

**BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON**

IN THE MATTER OF PERIODIC REVIEW)	APPROVAL
TASK 2 AND THE AMENDMENT OF)	ORDER
THE URBAN GROWTH BOUNDARY)	11-WKTASK-001802
FOR THE CITY OF WOODBURN)	

This matter came before the Land Conservation and Development Commission (commission) on January 12, 2011 on remand for reconsideration from the Oregon Court of Appeals. The commission considered a new order and findings for a completed periodic review work task and an urban growth boundary (UGB) amendment submitted by the City of Woodburn (city). The city submitted Task 2, “Commercial and Industrial Lands Inventory,” of its work program to the department for review pursuant to ORS 197.633 and OAR chapter 660, division 25. The city also submitted the amendment of its UGB to the department for review pursuant to ORS 197.626 and OAR 660-025-0175. The commission, having fully reconsidered the written record, including the city’s Task 2 and UGB amendment submittal, and the written argument and oral presentations of the objectors, the city, and the department, now enters the following findings, conclusions, and order.

I. INTRODUCTION

A. Procedural History

1. On October 31, 2005 the city adopted its ordinance 2391, approving an urban growth boundary (UGB) expansion and certain periodic review work tasks.
2. On July 19, 2006 Marion County co-adopted the city’s UGB expansion.
3. On August 3, 2006, the department received ordinance 2391 and the county’s ordinance co-adopting the UGB expansion. The department determined that the submittal was complete on August 4, 2006.
4. Between August 22 and August 24, 2006, the department received objections from 10 parties. The objections were timely filed.
5. On November 30, 2006, the department referred periodic review Work Task 2 and the UGB amendment to the commission by Order 001714 and notified the city and the objectors.
6. On January 25, 2007, the commission held a hearing on the Task 2 and the UGB amendment, and reached a verbal decision to approve the city’s submittal.
7. On February 14, 2007, the commission issued a final written order approving the city’s submittal.
8. Objectors 1000 Friends of Oregon, Marion County Farm Bureau, Lolita and Kathleen Carl, Diane and Carla Mikkelson, and the Friends of Marion County appealed the commission’s order to the Oregon Court of Appeals.
9. On September 8, 2010, the Oregon Court of Appeals reversed and remanded the commission’s order 07-WKTASK-001720. *1000 Friends of Oregon v. LCDC (Woodburn)*, 237 Or App 213 (2010). The court remanded the decision for the commission to explain

10. On November 12, 2010 the department issued a draft revised order providing the department's proposed explanation and reasoning as requested by the court. The department circulated the order to the parties to the appeal requesting written argument concerning the draft revised order.
11. On November 30, 2010, the Court of Appeals issued the appellate judgment in *1000 Friends v. LCDC (Woodburn)*.
12. Between December 16 and 20, 2010, The Marion County Farm Bureau, Opus Northwest, the City of Woodburn, 1000 Friends of Oregon, and Kathleen and Lolita Carl submitted written argument concerning the draft revised order.
13. On December 29, 2010, the department issued a staff report concerning the draft revised order and notified the parties that it would issue a written response to the arguments on January 7, 2011.
14. On January 5, 2011, 1000 Friends of Oregon submitted a letter, requesting that the commission take official notice of certain documents.
15. On January 7, 2011, the department issued a report responding to the written arguments of the parties.
16. On January 10, 2011 the City of Woodburn and Opus submitted a letter opposing 1000 Friends' request to take official notice.
17. On January 12, 2011 the commission held a hearing on the draft revised order and heard argument from the parties and the department. The commission then closed the hearing on the remand, and deliberated to a decision. The commission denied 1000 Friends' request that it take official notice of certain documents, and again approved Task 2 and the UGB amendment, for the reasons set forth in this order.

B. The Submittal

The city's findings in support of its decision are found at R. Item 10, pages 1307 to 1362, and at R. Item 10 pages 1365 to 1454. The latter document is the city's UGB Justification Report, which contains its findings concerning statutes, goals and rules related to Goals 2, 5 and 7 through 14. R. Item 10 page 1331.

1. Residential Lands: The city included approximately 546 gross acres of land in the amended UGB expansion for residential uses (383.5 net acres). The land the city added for residential uses also was planned to include certain public and institutional uses. R. Item 10 page 1448. The residential lands are located to the north, northwest, south, southwest, and east of the city. The lands in the northwest, east and south areas are primarily exception lands, and the lands located in the north and southwest areas are primarily resource land. The residential need analysis, efficiency measures, and locational analysis conducted by the city are summarized in the "Woodburn UGB Justification Report." R. Item 10, at 1365-1448. The city's addition of lands for these uses was not at issue before the court or on remand.

2. Commercial Lands: The 24 net buildable acres of land the city added to its UGB for commercial uses included a small area adjacent to the golf course and two larger areas, one on the west side of 99W and one located in the southwest quadrant that is planned as part of a larger nodal development. R. Item 10, at 1448. The city has justified the inclusion of a relatively small amount of commercial land in the amended UGB as a way to ensure the redevelopment and infill potential of the downtown area and Highway 99W corridor is fully realized. The city established that both of these existing commercial areas are underutilized. The parties on remand have not challenged the amount or location of land in the UGB expansion area planned for commercial uses.

3. Industrial Lands: The city undertook a multi-year evaluation of community vision/goals, economic opportunities, population forecasting, and determination of site needs. The city included 409 gross acres of land in the amended UGB for industrial and office uses. The lands are located in the west and southwest part of the UGB. The largest industrial area in the amended UGB is the Southwest Industrial Reserve (SWIR), which is comprised of large parcels bounded on the south and west by Butteville Road. The city performed a 2020 employment forecast, an Industrial Land Needs Analysis, and a refined Target Industry Site Suitability as well as an Economic Opportunities Analysis (EOA) and Economic Development Strategy (EDS). In these documents, the city established the need for 409 gross acres of industrial land, and the analyses address site sizes, types, and locations under the requirements of Goals 9 and 14 as required by Goal 14 and OAR 660-009. The city's analysis of industrial land needs and its locational analysis also are summarized in the "Woodburn UGB Justification Report," which was adopted as the city's findings in support of its UGB amendment. R. Item 10, at 1319, 1331.

The city applied ORS 197.298 and the Goal 14 location factors to determine which lands to include within its UGB expansion area. The city created eight UGB Expansion Study Areas (a total of 3,984 acres) for the purpose of evaluating the land around Woodburn in accordance with the ORS 197.298 and the Goal 14 location factors. The city based the UGB amendments on the results of the locational analysis, which considered transportation impacts, constraints such as wetland and riparian areas, public facilities availability and serviceability, the soil quality of agricultural lands, and impacts on abutting agricultural lands.

C. The Issues on Remand

The Court of Appeals identified one basic issue in its remand: Did Woodburn include more industrial and office land in its UGB than was necessary to accommodate its land needs for these uses over the 20-year planning period, in violation of Goals 9 and 14? The court did not reach the second issue raised by the parties – whether (assuming that there was a need for additional industrial and office land) the city was required to select different land for inclusion in the UGB pursuant to ORS 197.298 and the locational factors in Goal 14. *1000 Friends of Oregon*, 237 Or App at 216.

The court concluded that the 2007 LCDC order was inadequate for judicial review of the first issue, and the court therefore did not address the second issue. *Ibid.* The court indicated that if the commission's decision to uphold the city's UGB expansion for industrial and office uses relied on "market choice," the commission must explain how that concept is consistent with both

Goal 9 *and* Goal 14, and (in particular) the limitation in Goal 14 that an urban growth boundary not contain *more* than a twenty-year supply of land. *Id.* at 225-226. This order of the commission addresses both issues: the amount of land added, and the location of the expansion area.

D. The Applicable Law

The city adopted Ordinance 2391, amending its UGB, on November 2, 2005. Marion County co-adopted the UGB amendment on July 19, 2006, and the city then submitted the amendment to the department on August 3, 2006. The city elected to apply the "new" version of Statewide Land Use Planning Goal 14, which was adopted by the commission on April 28, 2005 (but which had a delayed effective date unless a local government elected to apply the "new" provisions). The commission adopted rules implementing the "new" Goal 14 on October 5, 2006 (effective April 5, 2007). Those rules, OAR 660-024, do *not* apply to the city and county's decisions. The commission's current rules implementing Statewide Land Use Planning Goal 9 were adopted on December 1, 2005, but did not take effect until January 1, 2007 unless a local government elected to apply the rules before that date. Those rules also do *not* apply to the city and county's decisions (the prior division 9 rules "Industrial and Commercial Development" do apply).

II. COMMISSION REVIEW

The portions of the commission's 2007 order concerning residential lands and commercial lands were not challenged on judicial review. Those portions of the commission's prior order are repeated, below and have not been changed. They are included for purposes of presenting a complete order and to avoid confusion, but are not at issue in this proceeding on remand. This order also expressly adopts and incorporates by reference the department's written response to the arguments of the parties on remand, dated January 7, 2011, attached as Exhibit A to this order. In the event of any conflict between this order and the department's report, this order shall control.

A. Residential Land

The residential component of the UGB decision comprised 546 acres of land in the amended UGB residential uses and included public and institutional uses. The lands are located in the north, northwest, south, southwest, and east. The lands in the northwest, east and south areas are primarily exception lands, and the lands located in the north and southwest areas are primarily resource land. The residential need analysis, efficiency measures, and locational analysis conducted by the city are summarized in the "Woodburn UGB Justification Report." R. Item 10, at 1367-1454. The commission reviewed the record and the objections and approves the UGB decision related to residential land.

Objections

1. Renaissance Homes (Perkins Coie). This objection asserts the city misconstrued ORS 197.298 and failed to include the eastern part of OGA Golf Course despite identified “high-end” housing need.

Commission Response: The city has exhaustively documented the reasons for not including the subject area noted in the objection. Primary among those reasons is that the soils are almost entirely Class I. This makes the subject area the lowest priority for inclusion pursuant to ORS 197.298. Furthermore, the city found that the identified need for high-end housing could be met on other lands of higher priority. The commission rejected the objection. Order 07-WKTASK-001720 at 2. That decision was not appealed and is not now before the commission.

2. Tukwila Partners (Garvey Schubert Barer). This objection maintains the city failed to include an adequate amount of residential land and erroneously failed to include 277 acres around the OGA Golf Course for “high-end” housing.

Commission Response: The city identified the need for 1,074 “high-end housing units” (defined as having a selling price of \$212,500 or higher, in 1999 dollars), and that need is proposed to be mostly met through an urban growth boundary amendment near the OGA Golf Course. The lands proposed for inclusion in this area will accommodate approximately 825 high-end units at 5.5 units per net buildable acre. The city found that the identified need for high-end housing also could be met on other lands of higher priority. The commission rejected this objection. Order 07-WKTASK-001720 at 2. That decision was not appealed and is not now before the commission.

3. Fessler (Saalfeld Griggs). This objection concerns the Woodburn Development Ordinance limitation on residential annexations to a five-year supply. The objector argues that the city erred by requiring that there be less than a five-year supply of land in a particular residential designation before annexing additional land from the UGB.

Commission Response: The commission finds that there is no statutory or rule violation in this action, and the five-year supply requirement will serve to ensure that development occurs in an orderly and efficient manner, and that there are adequate public facilities and services available in accordance with Goal 14. The commission rejected this objection. Order 07-WKTASK-001720 at 3. That decision was not appealed and is not now before the commission.

B. Commercial Land

Woodburn determined that it may need up to 310 net buildable commercial acres to meet 2020 needs. However, as a matter of policy, the city determined that most future commercial employment need would be met through intensification, redevelopment and infill of vacant, partially vacant, and redevelopable lands already within the UGB. The city concluded a small UGB expansion of 22 acres was needed to provide commercial opportunities in and near future residential areas, but decided to meet the remaining need on lands within the existing UGB. R. Item 10, at 1391-92.

The commission received no objections regarding Woodburn's findings and conclusions regarding commercial employment lands, and the proposed UGB amendment; it approved the UGB decision related to commercial land and that decision was not appealed and is not now before the commission.

C. Amount of Industrial and Office Land

A number of objectors assert that the City of Woodburn included more land in its UGB expansion for industrial and office uses than was necessary to accommodate its needs over the 20-year planning period in violation of Goal 9 or 14. This section of the commission's order provides its findings of fact, reasoning, and conclusions concerning this aspect of the city's decision.

1. Legal Standard

The applicable legal requirements are found in ORS 197.712, Goal 9 (and OAR 660-009 (2005), and Goal 14. As explained above, OAR 660-024 (the commission's Goal 14 rules for UGB expansions) and the current version of OAR 660-009 did not apply to the city and county decisions to amend the UGB, and are not applicable legal standards for the commission's review.

ORS 197.712 requires, in pertinent part, that:

(2) By the adoption of new goals or rules, or the application, interpretation or amendment of existing goals or rules, the Land Conservation and Development Commission shall implement all of the following:

(a) Comprehensive plans shall include an analysis of the community's economic patterns, potentialities, strengths and deficiencies as they relate to state and national trends.

(b) Comprehensive plans shall contain policies concerning the economic development opportunities in the community.

(c) *Comprehensive plans and land use regulations shall provide for at least an adequate supply of sites of suitable sizes, types, locations and service levels for industrial and commercial uses consistent with plan policies.*

(d) Comprehensive plans and land use regulations shall provide for compatible uses on or near sites zoned for specific industrial and commercial uses.

* * *

(g) *Local governments shall provide:*

(A) Reasonable opportunities to satisfy local and rural needs for residential and industrial development and other economic activities on appropriate lands outside urban growth boundaries, in a manner consistent with conservation of the state's agricultural and forest land base; and

(B) *Reasonable opportunities for urban residential, commercial and industrial needs over time through changes to urban growth boundaries.*

(3) A comprehensive plan and land use regulations shall be in compliance with this section by the first periodic review of that plan and regulations." (Emphasis added).

Goal 9 requires that comprehensive plans provide opportunities for a variety of economic activities, based on inventories of areas suitable for increased economic growth taking into consideration current economic factors. Like ORS 197.712, the goal requires that comprehensive plans provide for at least an adequate supply of suitable sites, and limit incompatible uses to protect those sites for their intended function.

OAR 660-009(2005) requires the city to identify the number and acreage of sites needed to accommodate industrial and commercial uses to implement plan policies. "Plans shall designate land suitable to meet the site needs identified [as necessary to meet projected employment growth]." OAR 660-009-0015 and 0025. The sites must reflect the requirements of expected uses, based on the city's analysis of its economic development potential and locational advantages and disadvantages. This analysis is set forth in the city's Economic Opportunities Analysis (EOA). Under OAR 660-009-0025 (2005) "[t]he total acreage of land designated in each site category shall at least equal the projected land needs for each category during the 20-year planning period."

Goal 14 requires that:

"Establishment and change of urban growth boundaries shall be based on the following: (1) *Demonstrated need to accommodate long range urban population*, consistent with a 20-year population forecast coordinated with affected local governments; and (2) *Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2)*. In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need." (Emphasis added).

2. Summary of Local Actions

In 2001, Woodburn prepared an economic development strategy outlining community actions to improve economic conditions for residents. The city council endorsed a strategy comprising seven parts:

- Utilizing the city's comparative locational advantages to attract certain industry and office segments (explained in EOA);
- A policy intent to avoid becoming bedroom community;
- A desire to provide higher wage jobs in the future;
- Identifying target industries, while not limiting recruitment or support to those industries;
- A policy intent to assure adequate land, infrastructure, amenities, and workforce for the target industries;
- A commitment to strategic economic development to promote livability; and
- A desire to provide a range of housing to balance a range of employment opportunities. (R. at 706-07.

Woodburn also adopted specific, interrelated objectives concerning the UGB amendment:

- Implement the Economic Opportunities Analysis (EOA) and Economic Development Strategy;
- Improve transportation connections;
- Provide buildable land, improve efficiency, connectivity, and livability;
- Protect natural resources; and
- Minimize impacts to farmland. R. Item 10, at 1377-78.

The city worked with Marion County to develop an updated coordinated population forecast through 2020 (adopted in 2004), and worked with its experts to develop an employment forecast for the corresponding period. The adopted population forecast is for 34,919 in the year 2020, and is based on a 2.8% average annual population growth rate applied to the city's 2000 census population of 20,100. Marion County Ordinance No. 1233, Exhibit A (findings), at page 2.

The city's findings for ORS 197.712, Goal 9 and Goal 14, are contained in its "UGB Justification Report." The UGB Justification Report explains how the city developed its employment forecast. The city's employment in 2000 was 10,388 employees. The city's experts (ECONorthwest) projected 2020 employment for the city of between

"16,370 and 18,762, - or annual growth rates ranging from 2.3 - 3.0 %. The Council chose the higher projection [8,374 new employees by 2020, and 3.0%] for several reasons:

- First, Woodburn currently has a relatively low employment-to-population ratio, when compared with the county as a whole. Using covered employment figures, Woodburn has 5% of total county employees - but 7% of the county population. Woodburn has only 1 job for every 2.4 residents, compared with 1 job for every 1.8 residents in Marion County. Thus, there is a substantial imbalance between jobs and housing in Woodburn - a situation that the city addresses in the Woodburn Economic Development Strategy (EDS). If Woodburn's economic development strategy is successful and Woodburn is able to attract 8,762 new jobs to go along with planned population growth, then Woodburn will have a more reasonable ratio of 1 job for every 1.9 people.
- Second, Woodburn's projected annual employment growth rate is reasonable given the City's I-5 location and the availability of flat, vacant and serviceable land within the [southwest industrial reserve] (SWIR) that will be master planned, before annexation and urban development can occur. As noted in Winterbrook's February 16, 2005 memorandum, Woodburn's comparative advantages are similar to those of Wilsonville, which attracted substantial economic growth over the last 25 years and has more jobs than residents.

* * *

Contrary to views expressed by 1000 Friends and FAN, Woodburn's projected annual population growth rate of 2.8% AAGR [Average Annual Growth Rate] is proportionate to its projected annual employment growth rate at 3.0% AAGR.

- Third, Woodburn Transportation Systems Plan (TSP) and Interchange Management Area Overlay District are based on the high employment projection of 18,762. If Woodburn were to attract fewer than the projected number of jobs, then impacts on the interchange would be reduced and interchange improvements would have a longer life. On the other hand, if Woodburn were to underestimate job growth near the interchange, and provide for lesser interchange improvements, then Woodburn would face a potential moratorium on higher employment growth under the City's IMA (Interchange Management Area) Overlay District."

R. Item 10, at 1388-89 (footnotes omitted).

Although the city ultimately chose to plan for employment growth at the high end of the range projected by its experts, its experts initially used a medium growth scenario to develop a preliminary estimate of land need. Based on a medium employment forecast of 7,140 new jobs through 2020, of which 6,346 would be accommodated in new buildings on vacant lands, the city's experts initially determined that it would need about 265 net developable acres of new land for office and industrial uses, "Site Requirements for Woodburn Target Industries." R. Item 10, at 1278 (Table 1 (commercial and public land needs are not included in the acreage total)).

A number of objectors, including 1000 Friends of Oregon, argue that this *initial* estimate by the city's experts demonstrates that Woodburn included too much land in its UGB for industrial and office uses. The commission finds that this argument is flawed for the following reasons:

First, the objectors fail to recognize that the city ultimately chose to plan for a higher rate of employment growth (3 percent instead of 2.8 percent), leading to an estimated employment increase of 8,374 jobs over the 20-year planning period, seventeen percent above the initial estimate in the ECONorthwest report. If the figure of 265 net developable acres is adjusted to reflect the higher employment target ultimately chosen by the city and approved by the county (8,374 jobs instead of 7,140) the net developable acres needed for industrial and office uses is 17 percent higher, or 311 net developable acres - based *solely on population and employment projections* and before considering needed sites and site requirements of target industries.

Second, and more fundamentally, the city based its UGB expansion for office and industrial uses on its analysis of the number and types of sites likely to be needed over the planning period to achieve its employment projection. It based its analysis on its assessment of target employment categories in its Economic Opportunities Analysis (EOA), and the projected number of sites and site requirements of those categories of uses. This approach to determining land needs for employment uses is expressly allowed under Goal 9, the commission's Goal 9 rules and ORS 197.712.

Third, the city's EOA is based on expert analysis of the number of sites and the site requirements needed for the city to meet its goals for future employment. There is little contradictory evidence in the record. In addition to its EOA, the city asked ECONorthwest to interview regional realtors and developers to obtain more specific information on necessary site characteristics (Site Needs Memorandum, Appendix A). ECONorthwest then also conducted a

literature review regarding trends in industrial and business park development to substantiate the projections for needed sites and site characteristics. *Id.* ECONorthwest used its analysis, interviews and literature review to estimate the number of sites by site class and locational requirements needed to accommodate the forecasted employment for the city.

In the end, the city identified a total need for 42 sites, in a variety of site sizes. The total acreage of land for these sites was 486 acres. R. Item 10, at 1392 (Table 1). Of the total need for sites over the 20-year planning period, the city determined that 23 (mostly small) sites with a total of 45 acres, were available on lands within the existing UGB. R. Item 10, at 1394 (Table 2). This left a shortfall of 19 (mostly larger) sites. *Id.* The remaining need for 19 sites was met through the city's UGB expansion into its Southwest Industrial Reserve, which contains 19 sites with 362 net developable acres, including one large lot site of approximately 96 acres, and another medium-sized site of approximately 65 acres. R. Item 10, at 1416 (Table 14 (net acres for SWIR)).

3. Commission Findings of Fact and Reasoning

While the city expressly elected *not* to base its determination of land need for industrial and office uses on a straight employee-per-acre method, the commission finds that the relatively close correlation between the city's projected land need based on its employment projection and employee-per-acre ratios (311 net developable acres), and the acreage contained in the 19 sites it determined are needed based on its EOA and site requirements analyses (362 net developable acres) provides important corroboration for the city's ultimate decision concerning the amount of land needed for industrial and office uses. The more a city's land need for employment based on its analysis of economic opportunities and sites diverges from what would be predicted based solely on forecasted population and employment growth and employee-per-acre ratios, the more thoroughly the city will need to substantiate its economic opportunities analysis and resulting site needs. In effect, the population and employment projections (Goal 14, factor 1), serve as an elastic constraint on a community's projected land needs based on the aspirations and opportunities (Goal 14, factor 2 and Goal 9), as documented through an EOA and through site requirements. The further the two diverge, the stronger the substantiation required that future opportunities are real (in the sense of land need under Goal 14, factor 1) and not speculative.

In this case, the commission notes that the two numbers are relatively close -- 311 net developable acres based solely on population and employment projections and ratios, and 362 net developable acres based on the city's analysis of target industries and site requirements for those industries. The commission finds that the first projections support a conclusion that the city's UGB expansion for industrial and office uses contains an amount of land that is reasonably related to both its forecasted growth (Goal 14, factor 1) and its employment opportunities (Goal 14, factor 2, and Goal 9).

As noted above, the city expressly elected (as allowed by Goal 9) to base its estimate of land need for employment opportunities on its analysis of economic opportunities. That analysis identified a set of target industries, based on the city's relative economic strengths and weaknesses. In turn, the city identified the likely site requirements for those target industries. The city's summary of its analysis is as follows:

"Table 4 [R. Item 10, at 1287] summarizes the number of sites by size class Woodburn will need to implement its economic development strategy. The land needs analysis concluded that Woodburn will need about 370 acres to accommodate 7,140 new employees between 2000 and 2020. Table 4 includes sites that total over 500 acres [the actual acreage for this lower level of employment growth in Table 4 is 486 acres, R. Item 10, at 1287]. Site needs can be conceived as a pyramid with few large sites at the top and many smaller sites at the bottom. Such a land inventory scheme is consistent with OAR 660-009 which requires cities to maintain an adequate inventory of sites. The table identifies a need for five sites of 25 acres or larger. While inclusion of such sites in its land inventory will exceed the identified land need based on the medium range employment forecast, an adequate supply of sites will provide Woodburn more flexibility in its economic development efforts and by accommodating the siting requirements of industries targeted in the EOA.

Table 4. Summary of estimated site needs by size, Woodburn 2000-2020

Site Size (acres)	Number of Sites	Average Site Size	Estimated Acres
100 or more	1	125	125
50-100	1	70	70
25-50	3	35	105
10-25	5	15	75
5-10	7	8	56
2-5	10	4	40
Less than 2	15	1	15
Total	42	11.6	486

"This hierarchy of need is consistent with the requirements of Goal 9 and OAR 660-009. Specifically, OAR 660-009-0015(2) requires that 'industrial and commercial uses with compatible site requirements should be grouped together into common site categories to simplify identification of site needs and subsequent planning.' Moreover, 660-009-0025(1) requires plans to identify needed sites:

'The plan shall identify the approximate number and acreage of sites needed to accommodate industrial and commercial uses to implement plan policies. The need for sites should be specified in several broad "site categories," (e.g., light industrial, heavy industrial, commercial office, commercial retail, highway commercial, etc.) combining compatible uses with similar site requirements. It is not necessary to provide a different type of site for each industrial or commercial use which may locate in the planning area. Several broad site categories will provide for industrial and commercial uses likely to occur in most planning areas.'

"Thus, the administrative rule that implements Goal 9 recognizes that sites designated for employment can accommodate different types of employment. This is made explicit in OAR 660-009-0025(2): 'Plans shall designate land suitable to meet the site needs identified in section (1) of this rule. The total acreage of land designated in each site category shall at least equal the projected land needs for each category during the 20-

year planning period."

"Table 4 assumes that most site needs will be for industrial uses. Commercial and office needs will be met largely through infill and redevelopment, and public uses will be largely met on residential land. The analysis assumes that limited office and supporting commercial uses will be met on industrial lands. This is consistent with OAR 660-009-0025(2) which states 'jurisdictions need not designate sites for neighborhood commercial uses in urbanizing areas if they have adopted plan policies which provide clear standards for redesignation of residential land to provide for such uses.' Discussions with City staff have identified a special need for a single commercial node the location of which has not been identified at this point. "

"Table 4 provides a preliminary allocation of land needed for employment by site size."

ECONorthwest, "Site Requirements for Woodburn Target Industries," at 8-10. R. Item 10, at 1287-1288.

This summary, and the accompanying table, are largely repeated in the city's UGB Justification Report. R. Item 10, at 1391-92. The city determined that in order to meet the likely site requirements of its target industrial and office uses, it had a need for 19 sites in its UGB expansion area, containing 362 net developable acres. R. Item 10, at 1395 (Table 3; note, column 3 of this table includes sites within both the existing UGB and the expansion area). The city also found that this amount of land would be sufficient to accommodate its higher employment projection. Id. at note 17.

The city undertook a buildable land inventory addressing residential and employment uses. (R. Item 10, at 1165-1194). The city identified an industrial/employment land inventory of sites within its existing UGB comprising 23 sites totaling 47 buildable acres. R. Item 10, at 1393, 1404.

Woodburn's determination of land needs started with the EOA, the economic development strategy, and city policies. Site needs and the amount of land necessary are targeted at fulfilling the city's objectives to bring higher wage jobs to the community. R. Item 10, at 706. The city's economic development program is supported by the EOA and the economic development strategy, and is encouraged by policy directives in Goal 9 and ORS 197.712. R. Item 10, at 1315.

In the EOA, the city identified 13 target industries as well as the site characteristics that are typical of those industries. R. Item 10, at 1059-64. The target industries include office as well as industrial uses. Before the commission, 1000 Friends argued that those office uses could be accommodated within the city's existing UGB. However, that argument ignores the fact that the city already had decided to accommodate almost *all* of its future land need for commercial (retail) uses within its existing UGB -- totaling over 200 acres of land accommodated on vacant and redevelopable land. Given the city's aggressive effort to focus future retail/commercial growth within the existing UGB, its decision to plan for future office development on lands outside of the existing UGB is reasonable (particularly given the office park types of uses

identified in the city's EOA - requiring larger sites), and consistent with the requirement of Goal 14 to demonstrate that land needs cannot reasonably be accommodated within the existing UGB.

The city documented the site requirements for target industries. R. Item 10, at 1278-87. The city relied on expert opinion (R., Transcript, p. 52, 55) to identify the number of sites in a range of site sizes needed to achieve the city's economic objectives based on the documented economic opportunities available to the city. The city found that in order to accommodate long range population consistent with its coordinated population forecast, and its demonstrated need for employment opportunities, it had an employment land need of approximately 486 acres of land in a range of types of sites with particular characteristics (size, proximity to freeway access, etc.). R. Item 10, at 1392. After analyzing sites within its existing UGB along with sites in its proposed expansion area, the city elected to proceed with the addition of 409 gross acres of land for employment opportunities. R. Item 10, at 1393-1395.

ORS 197.712, and Goals 9 and 14 establish how local governments in Oregon plan to ensure that they provide a land supply for the future employment needs of their communities. The commission's rules in OAR chapter 660, division 9 provide additional detail to implement Goal 9. Under Goal 14, factor 1, local governments must include an amount of land within urban growth boundaries that is sufficient to accommodate long-range urban population. Under Goal 14, factor 2, local governments also must include sufficient land for employment opportunities. This second factor of Goal 14 links to ORS 197.712 and Goal 9, which further detail what local governments must plan for and how local governments determine the amount and types of land that are needed for employment opportunities. The fundamental requirements of Goal 14, factor 2, Goal 9 and ORS 197.712 is that local governments must maintain at least an adequate supply of suitable sites for employment opportunities based on their analysis of their competitive advantages and the limitations of adequate public facilities. Goal 14, factor 1, also provides context for the *amount* of employment land, in that the amount of land within an urban growth boundary must be adequate to accommodate long-term urban population, consistent with a 20-year population forecast coordinated with affected local governments. Thus, while a local government must provide at least an adequate supply of sites to meet the need of its current and projected future population for employment, it may not add more land than is needed over a 20-year period for employment or any other purpose.

A local government's total land supply is the result of a series of policy choices. It is not a math formula. Goals 9 and 14, and division 9 task local governments to explore options and assemble the facts needed to inform the policy choices. Local governments must make findings supported by substantial evidence, and explain their policy choices. The local governments use an economic opportunities analysis to explore and document the information, analyses and series of policy choices that determine the total land supply for employment opportunities under Goals 9 and 14. The local government uses the EOA to define projected employment, community objectives, likely opportunities given comparative strengths and weakness, and the number and types of suitable sites needed to capture those opportunities.

Considerable attention has been paid at both the local level and before the commission about whether the city overestimated its land need and included more land in the UGB than is justified for the 20-year planning period. The discussion focuses on application of a target industries

methodology, the identification of site characteristics and selection of needed sites, and the concept of “market choice.”

The commission finds, first, that the city's estimate of the amount of land needed for employment uses during the 2000-2020 planning period is consistent with Goal 14, factor 1 (demonstrated need to accommodate long range urban population, consistent with a 20-year coordinated population forecast) for the reasons explained above. The city and county have prepared and adopted an updated population forecast for the city. That forecast projects a 2.8 percent average annual population growth rate for the city. The city also has adopted an updated employment forecast, based on the work of its experts. That forecast projected a range in average annual growth in employment of up to 3 percent through 2020. The city chose the top end of the range, based on its policy choice to encourage a greater degree of balance between its population and employment, relative to the rest of Marion County, as well as its determination that this rate of growth is feasible over the planning period (as documented in its EOA), and its determination that encouraging industrial development west of I-5 is necessary to support needed transportation improvements. The commission finds that the city's policy choices and determinations are consistent with Goal 14, factors 1 and 2, are based on an adequate factual base, and that the city has provided an adequate explanation of how it derived its estimate of future population and employment during the planning period.

The city's population and employment forecasts provide context for the city's determination of its need for employment opportunities under Goal 14, factor 2 and its determination of needed sites under Goal 9. The commission finds that there is a reasonable relationship between the city's estimate of 8,374 new jobs during the 2000-2020 planning period and the amount of land it has determined is needed for employment opportunities based on its analysis of economic opportunities, target industries and suitable sites. The commission concludes that for these reasons, and the reasons set forth in the department's response to the written argument of the parties (dated January 7, 2011 and expressly incorporated by this reference) that the amount of land the city has added to its UGB is consistent with both Goal 9 and Goal 14. The city has not added more land than needed during the 20-year planning period. Nor, despite some contradictory statements in the city's planning documents, has it added land in order to provide for “market choice” (as explained in more detail below). Instead, the amount of land included in the UGB expansion is based on a reasonable projection of what target industries the city is most likely to succeed in attracting or having expand during the planning period, and the site requirements of those industries (the types of sites companies in those industries typically require in order to locate in a community). Finally, as noted above, the commission also finds that the city's estimate of land need is reasonably related to its projections of population and employment growth during the planning period.

The commission further finds that the city has demonstrated compliance with Goal 14, factor 2 and Goal 9 (and the commission's 2005 Goal 9 rules) through its analysis of target industries and suitable sites needed to provide employment opportunities that are reasonably likely to generate the employment needed for the city's current and projected future population. In this instance, the target industries methodology the city used is appropriate and complies with Goal 9 and Goal 14, factor 2. Using an employees-per-acre methodology is not required to demonstrate compliance with Goal 9 or Goal 14, factor 2, and the city did not use it to demonstrate total land need. The city's decision to use a targeted industries methodology instead of an employees-per-acre is

permissible under Goals 9 and 14. As explained above, the city's decision to plan for employment opportunities rather than projected employment based on population growth does not mean that the city added more land than it needs for employment during 2000-2020.

Goal 9 and Goal 14, factor 2, and the commission's Goal 9 rule (OAR 660-009-0025(2)(2005)) require the city to plan for an amount of land in each site category that at least equals the projected land needs for each category during the 20-year planning period. The city projected land needs by size class –tied to the particular requirements of its target industries, and demonstrated a need for approximately 409 gross acres of land after accounting for sites within the prior UGB. The commission finds that the city's analysis complies with Goals 9 and 14, as well as OAR 660-009 (2005).

The city's findings and the commission's prior order do mention providing sites to allow for "choice" in several places. R. Item 10, at 1392. "Market choice" is a term of art that refers to redundant sites provided to meet a *short-term* need for employment land. Market choice is recognized under the commission's *current* Goal 9 rules (OAR 660-009-0025(7)) through consideration of land availability to address issues such as a lack of ownership diversity. The commission discussed "choice", "market choice" and how the city determined its land supply. (R. Transcript, p. 51) in its first order on the Woodburn UGB expansion. However, the commission expressly finds that the city did not provide "market choice" in its determination of long-term (20-year) need of land for industrial and office uses. That is demonstrated most directly by the fact that the city planned for only *one* site in each of its two largest site classes (100 acres, and 50-100 acres). R. Item 10, at 1395 (Table 3). *No* market choice is provided with *one* site in these two largest site categories. It is also shown indirectly by the fact that the total amount of land the city has added to its UGB for industrial and office uses (362 net developable acres based on employment opportunities and site requirements) is reasonably related to its projection of 311 net developable acres of land need based on projections of future population employment using employee per acre ratios. R. Item 10, at 1391-1392. As noted above, the more the amount of land identified for employment under an EOA diverges from the amount of land predicted based on projected population growth, the more the commission will scrutinize a local decision to determine if the community is planning for more than a 20-year land supply. In this case, notwithstanding the city's references to choice in some parts of its planning documents, the commission is confident based on the relatively close correlation between the totals yielded by the two methods and the explanation provided in the city's analysis of target industries and site requirements that the city did not plan for more than a 20-year land supply for employment.

Before the commission on remand, 1000 Friends argued that the city's findings fail to "connect the dots" between its analysis of target industries, suitable sites and site requirements, and a 20-year land need. That is not correct. The city's UGB Justification Report (which are the city's findings for compliance with Goals 9 and 14) beginning at R. Item 10, at 1391 and continuing through R. Item 10, at 1395, describe its industrial (including office) land needs in terms of its needs through 2020 (a twenty-year period from when it commenced its work on its UGB). The city identifies the sites required by the target industries, the sites available within its existing UGB, and the sites needed in a UGB expansion. The city's findings provide the substantial reasoning and explanation needed for the commission to be able to review its decision, and the

city's findings are supported by substantial evidence in the record as a whole for the reasons stated above.

The city's determination of need for employment lands complies with the commission's division 9 rules. OAR 660-009-0015(1) requires that the EOA include a review of trends, an identification of required site types, an inventory of employment lands and an assessment of the community's economic development potential. The record shows that the city completed each of these required elements of an EOA. The documentation includes: 1-A The Woodburn Economic Development Strategy (R. Item 10, at 699); 4-A Economic Opportunities Analysis (R. Item 10, at 1019); 4-B Population and Employment Projections (R. Item 10, at 1077); and 4-H Site Requirements for Target Industries (R. Item 10, at 1275).

These documents contain the necessary facts and analysis to satisfy the commission's Goal 9 rules, including the requirements of OAR 660-009-0015 through 660-009-0030 (2005). The city based its planning effort on substantial evidence and coordinated with other local governments as required by making use of the best available information including trends and expert evaluation. The city determined that the number and types of industrial sites needed for the 20-year planning period was 42 sites, in a range of site sizes. R. Item 10, at 1392.

The city's decision also complies with Goal 9. Goal 9 requires that "...comprehensive plans for urban areas shall: 1. Include an analysis of the community's economic patterns, potentialities, strengths, and deficiencies as they relate to state and national trends; 2. Contain policies concerning the economic development opportunities in the community; 3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies; 4. Limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses."

By complying with the administrative rule that implements Goal 9, the city has conducted the analyses and made the findings to demonstrate compliance with the goal. In addition to the materials provided in support of compliance with the administrative rule, the record includes: the city's Findings of Fact (R. Item 10, at 1307) and UGB Justification Report (R. Item 10, at 1365). These documents contain the necessary findings of fact, establish the city's Goal 9 plan policies and specify plan implementation policies to meet the requirement of Goal 9 to provide opportunities for a variety of economic activities, and provide for at least an adequate supply of suitable sites. The city's adopted plan also limits incompatible uses, in order to protect the designated sites for their intended function.

The city's decision also complies with Goal 14, factors 1 and 2. Goal 14 requires that "Establishment and change of urban growth boundaries shall be based on the following: (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and (2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2). In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need."

The city demonstrated compliance with Goal 14, factor 1 by using the Marion County coordinated population forecast as the initial step in its planning process (R. Item 10, at 1090-93), and selecting an employment projection that is proportional to and reasonably related to its population growth rate (R. Item 10, at 1093-95). As explained above, the city made a reasoned policy choice to plan for employment growth that would exceed projected population growth over the planning period. The city did this in order to address an existing relative imbalance in population to employment in the city. The city demonstrated consistency with the population forecast by establishing a plan policy to improve the balance of jobs to the forecasted population by taking deliberate actions to accelerate job growth to better accommodate the needs of the long-range urban population. R. Item 10, at 658-62. The city complied with Goal 14, factor 1 by developing an employment growth projection over the 20-year planning period that was related to its coordinated population forecast (R. Item 10, at 1095) and by establishing plan policies to improve the balance of jobs to population (R. Item 10, at 699, 1388), and to improve the wage and skill levels of the local work force. R. Item 10, at 699, 706, 1377.

The city complied with Goal 14, factor 2 by identifying its employment opportunities through an economic opportunities analysis, and by establishing the site requirements for target industries needed to accomplish the 20-year economic development strategy and associated city policies.

The commission finds that the city identified a reasonable set of site requirements for its target industries. The portfolio of sites chosen by Woodburn is a reasonable estimation, based on expert opinion, for the city to rely on as to its employment opportunities and corresponding land needs for the planning period.

The commission finds that the city's use of target industries to identify employment need over the planning period is consistent with the city's population and employment projections. Employment forecasts inform policy decisions and afford local governments the ability to plan a future different from historical trends.

Finally, the commission also finds that the city's determination of employment land need complies with ORS 197.712. ORS 197.712 provides in part:

“the Legislative Assembly finds and declares that, in carrying out statewide comprehensive land use planning, the provision of adequate opportunities for a variety of economic activities throughout the state is vital to the health, welfare and prosperity of all the people of the state.

(2) By * * * the application, [or] interpretation * * * of existing goals or rules, the Land Conservation and Development Commission shall implement all of the following:

(c) Comprehensive plans and land use regulations shall provide for at least an adequate supply of sites of suitable sizes, types, locations and service levels for industrial and commercial uses consistent with plan policies.”

Goal 9's emphasis on employment opportunity is consistent with Goal 14's two need factors and ORS 197.712. As explained above, Goal 14, factor 1 requires that the amount of land within a

UGB for employment purposes be reasonably related to the local government's coordinated population projection. Goal 14, factor 2 and Goal 9 (along with ORS 197.712) further refine the state's policy by requiring that this amount also provide sufficient land and types of land to allow communities to meet their future need for employment opportunities and suitable sites that provide those opportunities.. The commission applies Goal 9 in concert with Goal 14. *Benjfran Development v. Metro Service Dist.*, 95 Or App 22, 26, 767 P2d 467 (1989).

As a practical matter this means that to support policy decisions, local governments must develop an adequate factual base that demonstrates that the land within the urban growth boundary will provide at least an adequate supply of suitable sites that are reasonably likely to lead to the employment opportunities needed for the community, given its projected long-range population and its policy choices. The overall amount of land may not exceed the total land need over the 20-year UGB planning period.

One other aspect of Goal 9 that bears on both the amount of land for employment opportunities, and the requirement to provide an adequate supply of suitable sites, is the cost and risk of planning, financing and developing public infrastructure. While this aspect of Goal 9 has not been a major issue in this matter, it can play an important role in directing a community to consider the fiscal feasibility of alternative ways of providing opportunities for future employment. This aspect of Goal 9 is intended to "daylight" the true costs of future growth options to inform local policy decisions, particularly the costs of expansion relative to the costs of redevelopment and infill.

For the reasons set forth above, the commission finds and concludes that the city's determination of the amount of land for industrial and office uses to include within its UGB expansion provides at least an adequate supply of sites to meet plan policies, and has not exceeded an amount needed over the 20-year planning period.

4. Conclusions

Based on its reviews of the record, the argument of the parties and the department's responses to the arguments, and the reasoning set forth above, the commission concludes as follows:

1. The amount of land the city added to its UGB for industrial and office uses complies with Goals 9 and 14 because it identifies an adequate supply of suitable sites for a 20-year planning period.
2. The city did not plan for an "oversupply" of employment sites by use of "market choice" or something similar. The commission finds that the amount of land the city has included within its UGB for industrial and office uses is reasonably related to the city's coordinated forecast of long-range population growth over the 20-year period as well as its forecast of employment growth over the same period.
3. The amount of land the city has included within its UGB for employment opportunities and suitable sites complies with the Goal 14 need factors 1 and 2 because the city's planning process included an employment forecast consistent with its coordinated population forecast.

4. The commission finds that Woodburn's total land supply determination is reasonable, complies with Goal 9, and complies with the Goal 14 need criteria. The city's determination concerning the amount of land needed for industrial and office uses is consistent with its coordinated population forecast (using similar AAGR for population and employment forecasts to achieve policy objectives), and provides an adequate supply of suitable sites including a mix of site sizes and types. The sites have characteristics typical of the target industries, as documented by the city's analysis of site requirements.

5. Other Objections

This subpart of the commission's order on remand addresses other objections concerning the city's decision on employment lands, and summarizes its responses to the main objections of 1000 Friends.

1. OPUS NW (Johnson and Sherton). This party objects to the lack of a deadline to complete the master plan requirements for the SWIR prior to annexation and contends the provision violates the OAR 660-009-0025 requirement to provide sufficient serviceable lands.

Commission Response: The city implemented a two-step master planning process for land in the SWIR prior to annexation. The first step, embodied in Policy E2.2, requires that the entire SWIR area be master planned for the provision, sizing, and general layout of water, sewer, storm drainage and transportation facilities, and that this be approved by the city council. The city has adopted a public facilities plan and a transportation system plan that address the requirements of Policy E2.2. Policy E-1.6 requires a more detailed second step site specific master plan. This policy is designed and implemented through the Woodburn Development Ordinance to ensure that parcels of adequate size are reserved to meet the needs of the targeted industries identified in the EOA. Therefore, there is not a conflict between these two requirements.

In addition, the commission finds that these master planning requirements are not inconsistent with OAR 660-009-0025(1)–(4). While the objection does not contain an allegation of specific rule violations, the commission finds that the master planning requirement will not affect the designation of needed industrial sites nor will it affect the serviceability of the sites. Rather, it ultimately ensures their serviceability and further ensures that needed site sizes and types are preserved for the intended uses.

2. 1000 Friends. This party's objection contained several parts.

- a. Employment projections

1000 Friends objected that the city projected there would be 18,762 employees in the year 2020, reflecting a three percent average annual growth rate (AAGR). The city and county have adopted a population projection that provides for a 2.8 percent AAGR. 1000 Friends argues that the job growth projection is unrealistic, in that Woodburn would be taking 23 percent of all the jobs forecasted for Marion County during the planning period (8,374 out of 36,199 forecast jobs).

Commission Response: The city found that the current jobs/population ratio of one job per 2.4 residents is lower than the one job for 1.8 residents for the rest of Marion County, which has created a jobs/housing imbalance that the city and county seek to correct through the city's Economic Development Strategy. The city also determined that the projection is reasonable given the city's I-5 location and the availability of relatively flat, serviceable land within the SWIR. R. Item 10, at 1388. The city has coordinated its population and its employment forecasts with Marion County, and the county has co-adopted the UGB amendment and has endorsed the city's policy choice in its findings. The commission finds that the city has provided substantial reasoning supporting its policy choice, and that there is substantial evidence in the record as a whole supporting the city's determination that it should plan for a three percent average annual increase in employment over the planning period.

b. Coordination

1000 Friends asserts that the city failed to coordinate properly with nearby cities in Marion County, Metro, Wilsonville, and other Marion County cities as part of this process, and has therefore violated Goal 2.

Commission Findings: The city coordinated extensively with Marion County during this process, as required. Furthermore, the objector provides no explanation of how the listed jurisdictions will be affected or how Woodburn failed to consider their concerns. Metro did submit a letter to the city, and the city took Metro's comments into consideration in developing its economic opportunities analysis. For the reasons set forth here and as discussed in more detail below, the commission finds the city complied with the coordination requirements of Goal 2.

Goal 2 provides "[e]ach plan and related implementation measure shall be coordinated with the plans of affected governmental units."¹ As used in Goal 2, a comprehensive plan is "coordinated" once "the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible." ORS 197.015(5). LUBA has described the coordination obligation as:

"We have explained on many occasions that the coordination obligation does not mean that local governments must 'accede to every request' made by an affected governmental agency. *Brown v. Coos County*, 31 Or LUBA 142, 146 (1996); *Waugh v. Coos County*, 26 Or LUBA 300, 314 (1993). However, the obligation imposed by Goal 2 and ORS 197.015(5) goes beyond the county's obligation to address and demonstrate compliance with other applicable approval criteria. The coordination obligation requires an exchange of information and an attempt to accommodate the legitimate interests of all affected

¹ Goal 2 defines "Affected Governmental Units" as "those local governments * * * which have programs, land ownerships, or responsibilities within the area included in the plan."

governmental agencies. *Rajneesh v. Wasco County*, 13 Or LUBA 202, 210 (1985). Goal 2 and ORS 197.015(5) do not mandate success in accommodating the needs or legitimate interests of all affected governmental agencies, but they do mandate a reasonable effort to accommodate those needs and legitimate interests ‘as much as possible.’²² For LUBA to be able to determine that this coordination obligation has been satisfied, a local government must respond in its findings to ‘legitimate concerns’ that are expressed by affected governmental agencies. *Waugh*, 26 Or LUBA at 314-15 (1993).

²² The coordination obligation could be satisfied in a number of different ways, depending on the circumstances. For example, a concern might be rejected as being based on an erroneous understanding of the facts. On the other hand, the local government might determine that the concern is legitimate and encourage or require that the proposal be modified or conditioned to eliminate or mitigate the concern, in whole or in part. Or the local government might take the position that, while a concern is valid, practical alternatives to address the concern are not available and the proposal is of a nature that overrides the legitimate concern. Other responses may be appropriate, depending on the nature of the legitimate concern and the circumstances.

“Our cases do not articulate a precise standard that an affected local government must meet to raise a ‘legitimate concern.’ We do not believe a local government is required to respond in its findings to every written and oral statement that an affected local government may present during the local proceedings. We explained in *ONRC v. City of Seaside*, 29 Or LUBA 39, 56-59 (1995) that ‘the concern must be sufficiently developed to require a specific response by the [local government].’ In other words, the concern must be explained in sufficient detail to (1) communicate the expectation of some sort of response from the local government and (2) provide the decision maker with a sufficiently detailed understanding of the concern that an appropriate response can be included in the decision.” *Turner Community Association v. Marion County*, 37 Or LUBA 324, 353-354 (1999).

From the foregoing, the coordination requirement is satisfied where the city has engaged in an exchange of information regarding an affected governmental unit’s concerns, put forth a reasonable effort to accommodate those concerns and legitimate interests as much as possible, and made findings responding to legitimate concerns.

The commission notes the high level of coordination that has occurred between the City of Woodburn and Marion County, and takes particular notice of the oral comments of Marion County Commissioner Patti Milne. (R, Transcript, pp. 11-12). Commissioner Milne noted that the Marion County Growth Management Framework Plan identifies Woodburn as the employment growth center for North Marion County. She also noted that each of Marion County’s 20 cities received written notice of the county’s proposal to amend the Marion County Comprehensive Plan to adopt the city’s proposed 2020 population forecast. None of the cities objected to this decision or to the county’s co-adoption of the Woodburn UGB expansion.

c. More land than justified by target industry requirements

1000 Friends asserts that Woodburn added more industrial land to its UGB than can be justified by the target industry site requirements. 1000 Friends argues that the city concluded that it would need only 224 acres of land *if they utilized the “employees per acre” methodology* based on the number of projected jobs. 1000 Friends argued that even if the city is utilizing the site requirements for targeted industries methodology, the city has still included far more industrial land than is justified.

Commission Response: The city did not estimate its employment needs based on an employees per acre methodology. As explained at length above, the reference to 224 acres of land comes from an ECONorthwest Analysis of site requirements, which *predated* the city’s decision to utilize a higher employment projection, and which does not include land for office uses which are included in the city’s analysis of target employment categories and corresponding site requirements. When both industrial and office uses are included, and the analysis is adjusted to reflect the city’s ultimate employment projection, the amount of net developable acreage that the city estimated is needed based on employees per acre ratios would be 311 net developable acres. As noted above, that number is reasonably related to the 362 net developable acres that the city found were needed based on its analysis of employment opportunities and suitable site characteristics. The relatively close correlation between the numbers demonstrates that the city’s analysis is consistent with both Goal 9 and Goal 14.

The city has included sites with necessary characteristics identified by experts. The city has found that these estimates are credible, and the commission finds that the city’s determinations are supported by substantial evidence in the record as a whole. 1000 Friends’ arguments concerning the city’s analysis reflect their disagreement with the expert analysis and conclusions that the city relied on. This is fundamentally a question of whether there is an adequate factual base for the city’s analysis and conclusions. Given that the city’s decisions reflect substantial reasoning, and are supported by evidence that a reasonable person could rely upon, the commission finds that there is substantial evidence in the record as a whole to support the city’s decision that there is a need for 42 sites, with a range of site sizes and specific characteristics that are needed to meet the city’s employment needs over the planning period. The city relied on testimony that these sites are needed to achieve the city’s economic development objectives, and the commission concurred. (R. Transcript, pp. 54-56) The commission understands and accepts the explanation of the city that identifying sites to meet employment needs is not an exercise where each potential site is matched with perfect information about a potential user at a specific point in the future. Rather, economic development planning under Goals 9 and 14 evaluates opportunities and needs, and plans for a number of sites with characteristics typically required for target industries that are likely to meet the community’s needs for employment over the planning period.

d. More land than expected to be developed

1000 Friends also objected that the city included more industrial land in the UGB than it expected to develop over the planning period.

Commission Response: The commission agrees with 1000 Friends that as a matter of law, nothing in Goals 9 or 14, or ORS 197.712 authorizes the city to expand its UGB beyond its identified need for the 20-year planning period. The commission disagrees with 1000 Friends that, as a matter of fact, the city has done so. The city's findings note the possibility that some identified sites may not fully develop during the planning period. R. Item 10, at 1392. That does not mean that the sites identified in the city's analysis are not "required." As documented in the city's Economic Opportunities Analysis, as a factual matter, some industries typically require more acreage for a new site than they may use in their initial construction phase. For these industries, suitable sites are larger than a particular company will use immediately. Typically, these companies are making large capital investments that have a longer return period than 20 years. To the extent that such a site develops partially during the 20-year planning period, the remaining developable lands are taken into account in the next buildable lands inventory. The commission finds that this is not providing more than a 20-year land supply. Rather, it is providing sites with characteristics necessary to attract the new employment opportunities needed by the city for the 20-year planning period. If only smaller sites were planned for, Woodburn would not be able to attract the identified target industries and provide the employment opportunities that it has shown are needed under Goal 14 factor 2 and Goal 9. The city identified sites based on expert opinion, and 1000 Friends has not provided evidence that undermines that evidence to the point where the city's conclusion is no longer supported by substantial evidence. The commission agrees with the city that potential employers do not look for acres, they look for sites that satisfy the needs of their operations. The city has researched and documented the size and type of sites pursued by industries it expects to attract, and has justified the number of sites included in the UGB based on factual information in the record. R. Item 10, at 1277-95. The commission finds that the city's determination complies with Goals 9 and 14 and ORS 197.712, and is supported by substantial evidence in the record as a whole.

e. Incorrectly removed buildable industrial land from inventory

1000 Friends also argued that the city failed to include 79 acres of industrial land that would be available for existing industries because owners of properties indicated that partially vacant land was being held for future expansion, and was therefore not available.

Commission Response: The city conducted the required inventory and analysis of existing industrial lands in accordance with Task 2 and OAR 660-009-0015(3)(2005). That rule provides: "Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use."

The city's UGB Justification Report states:

"City staff contacted owners of "partially vacant" and "redevelopable" industrial firms identified in Winterbrook's 2003 BLI. In most cases, the owners of industrial firms stated that partially vacant land on their property was being held for future expansion, and was not available for purchase to meet the needs of *new* targeted employers. In other cases, owners stated that "redevelopable" industrial land (i.e., land with an improvement to land

value ratio of less than 1) was actually being used for storage of vehicles, equipment or materials." (Emphasis added.) R. Item 10, at 1390.

Contrary to claims by objectors, the city did not exclude “partially vacant” and “potentially redevelopable” land from its Buildable Lands Inventory. Rather, it classified such land into two categories: (a) land that is suitable to meet the needs of new targeted industries, and that was therefore included in the inventory (47 acres within the existing UGB); and (b) land that is owned by an existing industrial firm, and is reserved for future expansion by the existing owner, or already used for industrial storage (79 acres within the existing UGB). As noted in the UGB Justification Report, “there are only 47 buildable acres on 23 separate tax lots available to site new targeted employment in Woodburn[’s] existing (2002) UGB.” R. Item 10, at 1390. The commission finds that the city established that the remaining 79 acres are being used by their existing industrial owners or are not likely to be available as new suitable sites for the targeted industries identified in the city’s EOA during the planning period. Goals 9 and 14 do not require a city to prove that existing industrial uses within an existing UGB will intensify during the planning period. The city analyzed “suitable” sites within its existing UGB as that term was defined in the commission’s 2005 Goal 9 rule, and the commission finds that the city’s factual determinations are supported by substantial evidence in the record as a whole.

f. The EOA ignores existing industries

1000 Friends also argues that Woodburn’s EOA ignores existing industries and firms, asserting that (in general) most jobs are created by small to medium-sized businesses.

Commission Response: The commission finds that the city evaluated potential job creation from existing businesses in Woodburn as part of its review of national, state, regional, county and local trends required by OAR 660-009-0015. R. Item 10, at 1021-1030. The city assessed economic opportunities and constraints in the community to inform its choices about target industries. R. Item 10, at 1031-1059. Contrary to 1000 Friends’ argument, the city did determine that a substantial portion of its future employment needs would be met on lands already within the UGB. Specifically, the city included 47 buildable acres on 23 sites within the existing UGB within its BLI - providing over half of the suitable sites necessary to meet its projected employment land need during the planning period. This is in addition to the city’s assumption (noted above) that almost *all* future commercial development would occur through redevelopment and infill within the existing UGB. The city determined that it needed an additional 310 net developable acres of land for commercial uses, and that 108 acres were available within the existing UGB for these uses. Nevertheless, the city as a policy matter elected *not* to add significant amounts of land to the UGB for commercial uses.

"The Council has intentionally under-allocated commercial land to encourage redevelopment along Highway 214, Highway 99E and in Downtown Woodburn. As explained further in Part II of this Report, as a measure to increase land use efficiency, the Council assumed that most future commercial and government employment will occur on existing commercial lands through intensification and redevelopment. In addition, the need for highway commercial uses can be met to a limited extent within the Southeast Commercial Exceptions Area. That Highway 99E area has a range of low-intensity development uses. The City has assumed that strip commercial properties along

Highway 99E, and 214 will redevelop over time, thus reducing the need to designate new commercial areas on resource land." Rec. at 1390-91.

The commission finds that under Goals 9 and 14, and that as a factual matter based on the city's EOA, the city's decision to focus its commercial land and smaller industrial site needs within the existing UGB, while seeking a limited number of larger sites for new industrial and office uses outside of the existing UGB and in proximity to I-5 is well-reasoned given the city's physical setting. The city's location along I-5 supports its planning for larger industrial and office uses on new, relatively large sites, while its existing residential and commercial (and smaller industrial uses) develop along Highway 99E near the city's historic core. This strategy supports redevelopment and infill in that area of the city. Contrary to 1000 Friends' argument, the city is planning for a substantial portion of its future employment to occur from existing firms within the city's existing UGB.

g. Largest parcel added to UGB not justified

1000 Friends argues that the city has not justified inclusion of the largest (96 net developable acres) industrial parcel in the UGB. 1000 Friends maintains that there is not an adequate factual basis to conclude that a large industrial user, such as a silicon chip fabrication plant, is likely to locate in Woodburn during the planning period (1000 Friends' arguments concerning the *location* of this site are addressed in the section that follows this one).

Commission Response: ECONorthwest prepared both the Woodburn EOA (R. Item 10, at 1019) and the Woodburn Economic Development Strategy (EDS). R. Item 10, at 699. The EDS describes the need for "very large manufacturing and high-tech firms [that] want sites as large as 40-80+ acres," and notes that the pre-amendment UGB lacked such sites with freeway access. The EOA (R. Item 10, at 1059-1060) further explains that these [large site] *users* typically require sites that exceed 100 acres.

The EDS notes that of the three sites over 30 acres within the existing (2002) UGB, "one of the sites was under development in the Spring of 2001, and the other two are relatively distant from Interstate 5 and are not particularly well suited sites to accommodate target industries." R. Item 10, at 709. The EOA responds directly to objector's claim that Woodburn is too far from existing electronics manufacturing "clusters" to attract large site industrial manufacturers. The EOA observes that "Woodburn is close enough to the high-tech areas of Wilsonville and Washington County to be a viable option for a corporate campus. Firms in the Electronic and Electric Equipment and Business Services have potential in this regard." R. Item 10, at 1060.

Finally, the commission notes that the record shows that nearby Wilsonville has been very successful in attracting firms in the way that Woodburn aspires to. R. Transcript, p. 58. As documented in the UGB Justification Report, Wilsonville in 1980 was much smaller than Woodburn is today, but had large tracts of serviced industrial land with I-5 access. Approximately 80 percent of Wilsonville's 1,000 acre industrial land base has developed since 1980. Today, Wilsonville has over 18,000 covered employees, which is comparable to the 18,762 employees projected by Woodburn (up from 10,388 in 2000). R. Item 10, at 1388. The commission finds that Woodburn's plans to take advantage of its I-5 access, to become a

regional industrial center located mid-way between Salem and the south Metro area, are reasonable. There is substantial evidence in the record as a whole to support the city's inclusion of a site in the range of 100 acres with good freeway access. The commission notes that the city also has adopted conditions for this site that assure that its use will result in the number and types of jobs that it seeks in its economic development strategy. For these reasons, the commission denies the objections of 1000 Friends.

3. Other objectors

- a. Jerry Mumper. This objection states the city overestimated industrial land need in violation of Goal 9, and objects to the targeted employer site size and type methodology.

Commission Response: The city has appropriately estimated employment needs using a methodology consistent with Goal 9 and Goal 14. See response to 1000 Friends objections, above.

- b. Diane and Carla Mikkelson. The objectors contend the city overestimated industrial land need, underestimated redevelopment potential of existing industrial land and facilities, and failed to coordinate with other jurisdictions. The objectors state the city's submittal violates Goals 2, 3, 9, and 14, and ORS 197.296.

Commission Response: The city has not overestimated its employment needs in assessing the UGB amendment for the reasons set forth in response to 1000 Friends' objections, above. The objectors do not provide sufficient detail about how the city has violated ORS 197.296 or Goal 3 for the commission to be able to respond. Issues concerning the *location* of the city's UGB expansion are addressed below.

- c. Lolita and Kathleen Carl. This objection alleges the city failed to protect farmland in violation of Goal 14 and ORS 197.298, inadequately coordinated with other affected governments in violation of Goal 2 and ORS 197.015, and included too much industrial land in violation of Goal 14.

Commission Response: The city has coordinated its actions with other affected local governments consistent with Goal 2 for the reasons set forth above in response to the objections of 1000 Friends. The city has justified its employment needs consistent with Goals 9 and 14 for the reasons set forth in response to 1000 Friends' objections, above.

- d. Friends of Marion County (Roger Kaye). This objector also states the city included too much industrial land in the expanded UGB.

Commission Response: The city has correctly estimated its employment land needs in assessing the UGB amendment for the reasons set forth in response to 1000 Friends' objections, above.

- e. Marion County Farm Bureau. The objector maintains that the city included too much land in the UGB in violation of Goal 14, failed to coordinate adequately with other

jurisdictions in violation of Goal 2, and unnecessarily included prime farmland in violation of ORS 197.298.

Commission Response: The city's UGB expansion complies with Goal 14 for the reasons set forth above. The city has coordinated its actions with other affected local governments consistent with Goal 2 and has justified its employment needs consistent with Goal 9 and Goal 14. See response to 1000 Friends objections, above.

D. The Location of the UGB Expansion for Office and Industrial Uses

This section of the commission's order on remand addresses objections concerning the *location* of the UGB expansion for industrial and office uses. The city's expansion for these uses is entirely within its "Southwest Industrial Reserve," located to the south and west of the city, and includes one large site west of I-5. 1000 Friends *et al* object particularly to the city's decision to include the one large site (the "Opus site"), which contains 130 gross acres and 96 net developable acres of land. According to 1000 Friends, the city should have selected lands to the south of the SA-7 site (which are also to the south of the Southwest Industrial Reserve) and on the east side of I-5. The Opus site is located further north, to the west of I-5 and east of Butteville Road.

1. Legal Standard

Statewide Planning Goal 14 and ORS 197.298 require local governments, when amending a UGB, to identify a 20-year need for land, and determine how much of that need can be accommodated within the current UGB. If there is a deficit, the local government must select *which* land to meet the deficit according to the statutory priorities in ORS 197.298. To the extent there is more suitable land in a particular statutory category than is needed, the Goal 14 locational factors are used to determine which lands within a particular category are added to the UGB. In addition, ORS 197.298(2) requires that "higher priority [for inclusion in a UGB] shall be given to land of lower capability as measured by the [U.S. Natural Resources Conservation Service (NRCS) agricultural soil] capability classification * * *." Finally, ORS 197.298(3) provides that land of lower priority may be included if land of higher priority is found to be inadequate because:

- (a) Specific types of identified land need cannot be reasonably accommodated on higher priority lands;
- * * * or
- (c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or provide services to higher priority lands.

Goal 14 and ORS 197.298 also recognize that the prioritization of land for urbanization first requires a determination of what land is suitable for the planned uses. *City of West Linn v. LCDC*, 201 Or App 419 (2005). Where a city has, through an economic opportunities analysis, identified particular site requirements for target industries, and those site requirements will not be met on higher priority lands under ORS 197.298, it may include lower priority lands that do

meet those site requirements. Its decision must be supported by adequate findings and substantial evidence.²

The version of Goal 14 applicable to the City of Woodburn's decision states: "In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need." The local government may use the site need characteristics during the boundary location analysis to determine which study area lands are suitable.

In 2009, the commission adopted UGB amendment rules (OAR chapter 660, division 24), which established a more specific methodology for applying ORS 197.298 and the Goal 14 boundary location factors (see OAR 660-024-0060(1)). As noted above, Woodburn's UGB amendment preceded the new rules, and division 24 does not apply to the city's amendment.

2. Summary of Local Actions

The city studied eight UGB study areas, containing a total of 3,984 acres. R. Item 10, at 1414. The study areas included five exception areas, all of which were included in the UGB expansion except for the MacLaren Youth Correctional Facility (which the city found had no potential for further urban development). The remaining lands in the study areas were all planned and zoned for farm use.

All of the EFU lands within the city's study areas contain a mix of soil types, with class II soils predominating in all of the study areas. R. Item 10, at 1418 (Table 15). The class II and III soils are interspersed in all of the study areas. The city analyzed soil types in each of the expansion areas, and adjusted where it proposed to expand in order to avoid lands containing higher soil

² The commission amended Goal 14 in 2005, prior to the city's decision. The applicability provisions for the amended Goal 14 provide:

Applicability of Goal 14 Amendments and Related Goal Definitions Adopted April 28, 2005

(1) Goal 14 and related Statewide Goal Definitions, as amended on April 28, 2005, are applicable to the adoption or amendment of a comprehensive plan or land use regulation, or a land use decision made under a non-acknowledged comprehensive plan or land use regulation, on and after April 28, 2006, except as follows:

(a) Local governments are authorized, at their option, to apply the goal and related definitions as amended on April 28, 2005, to amendments to a comprehensive plan or land use regulation, or a land use decision made under a non-acknowledged comprehensive plan or land use regulation, on or after June 28, 2005.

(b) Local governments that initiated an evaluation of the Urban Growth Boundary (UGB) land supply prior to April 28, 2005, and consider an amendment of the UGB based on that evaluation, are authorized, at their option, to apply Goal 14 and related definitions as they existed prior to April 28, 2005, to the adoption of such UGB amendment regardless of the adoption date of such amendment.

(2) For purposes of section (1)(b), above, "initiated" means that prior to April 28, 2005, the local government either:

3(a) Issued a public notice of a proposed plan amendment for the purpose of evaluation of the UGB land supply and, if necessary based on that evaluation, amendment of the UGB, or

(b) Received Land Conservation and Development Commission approval of a periodic review work task for the purpose of evaluation of the UGB land supply and, if necessary, amendment of the UGB.

The city elected to apply the new Goal 14 provisions.

classifications. R. Item 10, at 1418-1422. Its changes included removing a proposed site to the west of Butteville Road and replacing it with lands to the south of SA-7.

1000 Friends argued before the Court of Appeals that the city should have selected lands for its UGB expansion for industrial and office uses that are further to the south of the city's study area 7 (SA-7) and that contain predominantly class III soils. 1000 Friends, Pet. for Review, at 25. The city's findings concerning this issue are as follows:

“The Class III soils found on the southern portion of Study Area 7 continue to the south and southwest of this study area. Although the City did include one 46-acre primarily Class III parcel located south of the original Study Area 7, it did not include additional areas of predominantly Class III soil further to the south and southwest, for two reasons.

“First, the two Class III parcels located between the 2005 UGB and 1-5 are not needed at this time for industrial expansion. Although these parcels meet some SWIR siting criteria, their development would not facilitate extension of the South Arterial, which is needed to provide direct access to 1-5 from SWIR parcels to the north. Woodburn did not add these parcels [to the south of SA-7] to the UGB to meet the siting needs of target industries.

“Second, the large concentration of Class III soils located further to the south extend beyond the two-mile (from the I-5 Interchange) locational need limit established by the Council for inclusion of parcels within the SWIR. This land is too far from the I-5 Interchange to be attractive to targeted industrial firms. Inclusion of this land would have meant that other more suitable land closer to the interchange and urban services could not be justified (on a strict need basis) for inclusion within the UGB. Further, inclusion of parcels with Class III soils south of the expanded SA 7 would have resulted in an inefficient urban form, would not have met the City's industrial siting need criteria, and would have increased substantially the cost of providing urban services.”

R. Item 10, at 1421.

In its decision, the city described how it analyzed suitability for industrial and office sites.

“Suitable industrial sites must:

- Be comprised of large blocks of land contiguous to or- within the existing UGB;
- Have direct access to the I-5/ Highway 214 interchange via an existing or planned arterial street;
- Be located to avoid truck traffic through existing or planned urban residential neighborhoods;
- Minimize potential conflicts with existing or planned residential areas by minimizing common boundaries;

- Be located to take advantage of existing or proposed arterial streets that direct industrial traffic to Highway 214 west (rather than east) of the interchange to access I-5;
- Be located within a two mile radius of the I-5 interchange;
- Be adjacent to existing industrial development;
- Have five or less percent slope;
- Meet size requirements outlined by ECONorthwest (October 2003 memorandum entitled "Site Requirements of Targeted Industries" and summarized on Table 1 of this Report);
- Be serviceable within the next 0-15 years with sanitary sewer, water and storm drainage facilities; and
- Avoid class I agricultural soils; then include first Class III soils and second Class II soils, if necessary to serve otherwise suitable sites with Class III soils.”

R. Item 10, at 1393. This approach is consistent with ORS 197.298, Goal 14 and Goal 9.

To fulfill its need for 19 sites in its UGB expansion, including the need for larger sites with good freeway access, and the need to locate new uses in a manner that supports access to I-5 via Butteville Road and the western ramps rather than the (already overloaded) eastern ramps, the city identified sites in the SWIR. The city found that land in this area could be configured to meet the needed number of sites, range of site sizes, and other necessary site characteristics including supporting a looped road system that would encourage industrial uses to access I-5 from the west. The SWIR comprises 362 acres (net) or 409 acres (gross). R. Item 10, at 1450. Adding 362 acres (net developable) in the SWIR enabled the city to satisfy its 2020 need for 19 new industrial and office sites in its UGB expansion area. R. Item 10, at 1395.

3. Commission Findings, Reasoning and Conclusions

Goal 14 provides that local governments may “specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.” Similarly, ORS 197.298 allows a local government to consider suitability for planned urbanization in determining which lands to include. Neither the goal nor the statute force local governments to add lands to a UGB that will not accommodate future urbanization.

Woodburn properly considered both suitability and the statutory priorities of lands in determining where to expand to meet its future needs for industrial and office uses.

The commission finds that the site characteristics identified in the city’s analysis, including proximity to I-5 and (particularly) locations that support access to I-5 from the west were properly used by the city in its locational analysis of where to expand its UGB.³ A local

3 LUBA has recently explained:

“While ‘typical’ attributes would presumably include those attributes that are absolutely necessary to construct and operate a business, ‘typical’ attributes would also likely include those attributes that while not ‘necessary’ in the dictionary sense of the word, are nevertheless typically required for a business to

government may identify such attributes for industrial and other employment land through development of an EOA and a transportation systems plan (TSP). Here, the city's reasons are further detailed in ECONorthwest's April 26, 2005 memorandum (R. at 64-65).

On remand, the commission heard argument that industrial and office uses could obtain I-5 access from the *east* side of the existing I-5 interchange. 1000 Friends also made similar arguments to the court on appeal.

1000 Friends' arguments rely on the premise that there is adequate access to I-5 from the east, and that improvements to Butteville Road adjacent to the Opus site are unnecessary. That argument presumes, incorrectly, that the city's findings concerning adequacy of services for SA-7 are premised on independent access to the I-5 interchange by roads extending north to the eastern ramps to I-5. That simply is not correct. The city's findings of adequacy of service for area SA-7 were premised on access to I-5 by going *across* I-5 and north along Butteville Road to the western ramps to I-5. A key locational consideration for the city's UGB expansion was that it be designed so that uses will access the freeway interchange from the *west* via Butteville Road. See, e.g. R. Item 10, at 1393, 1420, 1424-1426. This new "Ring Road System" is key to serviceability of the UGB expansion areas. Forcing all industrial and office growth to remain east of I-5, with no improvement to Butteville Road would force traffic from the UGB expansion onto the eastern ramps to I-5, quickly exceeding the capacity of the I-5 interchange from that direction. A looped circulation system including a southern connector to highway 99-E and extending west and north across the Butteville Road bridge over I-5 is key to the future functioning of the city's transportation system. This conclusion is directly supported by the city's findings concerning the city's transportation system plan. R. Item 10, at 1427.

The city's decision to expand to provide industrial land with direct access to I-5 from the west is consistent with the Goal 9 requirement for cities to identify their locational advantages and the Goal 14 location and need factors. It would not serve the state's, the county's, or the city's economic development efforts to force Woodburn to add land to its UGB that cannot be efficiently served and is not suitable for the industries it seeks to attract capitalizing on its I-5 location. For all of these reasons, the commission concludes that Woodburn has appropriately analyzed which lands to include within its UGB expansion. The commission specifically concludes that the city's decision to include the Opus site is consistent with the city's consideration of suitability under Goals 9 and 14, as well as ORS 197.298(3)(a) and (c).

Finally, before the Court of Appeals, 1000 Friends also argued that the city's decision failed to analyze and compare the economic impact of the UGB expansion on the agricultural industry of Woodburn and the region by removing large parcels of prime farmland from production. The argument is that the city failed to consider the economic impact of alternative UGB locations on the farm industry under Goal 14, factor 3 (comparative environmental, energy, economic and

operate successfully." . . . "[W]e believe that site characteristics are properly viewed as attributes that are (1) typical of the industrial or employment use and (2) have some meaningful connection with the operation of the industrial or employment use."

Friends of Yamhill County, et al v. City of Newberg, __ Or LUBA __ (LUBA No. 2010-015, August 26, 2010) (slip op at 14-15); *affirmed* 240 Or App 738 (2011).

social consequences). Goal 14, factor 3 is addressed in the city's findings, at length, at R. Item 10, at 1427-1441. That analysis notes that the agricultural lands in study areas 7 and 8 are farmed for grains and grass seed rather than the more intensive farming uses (berries and hops) found in other study areas. The analysis concludes that expanding in areas 7 and 8 will have less impact on the agricultural economy. On remand, no party expanded beyond very general arguments that a UGB expansion will harm Marion County's agricultural economy, and that agriculture is a key industry in the county. The city considered these arguments under Goal 14, factor 3, and made appropriate findings supported by substantial evidence. The commission concludes that the city's decision complies with Goal 14, factor 3.

The commission concludes that the city's findings related to compliance with the Goal 14 boundary location factors and ORS 197.298 priorities for UGB amendment, as found in the UGB Justification Report, are reasonable and supported by substantial evidence in the record. R. Item 10, at 1383-84, 1413-47.

The city's findings with respect to the "Opus Northwest site," in Study Area 8, are extensive. This site has about 88 acres of buildable land, most of which has Class II soils. The Opus site is the closest of any possible industrial site to the North Marion County (Woodburn) I-5 interchange. The site can be immediately served by sanitary sewer and water facilities. The site is located next to developed industrial land, between the existing (2002) UGB and Butteville Road, a planned arterial street. Land to the west of Butteville Road with Class I and II soils was excluded from the UGB to minimize impacts on agricultural land, based on comments from the Oregon Department of Agriculture. R. Item 10, at 1445. The city has detailed how public facilities and services can be extended from the existing UGB to serve the site. R. Item 10, at 775-873.

The commission concludes that the city established that inclusion of the Opus site is necessary for the construction of Butteville Road, a planned arterial shown on the Transportation System Plan, to urban standards, which would allow the SWIR and other properties to access I-5 from the west. The city and ODOT have made it clear, throughout the record, that having access to the freeway from the west side is necessary due to the lack of capacity at the east access to the interchange. R. Item 10, at 1380-81. The city established both that the Opus site satisfies all of the city's site requirements for targeted industries and that development of this site is necessary to provide access and services to the remainder of the SWIR. For these reasons, the commission concludes that the city has justified inclusion of the Opus site under ORS 197.298(3)(c) and Goal 14.

4. Conclusion

The City of Woodburn has utilized all suitable exception lands for its 2005 UGB expansion. R. Item 10, at 1416. The remaining lands are all agricultural lands in soil classes I-IV. As required by ORS 197.298, the city has avoided the agricultural lands with the highest soil classifications. The city appropriately considered suitability under ORS 197.298(3)(a) and (c) as well as Goals 9 and 14. The commission also concludes that the city has provided an adequate factual base for its decision to include Study Areas 7 and 8 west of I-5 in the UGB instead of Study Area 6 east of I-5, and to locate the SWIR on both sides of I-5.

5. Objections

1,000 Friends and the Marion County Farm Bureau objected that land that is predominantly Class II soils west of Interstate 5 (Study Areas 7 and 8, also known as “the Opus site”) was included for industrial use, instead of land with Class II and III soils east of I-5, south of Parr Road between Boones Ferry Road and I-5 (Study Area 6). The objectors stated that the city’s reasons were arbitrary and not supported by findings with an adequate factual base. The city’s reasons for including this area were:

1. The lands to the west of Interstate 5 are needed to provide access to I-5 from the west side of the I-5 interchange via Butteville Road; and
2. The southern parcels east of I-5 were more than two miles from the I-5 interchange, which did not meet the site characteristics identified by the city in its Economic Opportunities Analysis.

(August 23, 2006 1000 Friends of Oregon objection letter, pp. 8-10; August 22, 2006 Marion County Farm Bureau objection letter, pp. 2-3; January 13, 2007 1000 Friends of Oregon exceptions letter, pp. 8-9)

Commission Response: The commission finds that the Opus site must be included in the UGB expansion in order to create a ring road system with access to I-5 from the west. The Opus site is key to the adequacy of services for the other industrial lands in SA-7. ORS 197.298(3)(c). In addition, the lands south of Parr Road (Study Area 6) are not suitable for the demonstrated need for employment opportunities established by the city's EOA. R. Item 10, at 1379.

III. OVERALL CONCLUSIONS

A. Work Task 2 - “Commercial and Industrial Lands Inventory”

The department referred Task 2 to the commission because of its relationship to the UGB amendment. The city has conducted a thorough inventory of vacant, partially vacant, and potentially redevelopable commercial and industrial land within the existing UGB in response to this work task. The commission finds and concludes for the reasons stated in this order that the city's inventory complies with applicable goals, rules, and statutes.

B. UGB Amendment

The City of Woodburn amended its UGB to include 979 acres for residential, commercial, and industrial uses. The amended UGB contains 546 acres for residential uses (including public and institutional uses), 24 acres for commercial uses, and 409 acres for industrial uses, of which 200 acres are exception lands and 779 acres are resource lands. The commission finds and concludes for the reasons stated in this order that the city's UGB amendment complies with the applicable goals, rules, and statutes.

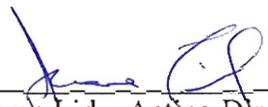
ORDER

THEREFORE, IT IS ORDERED THAT:

1. The city's UGB amendment as contained herein of Ordinance 2391 is approved.
2. Periodic Review Task 2, Commercial and Industrial Lands Inventory, is approved.

DATED THIS 16th DAY OF March, 2011.

FOR THE COMMISSION:



Jerome Lidz, Acting Director
Oregon Department of Land
Conservation and Development

NOTE: You may be entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provision of ORS 183.482 and 197.650.

Copies of all documents referenced in this order are available for review at the department's office in Salem.