, 2009, the Department submitted a Supplemental Report to the Commission to  
27 clarify the Department's views on the urban reserve rule and how it believed the City applied the  
28 rule. The early submission of this report allowed the parties to respond to the Department in  
29 their additional written argument.

30 On July 14, 2009, 1000 Friends of Oregon and the Friends of Yamhill County filed an  
31 objection to portions of a PowerPoint presentation made by the City of Newberg to the

1 Commission on June 5, 2009. The objection was to the characterization of a list of industries as  
2 “Targeted Industries,” and to a list of “Typical Lot Size Requirements for Firms in Selected  
3 Industries.” As set forth below, the Commission determines that land need for urban reserves  
4 may not be based on land uses with specific site needs, including particular “target” industries.  
5 As a result, the Commission has not considered the portions of the PowerPoint presentation  
6 objected to by 1000 Friends. The Commission therefore, denies the objection on the basis that  
7 the materials presented are not relevant to the Commission's decision.

8 All four parties that appealed the Department’s order submitted additional written  
9 testimony to the Commission prior to the July 21, 2009 meeting, including responses to the  
10 Department’s July 7, 2009 Supplemental Report.

11 On July 21, 2009 the Commission held its continued hearing on the appeals to the  
12 Director’s remand of the City’s URAs. At this meeting the Commission heard oral argument  
13 from the City, the Department, the parties that appealed the Director’s remand decision, and  
14 objector Grace Schaad. The Commission deliberated and took action to remand the City's URA  
15 designations, as reflected in this written order.

16  
17 Record Objection

18 1000 Friends of Oregon and the Friends of Yamhill County filed an objection to three  
19 documents included in the City of Newberg’s supplemental record filing, on the basis that the  
20 materials were not included in the local record. After reviewing the objection and the city's  
21 response, the Department concurred with the objection. The Commission heard argument  
22 concerning the objection, and decided to sustain it.

23  
24 Scope and Standard of Review

25 The Commission reviewed the City’s submittal for compliance with the applicable goals,  
26 administrative rules and statutes. OAR 660-025-0040(1). For submittals under ORS 197.626  
27 that are reviewed in the manner of periodic review under ORS 197.628 to 197.650, “compliance  
28 with the goals” means the submittal “on the whole, conform[s] with the purposes of the goals  
29 and any failure to meet individual goal requirements is technical or minor in nature.”  
30 ORS 197.747.

1 In determining compliance with the Goal 2 requirement that land use decisions have an  
2 adequate factual base, the Commission considers whether the submittal is supported by  
3 substantial evidence. The City's submittal is a legislative decision, but nevertheless the Goal 2  
4 requirement for an adequate factual base means that the decision must be supported by  
5 substantial evidence. *DLCD v. Douglas County*, 37 Or LUBA 129, 132 (1999). Substantial  
6 evidence exists to support a finding of fact when the record, viewed as a whole, would permit a  
7 reasonable person to make that finding. ORS 183.482(8)(c) and *Dodd v. Hood River County*,  
8 317 Or 172, 179, 855 P2d 608 (1993); *City of West Linn v. LCDC*, 201 Or App 419, 431, 119  
9 P3d 285 (2005). Where the evidence in the record is conflicting, if a reasonable person could  
10 reach the decision the City made in view of all the evidence in the record, the choice between the  
11 conflicting evidence belongs to the City. *Mazeski v. Wasco County*, 28 Or LUBA 178, 184  
12 (1994), *aff'd* 133 Or App 258, 890 P2d 455 (1995).

13 Because the City's submittal embodies both basic findings of fact and inferences drawn  
14 from those facts, substantial evidence review involves two related inquiries: "(1) whether the  
15 basic fact or facts are supported by substantial evidence, and (2) whether there is a basis in  
16 reason connecting the inference to the facts from which it is derived." *City of Roseburg v.*  
17 *Roseburg City Firefighters*, 292 Or 266, 271, 639 P2d 90 (1981). Where substantial evidence in  
18 the record supports the City's adopted findings concerning compliance with the goals and the  
19 Commission's administrative rules, the Commission nevertheless must determine whether the  
20 findings lead to a correct conclusion under the goals and rules. *Oregonians in Action v. LCDC*,  
21 121 Or App 497, 504, 854 P2d 1010 (1993).

22 The City and the Department agreed at the hearing on June 5, 2009 that the standard for  
23 the Commission's review of evidentiary issues is the substantial evidence standard.

24

25

#### Conclusions of Law

#### 26 **1. The Purposes of Urban Reserves**

27 Because the parties challenge the Department's characterization of the "primary" purpose  
28 of urban reserves under OAR chapter 661, division 21, the Commission first addresses the  
29 purpose of the urban reserves for the benefit of the parties as the City proceeds on remand.

30

1 The Commission concludes that the Department correctly identified that the urban reserve rule  
2 was adopted to protect exception and other areas adjacent to and nearby urban growth boundaries  
3 from further parcelization over the planning period in order to maintain the opportunity for such  
4 lands to become urbanized over time. To the extent the parties argue otherwise, the Commission  
5 rejects that contention. However, the Commission agrees that consistent with that purpose,  
6 urban reserves also are intended to facilitate long-range planning for urban growth, including the  
7 cost-effective provision of public facilities and services to urban areas when the lands are later  
8 included within the UGB.

9 The Commission originally adopted the urban reserve rule (OAR chapter 660, division  
10 21) in 1992 to address the concern over suburban development at the urban periphery. The  
11 concern was that low density development just outside of UGBs would preclude cities from  
12 including these areas within UGBs at the densities contemplated in their comprehensive plans.  
13 The rule required seven local governments to adopt urban reserves because of their above  
14 average growth rate and significant amount of exception areas in the vicinity of their UGBs. The  
15 next year, in 1993, the legislature enacted a statutory provision allowing local governments to  
16 cooperatively designate urban reserve areas “[t]o ensure that the supply of land available for  
17 urbanization is maintained.” ORS 195.145(1). That enactment defined “urban reserve” to mean  
18 “lands outside an urban growth boundary that will provide for: (a) Future expansion over a long-  
19 term period; and (b) The cost-effective provision of public facilities and services within the area  
20 when the lands are included within the urban growth boundary.”<sup>1</sup>

21 This statute expressly provided statutory authority for the urban reserve rule and  
22 reinforced the purpose of establishing urban reserves. The first step in interpreting statutory  
23 language is to examine its text and context. *State v. Gaines*, 346 Or 160, 171-72, 206 P3d 1042  
24 (2009). Oregon courts have held that the Commission’s rules provide context for statutory  
25 interpretation when they predate the enacting of the statute. *Lane County v. LCDC*, 325 Or  
26 569,578, 942 P2d 278 (1997), *Beaver State Sand and Gravel v. Douglas County*, 187 Or App  
27 241, 247, 250, 65 P3d 1123 (2003). Therefore, the 1992 urban reserve rule provides context for  
28 the statute and, because the Commission does not find these two purposes to be inconsistent, the

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<sup>1</sup> In 1993, the statutory definition of “urban reserve area” was codified in ORS 195.145(4). In 2007, the definition became “urban reserve” and was moved to ORS 195.137(2).

1 purpose provided in the statute is a refinement, not a replacement, of the original purpose of the  
2 rule. The purpose for division 21 is stated in OAR 660-021-0000, which provides:

3 “This division authorizes planning for areas outside urban growth boundaries to be  
4 reserved for eventual inclusion in an urban growth boundary and to be protected from  
5 patterns of development that would impede urbanization.”  
6

7 The Commission interprets OAR 660-021-0000 to be an overarching, inclusive statement of  
8 purpose. Consistent with the primary purpose of protecting areas, including exception areas,  
9 outside an urban growth boundary from patterns of development that would impede urbanization  
10 is that such protected areas provide for future expansion over a long-term period. In addition, by  
11 limiting further development until the areas are brought into the urban growth boundary, urban  
12 reserves keep the cost of public facilities and services from escalating further as a result of the  
13 spread or intensification of inefficient development patterns.

14 The second step in determining the purpose of urban reserves, even if there is no  
15 perceived ambiguity in the text, is consideration of pertinent legislative history. *Gaines*, 346 Or  
16 at 172. No party presented legislative history to the Commission to support the notion that, in  
17 *defining* “urban reserves” the legislature intended to supersede or alter the *purpose* of the urban  
18 reserve rule expressed in OAR 660-021-0000. As a result, the Commission concludes that there  
19 is no conflict between OAR 660-021-0000 and ORS 195.137(2).

## 20 **2. The Amount of Land Included in Urban Reserves**

21 OAR 660-021-0030(1) provides that:

22 “Urban reserves shall include an amount of land estimated to be at least a 10-year supply  
23 and no more than a 30-year supply of developable land beyond the 20-year time frame  
24 used to establish the urban growth boundary. Local governments designating urban  
25 reserves shall adopt findings specifying the particular number of years over which  
26 designated urban reserves are intended to provide a supply of land.”  
27

28 The City of Newberg determined its long-term need for land (through 2040) by developing a  
29 population forecast coordinated with Yamhill County, and assessing its need for land in several  
30 categories along with the existing supply of land within the city's UGB. Based on this analysis,  
31 the City determined that its total long-term need for land (through 2040) was for 1,665 acres. Of  
32 this amount, however, a significant portion also was identified as being for uses with unique and  
33 specific site requirements – particularly for large tracts of land and in some cases for relatively  
34 flat lands.

1           The Department argued, based on the history of the urban reserve rule, that OAR 660-  
2 021-0030(1) does not authorize a city's long-term land need to be based on specific siting  
3 requirements for particular uses, and that (instead) the amount of land in a city's urban reserves  
4 must be based on generalized long-term population and employment forecasts. The City  
5 disagreed, but nevertheless agreed to a voluntary remand in order to revise its determination to  
6 remove reliance of projected land needs of future uses with specific site requirements.

7           The Commission interprets OAR 660-021-0030(1) as requiring local governments to  
8 make an estimate of its need for developable land over a 10 to 30 year planning period beyond  
9 the 20-year time frame used to establish the UGB. This is to be an estimate, based on long-term  
10 forecasts of overall population and employment needs for the planning period. The Commission  
11 recognizes that the rule authorizes local governments to choose the length of the planning period  
12 (within the specified limits), and that the longer the planning period the greater the amount of  
13 land that is likely to be justified for inclusion in URAs.

### 14 **3. Determining Which Lands to Include in Urban Reserves**

15           The Commission concludes that the selection of which lands to include in an URA  
16 involves a five-step process. The first three steps are under OAR 660-021-0030(2), which  
17 provides that:

18           (2) Inclusion of land within an urban reserve shall be based upon the locational factors of  
19 Goal 14 and a demonstration that there are no reasonable alternatives that will require  
20 less, or have less effect upon, resource land. Cities and counties cooperatively, and the  
21 Metropolitan Service District for the Portland Metropolitan Area Urban Growth  
22 Boundary, shall first study lands adjacent to, or nearby, the urban growth boundary for  
23 suitability for inclusion within urban reserves, as measured by the factors and criteria set  
24 forth in this section. Local governments shall then designate, for inclusion within urban  
25 reserves, that suitable land which satisfies the priorities in section (3) of this rule.

26           Under this rule, local governments must first determine what lands “adjacent to, or  
27 nearby” the UGB they will study. The local governments are not necessarily required to study  
28 all lands adjacent to the UGB for suitability as urban reserve areas, but they must include enough  
29 lands so that they do not artificially force consideration of lower priority categories of land.

30 *D.S. Parklane Dev. v. Metro*, 994 P.2d 1205, 1216-1217 (Or. App., 2000).

1 Second, the local governments must demonstrate that there are no reasonable alternatives  
2 that will require less, or have less effect upon, resource land. This alternatives analysis must  
3 include examining whether additional infill and redevelopment inside the existing UGB (beyond  
4 that contemplated in forecasting overall land need) is feasible, as well as locational alternatives  
5 outside of the existing UGB that minimize the effects on resource land.

6 Third, once the local governments have determined the amount of land need that the  
7 existing UGB can accommodate, they must analyze which lands within the study area are  
8 suitable for inclusion as urban reserves using the Goal 14 locational factors. Application of these  
9 factors must be balanced and local governments may not rely on a *per se* threshold for any of the  
10 factors to exclude lands. *Parklane*, at 1219. The Commission also interprets this rule to require  
11 application of the locational factors sequentially, to adjacent and nearby lands within *each*  
12 priority category before moving to the next (lower) priority categories. *Parklane*, at 1216.  
13 Lands of lower priority are only included if the amount of suitable land in a higher priority  
14 category is insufficient to meet the estimated land need over the planning period. This third step  
15 concludes with the demonstration that there are no alternatives outside of the existing UGB that  
16 will require less, or have less effect upon resource land. This demonstration is based, at least in  
17 part, on the data and findings from application of the fourth Goal 14 locational factor:  
18 “compatibility of the proposed urban uses with nearby agricultural and forest activities occurring  
19 on farm and forest land outside the UGB.”

20 After completion of these three steps, the local governments will have determined a set of  
21 lands that are suitable for inclusion in the proposed URAs. The priority categories described in  
22 OAR 660-021-0030(3) are then used to determine which lands are selected.

23 OAR 660-021-0030(4) then provides an optional fifth step. Under this rule, the local  
24 governments have discretion to adjust their initial analysis under OAR 660-021-0030(3) in two  
25 ways. First, the local governments may remove lands that are otherwise suitable and in a higher  
26 priority category if it shows that it is not reasonable to provide future urban services to those  
27 lands after analyzing topographical and physical constraints. The Commission interprets OAR  
28 660-021-0030(4)(a) as allowing local governments to consider costs of providing services to  
29 exclude lands (due to topographical or other physical constraints), but also notes that the text of  
30 the rule requires local governments to show that “ \* \* \* *future* urban services cannot *reasonably*  
31 be provided \* \* \*.” (Emphasis added).



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

July 7, 2009



TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director  
Steve Oulman, Regional Representative  
Bob Rindy, Senior Policy Analyst  
Gloria Gardiner, Urban Specialist

SUBJECT: **Agenda Item 4, July 21, 2009 LCDC Meeting**

## **SUPPLEMENTAL REPORT ON THE CITY OF NEWBERG'S PROPOSED URBAN RESERVE AREAS**

At the conclusion of its June 5, 2009 public hearing regarding the Newberg/Yamhill County urban reserve proposal, the commission directed that the parties to this action may submit up to 10 pages of additional argument explaining views of the urban reserve rules or how the city applied the rules. The department agreed to provide materials clarifying its views in advance to the parties so that they would have the ability to respond as part of their argument.

This memorandum covers three areas: (1) history and context of urban reserve planning, (2) the department's interpretation of how a local government estimates the supply of land needed for an urban reserve, and (3) the department's interpretation of how a local government applies the priorities for including land in the urban reserve, including exceptions to the priorities.

### **1. History and context of urban reserves**

In adopting the urban reserve rules, and in later revisions of those rules, the commission's primary purpose was to prevent further parcelization of exception areas adjacent to and nearby urban growth boundaries. The commission wanted to conserve the urban development potential of these areas (from further low-density development that would make urbanization difficult) through the urban reserve designations. The exception areas were seen (even then) as the highest priority for future UGB expansions rather than farm or forest land. The commission originally mandated designation urban reserves for several cities due to the nature and extent of exception areas near those cities (see maps in Attachment B, showing the extent of exception areas around Oregon urban areas).

Urban reserves are no longer mandatory, but this primary intent of the rule remains. While planners and local elected officials alike generally recognize that infill and redevelopment of exception areas is more difficult and expensive than urban development on farm or forest land, the commission and the legislature has promoted the use of exception areas as a higher priority than resource land for UGB expansions, especially in the longer (30 to 50 year) time frame associated with urban reserves.<sup>1</sup> One of the main reasons for this has been the concern that, if cost and ease of development alone are the criteria for selecting urbanizable lands, resource land would likely be chosen over exception areas in almost every case.

The urban reserve rules are not complicated. As set forth in the rules, and as described by LUBA and the Court of Appeals, the rules establish a mechanical, step-by-step, process by which a local government:

- first estimates the amount of lands required to provide a supply of ten to thirty years beyond the current UGB (including an analysis of the extent to which that need may be met within the existing UGB);
- then analyzes the extent to which that generalized need may be satisfied by exception or nonresource lands, or (if the *amount* of these lands is insufficient) resource lands (according to soil capability); and then
- only if the amount of (developable) exception/nonresource lands is first found to be inadequate, looks to resource lands if certain exception/nonresource lands can't reasonably be served or if resource lands must be included to provide services to exception/nonresource lands.

## 2. Estimating the *Amount* of Land Supply

While the “priorities” for selecting which lands to include as urban reserves have always been relatively clear, the rule and the commission have been less clear about how local governments were to estimate the supply of land “needed” for inclusion in urban reserves. For several reasons, explained in more detail below, the department believe the current rule simply provides for local governments to estimate their *overall* land needs for a period between ten and thirty years beyond the land supply provided by the current UGB, based on a long-term forecast of population and employment, along with a general analysis of what proportion of that generalized need may be met by lands already within the UGB. The department believes that land needs that

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<sup>1</sup> Many unincorporated rural residential areas with onsite sewer and water were included in UGBs in the early 1980's and many of these areas have developed or redeveloped at urban densities since then. For example, the Dunthorp area, Happy Valley, areas in Multnomah County, and areas in Clackamas County (near Gresham) were included in the Metro UGB over thirty years ago and have infilled or are in the process of infilling. These areas originally had many of the same characteristics as exception areas near Newberg.

can only be met on certain types or categories of land are not an appropriate basis for the first step of the reserves process – estimating the land supply needed, for two reasons.

First, as a legal matter and as explained in more detail below, the history of the urban reserve rule clearly shows that in 2000 the commission amended the rule to prevent local governments from dictating *where* reserves may be located based on land needs that are location-specific (aka specific identified land needs). If a local government can't justify the *location* of reserves based on specific identified land needs, then it makes no sense for that government to justify the *amount* of land need on specific uses. The two parts of the rule need to work in tandem, in a consistent manner.

Second, as a policy matter, the department believes that the test for *how much* lands are included in an urban reserve should be set as a relatively high bar. The reason for this is the interplay between urban reserves and UGB amendment decisions. Urban reserves are the first priority for inclusion in a UGB amendment. If the agency sets a low bar for *how much* lands are included within urban reserves, local governments may include both exception lands *and* resource lands in the reserves designation, even where the justification for inclusion of that quantity of lands is open to significant doubt. Setting a low threshold in this manner would effectively allow a local government to include both exception lands and resource lands in its urban reserve, and then (at the extreme) ignore the exception lands when it comes time to consider an urban growth boundary amendment – turning the statutory direction for priority of lands to be included within an urban growth boundary on its head. For this reason, the department believes a local government's analysis of the supply of land needed for urban reserves should generally be reviewed in the same manner as a UGB amendment, but without consideration of specific land needs.

The urban reserve rules were first adopted in 1992. 1992 rules provided that a local government could bypass the priority scheme upon a finding that “specific types of identified land needs cannot be reasonably accommodated on higher priority [exception] lands.” In 1996, the commission broadened this provision to give Metro the ability to consider the region’s “jobs-housing balance” as a reason to include lower priority (resource) land in urban reserves. However, following the *Parklane* decisions by the Land Use Board of Appeals and the Oregon Court of Appeals overturning Metro’s urban reserve designations, the commission amended the urban reserve rules to eliminate specific land need or jobs-housing balance as reasons to bypass the priority scheme when designating urban reserves. Since specific need is no longer allowed as a basis in the urban reserve priority scheme, the department believes that specific needs can not be part of the basis for estimating overall land needs for an urban reserve – leaving only generalized land need, based on population and employment forecasts, as the starting point for estimating the amount of land supply for an urban reserve.

The second aspect of estimating land supply is that it is an estimate of the amount of “developable” land needed for the planning period. OAR 660-021-0030(1). Developable land is specifically defined in the rule as “[I]and that is not severely constrained by natural hazards, nor designated or zoned to protect natural resources, and that is either entirely vacant or has a portion

of its area unoccupied by structures or roads." OAR 660-021-0010(5). This is the *only* place in the reserve rule that this term is used – so it is clear that the question of amount in this first step of the reserves process is a question of the amount of land that meets these standards needed to give the local government an adequate supply for 10 to 30 years beyond the current UGB. In other words, even if lands are constrained (but not severely) or are exception lands (with only a portion of the lands unoccupied), these lands must still be included. Their "yield" (the amount of housing units or jobs) may be low as a result of their (non-severe) constraints or their existing development (as exception lands), but that will simply mean that the local government must include *more* lands to meet the required supply.

The final aspect of estimating the *amount* of land supply required for an urban reserve stems from subsection (2) of the rule, which provides that "[i]nclusion of land within an urban reserve shall be based upon \* \* \* a demonstration that there are no reasonable alternatives that will require less, or have less effect upon, resource land." OAR 660-021-0030(2). This clause has been applied (and interpreted by the courts) as requiring an analysis of the extent to which the projected population and employment may be accommodated within the existing UGB (in the same manner that an alternatives analysis is required under Goal 14). Only after completing this last step does the local government have an adequate bases for estimating the land supply needed for 10 to 30 years beyond the current UGB.

### 3. Deciding Which Lands to Include as Urban Reserves

Once a local government has determined the amount of lands that are needed over the planning period, beyond the current UGB, deciding *which* lands to include as urban reserves is set by the priorities in the rule, specifically 660-021-0030(3). The Goal 14 locational factors are used to determine what lands within a particular category are suitable for future urbanization (in addition to being "developable" under subsection (1) of the rule.<sup>2</sup> Each of the Goal 14 locational factors must be considered and balanced, and a local government may not rely on a *per se* screen to exclude lands. *D.S. Parklane v. Metro*, 165 Or App 1 (2000). For instance, the second locational factor of Goal 14 requires examination of whether "public facilities will have adequate capacity to serve the uses contemplated within \* \* \* [the] expansion area over the \* \* \* planning period." *Concerned Citizens of the Upper Rogue v. Jackson County*, 33 Or LUBA 70 (1997). Lands may not be excluded based on the fact that they are relatively more expensive to serve than other lands. *D.S. Parklane*, 35 Or LUBA 516 (1999).

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<sup>2</sup> The Goal 14 locational factors are: (1) Efficient accommodation of identified land needs; (2) Orderly and economic provision of public facilities and services; (3) Comparative environmental, energy, economic and social consequences; and (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. The application of these factors in the urban reserves context is described in *D.S. Parklane v. Metro*, 35 Or LUBA 516 (1999) in some detail. The factors have changed somewhat since that decision, but not in ways that appear germane to Newberg's decision.

Finally, a local government must identify and analyze all lands in a particular priority category for suitability before moving to the next priority category, and before applying the exceptions in subsection (4) of the urban reserve rule. *D.S. Parklane v. Metro*, 165 Or App 1 (2000).

At the very end of this sequence, after first identifying and analyzing adjacent lands for suitability, a local government may include lower priority (resource) lands in an urban reserve if the amount of adjacent and suitable higher priority (exception) lands is inadequate to accommodate the projected supply needed by the local government. OAR 660-021-0030(4). At this stage, and only after following the preceding sequence, may a local government exclude exception lands based on the feasibility of providing urban services, or the need to include resource lands in order to serve exception areas. How high the bar is set at this stage is a policy matter for the local government and the commission. The department believes that the test should recognize the fundamental purpose of the reserves rule – to protect exception lands for future urbanization – such that the "topographical or physical constraints" on future urban services must be a significant obstacle to future urbanization, one that makes efficient future urbanization over a fifty-year period unlikely.

#### **4. General Principles – Summarized**

To summarize, the department believes the urban reserve rules require the following:

- The amount of land for inclusion in an urban reserves must be estimated based on generalized projections population and employment for a period from ten to thirty years beyond the supply provided by the current UGB.
- The local government then converts these projections to an estimate of land need by analyzing the extent to which the growth may be accommodated within the existing UGB, through redevelopment or infill (beyond that already projected during the UGB planning period).
- Then, to the extent there is an unmet need for a supply of land beyond the existing UGB, the local government looks to exception lands to meet the need. The local government can consider development constraints in determining how much of the need the exception lands likely can meet, but it can't exclude them from consideration for inclusion in the reserve (using the Goal 14 locational factors) unless they are not "developable."
- Only after first determining that there are not adequate suitable exception lands to meet the projected requirement for a land supply may a local government then consider resource lands.
- The exceptions in subsection (4) of the reserve rule come into play only after the local government has first studied all adjacent exception lands, and wishes to exclude exception lands that are suitable, but that can't reasonably be served by public facilities and services (note that this strongly suggests that the standard for suitability is a low one).

- Specific land needs are accommodated by the state's growth management laws, but through the amendment of urban growth boundaries (where such needs can be predicted with relatively more certainty).

## 5. Additional Historical Context

Copied below are excerpts from prior department staff reports to the commission, leading to adoption and amendment of the urban reserve rules. The following statements of “legislative intent” reflect declarations by the commission of rule interpretation or application that were not included in the text of the rules themselves. Additional historical context is provided by Attachment A.

### A. Adoption of OAR 660, Division 21 – April, 1992.

“Since urban reserve areas are established in order to identify areas for eventual inclusion in the UGB, the rule’s process for identifying candidate areas was crafted to parallel Goal 14’s process for UGB amendment. This will help assure that reserve areas would eventually qualify for inclusion in the UGB when more urbanizable land is needed.

“Thus, the “need Factors” of Goal 14 (Factors 1 and 2) would be the basis for an estimate of the amount (acreage) of “developable” land necessary for a 30 to 50 year planning horizon. This estimate must also include general predictions about the types of land needed (e.g., level sites served by rail for industrial use).

\* \* \*

“The Commission was concerned that cities might avoid exception areas when looking for future urban lands, since exception areas may be more difficult to urbanize, and residents often oppose inclusion in the UGB. The urban reserve rule makes it difficult to avoid inclusion of nearby exception areas when adopting urban reserve areas.

“The Rule requires that jurisdictions select urban reserve lands using a hierarchy: exceptions and nonresource lands would be selected over resource land; lower quality resource lands would be selected before higher quality lands. Areas with existing services, especially sewer or water, should be selected before areas without such services.

“If this hierarchy is strictly followed, urban areas would be required to grow into lands that are sometimes considered ‘less desirable’ city growth areas, i.e., areas that require infill rather than in undeveloped open areas – and areas that often include an entrenched constituency opposing annexation.”

### B. Amendment of OAR 660, Division 21 – January 2000.

\* \* \*

“The amendment of the urban reserve rules at Section 0030(4) eliminates Metro’s ability to include land of lower priority in order to address specific types of identified land needs including the need to meet favorable ratios of jobs to housing. It is the commission’s intent that such special needs are appropriately addressed in the short term rather than the long term, and therefore shall not result in the selection of farm land or forest land for inclusion in an urban reserve.”

**6. Estimating land supply for Newberg’s urban reserve; relation to possible UGB amendment.**

**Recommendation.** The department recommends that the commission remand the city’s decision so that the city can reformulate its estimate of the amount of land necessary for inclusion in the urban reserve based on the general principles outlined above.

**Discussion.** The commission intends urban reserves to include land identified for, and to protect that land for, future urbanization. Local government planning for specific identified land needs is accomplished in the shorter-term through adjustments to a community’s urban growth boundary, not through the designation of urban reserves. As a result, the department recommends that the amount of land for inclusion in an urban reserve be estimated as a generalized amount of land needed based on population and employment forecasts. Land needs based on site-specific characteristics can be met, and are specifically addressed, through the statutes and rules for urban growth boundary amendments.

The department recognizes that Newberg undertook a much more extensive and detailed analysis of land need than contemplated by the urban reserve rules. In recommending that the commission not approve the city’s estimate of the amount of land for inclusion in the urban reserve and remanding the decision for further analysis and justification, the department believes that the city will be able to develop a more supportable estimate for the amount of land to be included in an urban reserve, and will meanwhile be able to use much of its more detailed analysis as the basis for one or more urban growth boundary amendments to address shorter-term “specific land needs.”

For large-site or other specific industrial land needs that cannot be accommodated in the current UGB, the department believes that the city should address short-term needs by amending its urban growth boundary. Through population and employment growth forecasting and an analysis of economic opportunities, the city has estimated that it needs about 150 acres of industrial land through the year 2025.

The shorter-term estimate need for residential, commercial and institutional land is less certain, particularly since the city amended its UGB in 2007 to accommodate some or most of the need in these categories. To the extent that the city believes an urban reserve designation is

appropriate to identify and protect land for future urbanization, it may estimate a future supply of land for these needs by forecasting a future land supply as an extension of current estimates of land based on persons per acre or employees per acre, but with recognition that the alternatives analysis required by the reserve rule will generally dictate a showing of further efforts to accommodate these uses within the existing UGB.

**7. Determining which lands to include in the urban reserve.**

**Recommendation.** The department recommends that the commission remand the city's decision so that the city can reformulate its decision concerning which lands to include in its urban reserve to meet the *amount* of land, and to be consistent with the general principles concerning the sequencing and application of priority categories outlined above.

In general, the department believes that Newberg has not adequately justified the exclusion of most exception lands adjacent to the current UGB, and that it will be difficult to support excluding these lands to the extent that the city has in the decision on review.

**Discussion.** As set forth above, and in the attached materials, the purpose of urban reserves is to protect exception lands at the periphery of urban areas from further parcelization and development that would impede efficient urbanization. Other LCDC rules and statutes also establish that rural "exception" land adjacent to and near urban areas generally must be the first land brought into a UGB when a local government amends an urban growth boundary.

OAR 660-021-0030(4)(a) provides that a local government may "pass over" higher priority (exception) land for inclusion in a URA when it determines urban services could not reasonably be provided due to topographical or other physical constraints. The local government is not obligated to show that it is impossible to provide services, but it is not enough to show that services are difficult or more expensive to provide, or that the "yield" of such lands in terms of new housing or employment will be low.

The department believes that in order to show that "future urban services could not reasonably be provided," a local government must demonstrate that it is not reasonable to provide urban services after analyzing topographical and physical constraints (e.g., slopes, water bodies, roadways) in the context of:

- the cost of providing urban services is out of proportion to the amount of development that would be made possible;
- the amount of land constrained (i.e., a high cost may be reasonable for serving a large area but not a small one); and
- the planning horizon (i.e., what is not reasonable for a 25-year planning period may be reasonable for a 45-years).