

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

IN THE MATTER OF REVIEW	)	
OF THE SCAPPOOSE URBAN	)	APPROVAL ORDER
GROWTH BOUNDARY IN THE	)	13-UGB-001829
MANNER OF PERIODIC REVIEW	)	

This matter concerns certain ordinances adopted by the City of Scappoose (“city”) and Columbia County (“county”) relating to a legislative amendment of the city’s urban growth boundary (“UGB”). This matter came before the Land Conservation and Development Commission (“commission”) on September 10, 2012, as an appeal of a decision of the director of the Department of Land Conservation and Development Order 001816 dated June 14, 2012. The commission, fully considered the written record and the written argument and oral presentations of the objectors, the city, and the Department of Land Conservation and Development (“department”).

To the extent there is any conflict between the analysis in this order and the conclusions set forth in the order, the conclusions will control. In addition, any objection to the submittals not expressly addressed herein is deemed denied for the reasons set forth in Order 001816. Similarly, any basis for appeal of Order 001816 not expressly addressed herein is deemed denied for reasons set forth in the department’s staff report to the commission.

**I. INTRODUCTION**

**A. Procedural History**

The submittals before the commission for review are City of Scappoose Ordinance No. 816, adopted February 4, 2011, and Columbia County Ordinance No. 2011-3, adopted October 26, 2011.

1. On February 8, 2012, pursuant to OAR 660-025-0175(1)(b), the city submitted to the department, on behalf of itself and the county, amendments to the UGB and related sections of the Scappoose Comprehensive Plan and implementing ordinances in the manner provided for review of a work task under ORS 197.633 (periodic review).
2. Pursuant to OAR 660-025-0140(2)(a), the deadline to file objections to the initial submittal was February 29, 2012. The Department received three letters containing 12 objections.

3. Pursuant to OAR 660-025-0150(1)(a), on June 14, 2012, after considering the submittal and the objections, the director issued an order approving the submittal.
4. Pursuant to OAR 660-025-0150(6)(a), on July 5, 2012 the department received one appeal of the director's order approving the submittal.
5. On September 20, 2012, the commission held a public hearing in Salem, Oregon, and reached a decision to deny the appeal and uphold the director's decision to approve the submittal.

**B. Description and Overview of Submittal**

The submittal includes amendments to the UGB and related sections of the city's comprehensive plan and implementing ordinances. UGB amendments greater than 50 acres in size for cities with population greater than 2,500 are reviewed in the manner provided for periodic review. ORS 197.626(1)(b). This item came before the commission as the result of an appeal of the decision of the director approving the submittal. The commission reviewed the objections, the director's decision, and the appeal; heard arguments from the parties, and decided to affirm the director's decision. This order is a review on the record submitted by the city.

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

1. Report from the director to the commission, dated August 24, 2012.
2. Appeal of the director's approval order filed by Pat Zimmerman and Mike Sheehan, dated July 14, 2012.
3. Order 001816, dated June 14, 2012, approving the submittal.
4. June 7, 2012 letter from the City of Scappoose approving waiver of a 120-day deadline for director action pursuant to OAR 660-025-0150(3).
5. May 9, 2012 letter from the City of Scappoose pursuant to OAR 660-025-0085(5)(f) providing citations to locations in the local record of the submittal addressing issues raised in objections. ("May 9, 2012 Scappoose Letter").
6. March 26, 2012 letter from the City of Scappoose attaching a table of citations to the local record.
7. Letters of objection to the submittal from:
  - a. 1000 Friends of Oregon
  - b. Michael Sheehan
  - c. Group of 35 individuals

8. UGB amendment submittal including:
  - a. City of Scappoose Ordinance No. 816, with exhibits
  - b. Columbia County Ordinance No. 2011-3, with exhibits
  - c. Record supporting the city and county decisions (“Record”)

## II. Commission’s Review

### A. Scope of Review

The commission has exclusive jurisdiction to review certain UGB amendments pursuant to ORS 197.626 and OAR 660-025-0040(2). ORS 197.626 provides, in pertinent part, that:

“A local government shall submit for review and the Land Conservation and Development Commission shall review the following final land use decisions in the manner provided by periodic review for a work task under ORS 197.633:

“\* \* \* \* \*

“(b) An amendment of an urban growth boundary by a city with a population of 2,500 or more within its urban growth boundary that adds more than 50 acres to the area within the urban growth boundary[.]”

In addition, ORS 197.825(2) provides that:

“The jurisdiction of the [Land Use Board of Appeals]:

“\* \* \* \* \*

“(c) Does not include a local government decision that is:

“(A) Submitted to the Department of Land Conservation and Development for acknowledgment under ORS 197.251, 197.626 or 197.628 to 197.650 or a matter arising out of a local government decision submitted to the Department for acknowledgment, unless the Director of the Department of Land Conservation and Development, in the director’s sole discretion, transfers the matter to the board \* \* \*.”

Where the commission reviews a UGB amendment under ORS 197.626, it does so “in the manner provided for review of a periodic review task.” That review is to determine whether the decision(s) amending the UGB and any matters arising out of that decision, comply with the

applicable statewide planning goals, their implementing rules, applicable state statutes, and applicable local comprehensive plan and land use regulations. OAR 660-025-0175(1)(b).

## **B. Standard of Review**

The commission reviews the submittals for compliance with the applicable goals and administrative rules. OAR 660-025-0160(2)(c); OAR 660-025-0175(1)(b). Further, as described above, the commission reviews these submittals in the manner provided for periodic review. ORS 197.626(1)(b). Additionally, review in the manner of periodic review is subject to ORS 197.633(3):

“The commission’s standard of review:

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

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

“(c) For issues concerning compliance with applicable laws, is whether the local government’s decision on the whole complies with applicable statutes, statewide land use planning goals, administrative rules, the comprehensive plan, the regional framework plan, the functional plan and land use regulations. The commission shall defer to a local government’s interpretation of the comprehensive plan or land use regulations in the manner provided in ORS 197.829. For purposes of this paragraph, ‘complies’ has the meaning given to the term ‘compliance’ in the phrase ‘compliance with the goals’ in ORS 197.747.”<sup>1</sup>

On review, the commission considers whether the submittal is consistent with the applicable goals and administrative rules and is supported by substantial evidence. OAR 660-025-0160(2)(a) and (c). The UGB submittal is a legislative decision. *Home Builders Ass’n of Metropolitan Portland v. Metro*, 184 Or App 633, 57 P3d 204 (2002). The Goal 2 requirement for an adequate factual base requires that a legislative land use decision be supported by substantial evidence. *DLCD v. Douglas County*, 37 Or LUBA 129, 132 (1999). Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding. *Dodd v. Hood River County*, 317 Or 172, 179, 855 P2d 608 (1993). Where the evidence in the record is conflicting, if a reasonable person could reach the decision the city and county made in view of all the evidence in the record, the choice

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<sup>1</sup> ORS 197.633(3) became effective on June 23, 2011. Or Laws 2011, ch 469 §2.

between conflicting evidence belongs to the local government. *Mazeski v. Wasco County*, 28 Or LUBA 178, 184 (1994), *aff'd* 133 Or App 258, 890 P2d 455 (1995). Because the submittal embodies both basic findings of fact and inferences drawn from those facts, substantial evidence review involves two related inquiries: “(1) whether the basic fact or facts are supported by substantial evidence, and (2) whether there is a basis in reason connecting the inference to the facts from which it is derived.” *City of Roseburg v. Roseburg City Firefighters*, 292 Or 266, 271, 639 P2d 90 (1981). Where substantial evidence in the record supports the city and county’s adopted findings concerning compliance with the Goals and the commission’s administrative rules, the commission nevertheless must determine whether the findings lead to a correct conclusion under the Goals and rules. *Oregonians in Action v. LCDC*, 121 Or App 497, 504, 854 P2d 1010 (1993).

There is no statute, statewide planning goal or administrative rule that generally requires that legislative land use decisions be supported by findings. *Port of St. Helens v. City of Scappoose*, 58 Or LUBA 122, 132 (2008). However, there are instances where the applicable statutes, rules or ordinances require findings to show compliance with applicable criteria. In addition, where a statute, rule or ordinance requires a local government to consider certain things in making a decision, or to base its decision on an analysis, “there must be enough in the way of findings or accessible material in the record of the legislative act to show that applicable criteria were applied and that required considerations were indeed considered.” *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 16 n 6, 38 P3d 956 (2002). Such findings serve the additional purpose of assuring that the commission does not substitute its judgment for that of the local government. *Id.*; *Naumes Properties, LLC v. City of Central Point*, 46 Or LUBA 304, 314 (2004).

### **C. Applicable Law**

The substantive criteria for this UGB amendment include ORS 197.298, Goal 2, Goal 9, Goal 14, and OAR chapter 660, division 24. Some of these provisions include other goals and rules by reference.

ORS 197.298 provides a methodology for prioritizing candidate lands considered for addition to the urban growth boundary based upon current non-urban classification.<sup>2</sup>

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<sup>2</sup> ORS 197.298 provides:

“(1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

“(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

“(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

Goal 2 establishes a land use planning process and policy framework as a basis for all decisions and actions related to use of land and requires an adequate factual base for such decisions and actions.

Goal 14 establishes requirements for amending urban growth boundaries,<sup>3</sup> determining land need within urban growth boundaries,<sup>4</sup> and establishing the boundary location for urban growth boundaries.<sup>5</sup>

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“(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

“(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.

“(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

“(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

“(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

“(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

“(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.”

<sup>3</sup> Goal 14 provides in part:

“Urban growth boundaries shall be established and maintained by cities, counties and regional governments to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land. Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments.”

<sup>4</sup> Goal 14 provides, in part:

“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.

“Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.”

<sup>5</sup> Goal 14 provides, in part:

“The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

“(1) Efficient accommodation of identified land needs;

“(2) Orderly and economic provision of public facilities and services.;

“(3) Comparative environmental, energy, economic and social consequences; and

“(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.”

OAR chapter 660, division 24 provides guidance and requirements for completing the land need and location determinations under Goal 14. OAR 660-024-0030 provides requirements for the population forecast that supports the demonstrated need to accommodate long range urban population.<sup>6</sup> OAR 660-024-0040 includes requirements for determining land need in setting an urban growth boundary.<sup>7</sup> OAR 660-024-0040(5) provides that “the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025.” Goal 9 includes requirements for urban area comprehensive plans to contribute to a stable and healthy

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<sup>6</sup> OAR 660-024-0030 provides in part:

“(1) Counties must adopt and maintain a coordinated 20-year population forecast for the county and for each urban area within the county consistent with statutory requirements for such forecasts under ORS 195.025 and 195.036. Cities must adopt a 20-year population forecast for the urban area consistent with the coordinated county forecast, except that a metropolitan service district must adopt and maintain a 20-year population forecast for the area within its jurisdiction. In adopting the coordinated forecast, local governments must follow applicable procedures and requirements in ORS 197.610 to 197.650 and must provide notice to all other local governments in the county. The adopted forecast must be included in the comprehensive plan or in a document referenced by the plan.

“(2) The forecast must be developed using commonly accepted practices and standards for population forecasting used by professional practitioners in the field of demography or economics, and must be based on current, reliable and objective sources and verifiable factual information, such as the most recent long-range forecast for the county published by the Oregon Office of Economic Analysis (OEA). The forecast must take into account documented long-term demographic trends as well as recent events that have a reasonable likelihood of changing historical trends. The population forecast is an estimate which, although based on the best available information and methodology, should not be held to an unreasonably high level of precision.

“(3) For a population forecast used as a basis for a decision adopting or amending a UGB submitted under ORS 197.626, the director or Commission may approve the forecast if they determine that a failure to meet a particular requirement of section (2) of this rule is insignificant in nature and is unlikely to have a significant effect on the needs determined under OAR 660-024-0040.”

<sup>7</sup> OAR 660-024-0040 provides in part:

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

“(2) \* \* \* If the UGB analysis or amendment is conducted as a post-acknowledgement plan amendment under ORS 197.610 to 197.625, the 20-year planning period must commence either:

“(a) On the date initially scheduled for final adoption of the amendment specified by the local government in the initial notice of the amendment required by OAR 660-018-0020; or

“(b) If more recent than the date determined in subsection (a), at the beginning of the 20-year period specified in the coordinated population forecast for the urban area adopted by the city and county pursuant to OAR 660-024-0030, unless ORS 197.296 requires a different date for local governments subject to that statute.

“(3) A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).

“\* \* \* \* \*

“(5) Except for a metropolitan service district described in ORS 197.015(13), the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.”

economy through various measures designed to encourage economic growth.<sup>8</sup> OAR chapter 660, division 9 implements Goal 9. OAR 660-009-0015 requires a city to adopt an economic opportunities analysis.<sup>9</sup> OAR 660-009-0020 sets forth required employment development

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<sup>8</sup> Goal 9 provides, in part:

“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 for 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 the proposed uses.”

<sup>9</sup> OAR 660-009-0015 provides, in part:

“Cities and counties must review and, as necessary, amend their comprehensive plans to provide economic opportunities analyses containing the information described in sections (1) to (4) of this rule. This analysis will compare the demand for land for industrial and other employment uses to the existing supply of such land.

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

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

“(3) Inventory of Industrial and Other Employment Lands. 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.

“(a) For sites inventoried under this section, plans must provide the following information:

“(A) The description, including site characteristics, of vacant or developed sites within each plan or zoning district;

“(B) A description of any development constraints or infrastructure needs that affect the buildable area of sites in the inventory;

“\* \* \* \* \*

“(b) When comparing current land supply to the projected demand, cities and counties may inventory contiguous lots or parcels together that are within a discrete plan or zoning district.

“(c) Cities and counties that adopt objectives or policies providing for prime industrial land pursuant to OAR 660-009-0020(6) and 660-009-0025(8) must identify and inventory any vacant or developed prime industrial land according to section (3)(a) of this rule.

“(4) Assessment of Community Economic Development Potential. The economic opportunities analysis must estimate the types and amounts of industrial and other employment uses likely to occur in the planning area. The estimate must be based on information generated in response to sections (1) to (3) of this rule and must consider the planning area's economic advantages and disadvantages. Relevant economic advantages and disadvantages to be considered may include but are not limited to:

“(a) Location, size and buying power of markets;

“(b) Availability of transportation facilities for access and freight mobility;

“(c) Public facilities and public services;

“(d) Labor market factors;

“(e) Access to suppliers and utilities;

“(f) Necessary support services;

“(g) Limits on development due to federal and state environmental protection laws; and

“(h) Educational and technical training programs.”

policies for cities to include in their comprehensive plans.<sup>10</sup> OAR 660-009-0025 requires cities to designate and facilitate future development of employment lands adequate to implement employment development policies.<sup>11</sup>

OAR 660-024-0050 requires cities to inventory land inside the UGB to determine whether lands already within the boundary can accommodate 20-year land needs, and inventory suitable vacant and developed land designated for employment use.<sup>12</sup> OAR 660-024-0060 describes required methodology for conducting a boundary location alternatives analysis.<sup>13</sup>

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<sup>10</sup> OAR 660-009-0020 provides, in part:

“(1) Comprehensive plans subject to this division must include policies stating the economic development objectives for the planning area. These policies must be based on the community economic opportunities analysis prepared pursuant to OAR 660-009-0015 and must provide the following:

“(a) Community Economic Development Objectives. The plan must state the overall objectives for economic development in the planning area and identify categories or particular types of industrial and other employment uses desired by the community. Policy objectives may identify the level of short-term supply of land the planning area needs. Cities and counties are strongly encouraged to select a competitive short-term supply of land as a policy objective.

“\* \* \*

(c) Commitment to Provide Adequate Sites and Facilities. The plan must include policies committing the city or county to designate an adequate number of sites of suitable sizes, types and locations. The plan must also include policies, through public facilities planning and transportation system planning, to provide necessary public facilities and transportation facilities for the planning area.”

<sup>11</sup> OAR 660-009-0025 provides, in part:

“Cities and counties must adopt measures adequate to implement policies adopted pursuant to OAR 660-009-0020. Appropriate implementing measures include amendments to plan and zone map designations, land use regulations, public facility plans, and transportation system plans.

“(1) Identification of Needed Sites. The plan must identify the approximate number, acreage and site characteristics of sites needed to accommodate industrial and other employment uses to implement plan policies. Plans do not need to provide a different type of site for each industrial or other employment use. Compatible uses with similar site characteristics may be combined into broad site categories. Several broad site categories will provide for industrial and other employment uses likely to occur in most planning areas. Cities and counties may also designate mixed-use zones to meet multiple needs in a given location.

“(2) Total Land Supply. Plans must designate serviceable land suitable to meet the site needs identified in section (1) of this rule. Except as provided for in section (5) of this rule, the total acreage of land designated must at least equal the total projected land needs for each industrial or other employment use category identified in the plan during the 20-year planning period.

“\* \* \* \* \*

“(8) Uses with Special Siting Characteristics. Cities and counties that adopt objectives or policies providing for uses with special site needs must adopt policies and land use regulations providing for those special site needs. Special site needs include, but are not limited to large acreage sites, special site configurations, direct access to transportation facilities, prime industrial lands, sensitivity to adjacent land uses, or coastal shoreland sites designated as suited for water-dependent use under Goal 17. Policies and land use regulations for these uses must:

“(a) Identify sites suitable for the proposed use;

“(b) Protect sites suitable for the proposed use by limiting land divisions and permissible uses and activities that interfere with development of the site for the intended use; and

“(c) Where necessary, protect a site for the intended use by including measures that either prevent or appropriately restrict incompatible uses on adjacent and nearby lands.”

<sup>12</sup> OAR 660-024-0050 provides, in part:

“(1) When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. \* \* \*

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\* For employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015.

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“(4) If the inventory demonstrates that the development capacity of land inside the UGB is inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040, the local government must amend the plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the city or by expanding the UGB, or both, and in accordance with ORS 197.296 where applicable. Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB. If the local government determines there is a need to expand the UGB, changes to the UGB must be determined by evaluating alternative boundary locations consistent with Goal 14 and OAR 660-024-0060.

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“(6) When land is added to the UGB, the local government must assign appropriate urban plan designations to the added land, consistent with the need determination. The local government must also apply appropriate zoning to the added land consistent with the plan designation or may maintain the land as urbanizable land until the land is rezoned for the planned urban uses, either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development.”

<sup>13</sup> OAR 660-024-0060 provides, in part:

“(1) When considering a UGB amendment, a local government must determine which land to add by evaluating alternative boundary locations. This determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:

“(a) Beginning with the highest priority of land available, a local government must determine which land in that priority is suitable to accommodate the need deficiency determined under OAR 660-024-0050.

“(b) If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the need deficiency, a local government must apply the location factors of Goal 14 to choose which land in that priority to include in the UGB.

“(c) If the amount of suitable land in the first priority category is not adequate to satisfy the identified need deficiency, a local government must determine which land in the next priority is suitable to accommodate the remaining need, and proceed using the same method specified in subsections (a) and (b) of this section until the land need is accommodated.

“(d) Notwithstanding subsection (a) to (c) of this section, a local government may consider land of lower priority as specified in ORS 197.298(3).

“(e) For purposes of this rule, the determination of suitable land to accommodate land needs must include consideration of any suitability characteristics specified under section (5) of this rule, as well as other provisions of law applicable in determining whether land is buildable or suitable.

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“(3) The boundary location factors of Goal 14 are not independent criteria. When the factors are applied to compare alternative boundary locations and to determine the UGB location, a local government must show that all the factors were considered and balanced.

“(4) In determining alternative land for evaluation under ORS 197.298, ‘land adjacent to the UGB’ is not limited to those lots or parcels that abut the UGB, but also includes land in the vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency.

“(5) If a local government has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, the local government may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.

“(6) The adopted findings for UGB adoption or amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves more than one parcel or area within a particular priority category in ORS 197.298 for which circumstances are the same, these parcels or areas may be considered and evaluated as a single group.

“(7) For purposes of Goal 14 Boundary Location Factor 2, ‘public facilities and services’ means water, sanitary sewer, storm water management, and transportation facilities.

“(8) The Goal 14 boundary location determination requires evaluation and comparison of the relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation with regard to impacts on the state transportation system. ‘Coordination’ includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers. The evaluation and comparison must include:

“(a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;

“(b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB; and

## **II. THE COMMISSION'S FINDINGS**

### **A. Goal 2 Process and Factual Base**

The commission finds that the city identified issues and problems related to economic development in the city, compiled an inventory of lands and other factual information related to Goals 9 and 14, evaluated alternative courses of action, and made ultimate policy choices taking into consideration social, economic, energy, and environmental needs as required by Goal 2. Details regarding the city's decision are elaborated upon in the remaining findings.

### **B. Goal 14 Coordination**

Goal 14 requires the city, and county within which the boundary is located, to adopt UGB amendments through a cooperative process. The commission finds that the submittal complies with that Goal 14 requirement because the city coordinated with and jointly adopted its UGB amendment with Columbia County. Scappoose Ordinance No. 816 was adopted on April 4, 2011. Record at 1-394. On October 26, 2011, Columbia County adopted Ordinance No. 2011-3, approving the UGB amendment that had been approved by the city. Record at 1441-1504.

### **C. Consistent with Coordinated Population Forecast**

The commission finds that the city has complied with a requirement of Goal 14 and OAR 660-024-0030 by adopting a 20-year population forecast in coordination with Columbia County. Scappoose Ordinance No. 816 adopts the Columbia County 20-year population forecast, prepared in 2008 and adopted in 2009 by the county. Record at 163-251. The forecast, prepared by the Portland State University Population Research Center, uses the Cohort-Component Method, which predicts future populations as outcomes of life events: births, deaths, and in- and out-migration, to forecast future Columbia County populations, and for cities within the county such as Scappoose uses a housing unit method, which forecasts future populations based on recent and expected housing trends. The commission finds that the forecast uses commonly accepted practices and standards for population forecasting, and is based on current, reliable and objective sources and verifiable factual information. The forecast accounts for both documented long-term demographic trends as well as recent events that have a reasonable likelihood of changing historical trends.

### **D. Goal 9 – Economic Opportunities Analysis**

The commission finds that the city has complied with a requirement of Goal 9 and OAR 660-009-0015 by preparing and adopting an economic opportunities analysis (EOA),

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“(c) The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.”

supported by an adequate factual base, as part of Ordinance No. 816. Record at 66-131. As required by OAR 660-009-0015(1), the EOA includes a review of national, state, regional, county and local trends relating to economic development. Record at 76-89. As required by OAR 660-009-0015(2), the EOA identifies the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses. Record at 103-104. The city also conducted an analysis of vacant and redevelopable employment lands within the existing UGB, as required by OAR 660-009-0015(3). Record at 254-261. Finally, pursuant to OAR 660-009-0015(4), the EOA includes an employment forecast consistent with the coordinated population forecast, considered the city's economic advantages and disadvantages, and addressed employment needs for the estimated long-term population by improving the balance of jobs to population and seeking to improve opportunities for higher wage jobs consistent with the city's economic development policies. Record at 89-96.

### **E. Demonstrated Need – Employment Opportunities**

The commission finds that the city has complied with a requirement of Goal 14, Land Need Factor 2 and OAR 660-024-0040 by demonstrating a need for land to provide employment opportunities within the city. The city's EOA projects that, despite the national economic downturn that began in 2008, economic growth in the United States would provide for significant job growth over the 20-year planning period. Record at 71-76. The EOA documents target employers consistent with existing city locational and demographic characteristics, most notably aviation-related and retail employers. Record at 89-91. The EOA documents analysis of job growth for the Portland metropolitan region completed by Metro, which projects significant job growth in areas outside of the Metro boundary such as Scappoose. Record at 94.

The EOA justifies the potential for strong employment growth in Scappoose over the 20-year planning period as resulting from a number of factors, most notably Scappoose's locational advantage in relation to Portland and Hillsboro, the presence of the Scappoose Industrial Airpark and related aviation employers, and a documented shortage of certain types of industrial sites within the boundary of Metro. Record at 92-96. The city has identified an employment land need over the planning period, totaling 483 gross acres, based on an analysis of economic opportunities and the site needs of target industries deemed reasonable and appropriate to achieving the city's economic development objectives, and thus has justified deviating from a straight-line economic forecast based entirely upon historical employment trends. Of the 483 total gross acres, 269 acres is forecast as the industrial land need, 64 acres is forecast for office land need, 40 acres is forecast for retail commercial land need, and 110 acres is forecast for specialized land needs. Record at 98. The specialized land need includes 50 acres for an airport runway expansion, 40 acres of airport hangar space, and 20 acres for a proposed community college site. Record at 104. See the responses to objections in subsections III.I, J, and L of this order for findings and conclusions regarding these elements of land need.

## **F. Specified Characteristics**

The commission finds that the city has specified characteristics necessary for land to be suitable for the identified need for employment opportunities within the city in a manner consistent with the requirements of Goals 9 and 14, OAR 660-009-0025(8) and OAR 660-024-0060(5). The EOA adopted as part of Ordinance No. 816 determined the amount of land required to meet a 20-year need to provide employment opportunities within the city; then estimated the number and size of individual sites needed for office, industrial, retail, overnight lodging, and public/semi-public employment needs. Record at 103-104. The EOA then calculates an adequate supply of suitable sites including a mix of site sizes and types consistent site characteristics typical of and having a meaningful connection to target industries determined appropriate to meeting the city's economic development objectives, particularly industrial employers, retail commercial employers, and office employers. Record at 103-105.

The city's determination of the specified characteristics for industrial employment land was based upon analysis of "lead sheets" from the Oregon Business Development Department, which provided data on site size, site characteristics, and availability of transportation and public utilities for firms seeking to locate or expand an industrial facility in Oregon. Record at 114-116. More archetypal characteristics for industrial, office, and retail commercial land characteristics were also used to determine suitable site characteristics. Record at 105-112.

## **G. Land Inventory and Response to Deficiency**

The commission finds that the city has complied with Goal 14 and OAR 660-024-0050 by providing for a 20-year land supply for employment lands. After establishing the need for employment land (*see* subsections E and F of this section), the EOA translated the identified need for employment land into an amount of land necessary to satisfy that need: for industrial employment land, office commercial employment land, retail commercial employment land, and specialized land needs. The EOA translated the projected increase of employment into specific amounts of needed industrial and office land and building space, and translated the projected increase in households, both in Scappoose and neighboring Columbia County, into specific amounts of needed retail commercial land and space. Record at 97-102.

The city's findings include a calculation of the amount of land already within the UGB that can satisfy a portion of the identified 20-year land need for employment land, finding that 153 acres within the current UGB was available for future industrial employment development, and 31 acres within the current UGB was available for future commercial employment development. Record at 24-25. The city's findings are based upon an analysis of vacant and redevelopable employment lands within the existing UGB, using definitions of "vacant land" and "developed [but redevelopable] land" provided in OAR 660-009-005, and then conducting a detailed site survey of lands within the existing UGB to categorize such lands. Record at 254-261. Based upon the identified need, and the availability of vacant and redevelopable

employment lands within the existing UGB, and considering undevelopable areas and areas for rights of way, the city determined the amount of land needed to be added to its urban growth boundary to provide a 20-year supply for employment lands, approximately 380 acres. Record at 26-29, 45, 48, 1450, and 1460-1461.

#### **H. Boundary Location**

The commission finds that the city has complied with ORS 197.298, Goal 14, and OAR 660-024-0060 in determining the location of lands to be added to the UGB to meet its identified need. The city created appropriate study areas within one mile of the existing UGB in all directions. Record at 31-32. The city evaluated all land studied for addition to the UGB for consistency with the priorities for exception lands and less valuable agricultural lands over higher value agricultural lands. Record at 266-281. It then appropriately included higher priority exception lands totaling 77 acres that satisfied necessary site characteristics and excluded higher priority exception lands that did not meet identified site suitability requirements for employment land because of their division into smaller parcels, topography, and location. Record at 33-34. To fulfill the remainder of the identified need, the city selected as much lower value (and therefore higher priority) agricultural land with Class III soils to meet the identified need for employment land as was available (236 acres), and then completed fulfillment of its need for such lands by including 41 acres of land with Class II soils. Record at 34-36.

The city demonstrated that it considered and balanced the four UGB location factors of Goal 14 to choose among lands within the study areas for inclusion within the UGB. Record at 36-43. The city chose to maximize efficient urban form by not extending its UGB in a linear manner along Highway 30. Record at 37-38. The city determined that the lands proposed for addition to the UGB could be efficiently provided with public services. Record at 38-40. The city properly considered the comparative economic, social, environmental, and energy consequences of the UGB locational alternatives. Record at 41-42. And the city determined that inclusion of industrial lands in the airport area would have minimal adverse impacts upon adjacent agricultural lands because of the lesser impacts of industrial land to agricultural uses and the creation of a new roadway to separate the industrial and agricultural uses. Record at 42-43.

#### **I. Economic Development Policies and Measures**

The commission finds that the city has complied with OAR 660-009-0020 by adopting policies stating the economic development objectives of the planning area and committing to provide adequate sites and facilities to fulfill those economic development objectives. As part of Ordinance No. 816, the city adopted amendments to its comprehensive plan that included policies stating economic development objectives and committing to providing adequate sites and facilities to fulfill those economic development objectives. Record at 132-151. The revised comprehensive plan replaces the existing sections on economic development with language establishing the overall goal of the city to increase employment opportunities within its

boundaries for industrial and commercial uses as well as more specialized airport-related and public uses. In addition, the city amended its comprehensive plan map to include the lands to be added to its UGB (Record at 251-253), and also adopted specific comprehensive plan language describing the addition of a new Airport Employment land use designation on the comprehensive plan map. Record at 151-155.

The commission finds that the city has complied with OAR 660-009-0025 by adopting implementing economic development measures that identify needed sites, designating a total land supply sufficient to meet projected land needs, and providing an adequate amount of land for special site needs. As part of Ordinance No. 816, the city adopted a new airport employment overlay zone designed to reserve lands near the Scappoose Industrial Airport to ensure provision of land for the specific airport-related employment uses identified in the city's 20-year employment land need analysis, along with other employment land needs compatible with airport-related uses. Record at 156-163.

### **III. CONSIDERATION OF OBJECTIONS ON APPEAL**

The following parties submitted objections in response to the initial submittal by the city: 1000 Friends of Oregon, Michael F. Sheehan, and a group of 35 individuals (including Pat Zimmerman) reiterating all of the objections and remedies listed in the 1000 Friends of Oregon objection. After analyzing the objections as provided in OAR 660-025-0150, the director issued a decision approving the UGB amendment on June 14, 2012. An appeal of that decision was filed by Pat Zimmerman and Michael F. Sheehan (sent electronically on July 4, 2012; hereafter "Appeal"). The commission finds that the Appeal is valid pursuant to the requirements of OAR 660-025-0150(6).

The department analyzed the objections submitted in the Appeal and, in the report issued pursuant to OAR 660-025-0160(5), provided the commission a recommendation to reject each objection. After considering the objections, recommendations, responses and the oral arguments presented at the public hearings, the commission rejects each objection for the reasons set forth below.

#### **A. Objection 1: Employment Data**

This objection is based on the fact that new employment data became available as the city's planning proceeded and states the city needed to use it. Appeal at 2. The appellants contend the decision violates OAR 660-009-0010(5) and Goal 2 because failure to use the latest data is inconsistent with the rule's requirement to use the "best available or readily collectable information" and does not provide an adequate factual base. The appellants also contend during oral argument that the refusal to consider updating the data in response to citizen input is a violation of Goal 1, Citizen Involvement.

The commission concludes:

1. A city is not required to restart its analysis each time new information becomes available. The cited rule does not require what the Appeal contends; the rule does not require or imply that studies must be amended to address data that becomes available in the middle of a study.

2. Because of the procedural and substantive requirements involved in the city's adoption of a UGB amendment, a roughly three-year period elapsed between commencing the work and the final adoption by Columbia County. It is understandable that new data became available during the process; the commission does not interpret either OAR 660-009-0010(5) or Goal 2 to require the city to undertake multiple, shifting iterations of the same analysis as it moves through the planning and adoption process. Assuming for purposes of discussion that OAR 660-009-0010(5) or Goal 2 required the city to consider new employment data throughout the planning process, the standard would be whether the city reasonably relied on the employment data information in the record that formed the basis of its EOA, when viewing the record as a whole, including the new employment data that appellants cite. So long as the new employment data does not make it unreasonable for the city to rely on the employment data that it did, the choice between conflicting evidence is the city's. *Mazeski*, 28 Or LUBA at 178. The appellants have not established and the commission does not find that a reasonable person could not have relied on the employment data the city used.

3. The Scappoose EOA updated the base employment data by evaluating countywide economic trends up to 2010 and current knowledge about economic activity in Scappoose during that time. Record at 93.

4. The city did not ignore the testimony regarding new data, as is alleged. The council responded to the testimony in its deliberations, explaining why it did not choose to alter the base year for the assumptions within the EOA. Record at 1323-1325. In addition, the consultant that prepared the EOA for the city responded to testimony regarding this objection to the Columbia County Board of Commissioners as part of its deliberations. Record at 2073-2075.

5. Goal 1 requires local governments to adopt and implement a citizen involvement program. Goal 1 does not address evidence for a land use decision in any way, so it does not direct the city to update the factual base when new information becomes available.

## **B. Objection 2: Adequacy of Employment Forecast**

This objection alleges that the employment forecast in the EOA overestimates likely future employment because it assumes continuation of high growth rates experienced during a relatively short period, thus violating OAR 660-009-0010(5), OAR 660-009-0015(1), and Goal 2. Appeal at 3.

The commission finds that:

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

2. The EOA projects employment growth over a 20-year period, to the year 2030. Record at 93. The EOA also acknowledges that national and state economic conditions took a significant downturn as a result of the economic recession beginning in 2008 (Record at 71-79), and then projected recovery from that downturn based upon 2009 forecasts that have proven to be optimistic by subsequent events. However, one purpose of a 20-year forecast is to include periods of both strong and weak economic growth, encompassing a variety of shorter-term economic conditions, and thus cannot be said to be overly optimistic based upon a strong starting point, or overly pessimistic based upon a weak starting point. The city used the substantial evidence of employment growth from 2003-2007, combined with other evidence, to compile an adequate factual basis that underlies its subsequent UGB decision.

### **C. Objection 3: Share of Regional Employment Growth**

This objection contends the EOA makes an unreasonable determination regarding the amount of regional employment growth Scappoose will capture. Appeal at 4.

In its EOA, the city provided a rationale for its determination regarding the amount of regional employment growth the city will capture, noting Scappoose’s location adjacent to the Portland Metro area, the lack of industrial lands supply in the Portland Metro area, and the strategic advantage of the Scappoose Airpark’s location adjacent to the city. Record at 94-96; *see also* Record at 15 (discussing growth at Aurora Airport). The commission finds that such information and analysis constitutes substantial evidence to demonstrate why Scappoose would capture employment growth in the Portland region at a rate significantly greater than employment growth proportional to its population. These include:

1. Scappoose’s locational advantages adjacent to the Portland metropolitan area. Record at 95-96;
2. Past employment growth rates in Scappoose which have exceeded rates within the Portland metropolitan area. Record at 93.

3. A demonstrated shortage of certain types of industrial land within the Portland metropolitan region, leading to increased demand for such sites in neighboring cities such as Scappoose. Record at 1296, 2050-2051, 2080-2081.

4. Projections by Metro that a significant amount of future employment growth associated with the Portland metropolitan area will occur outside of Metro's own boundaries. Record at 1333, 2078-2079.

5. The fact that, due to the small size of Scappoose in comparison to the Portland metropolitan region, a small increase in capture rates for employment growth would result in a large percentage and numerical increase in terms of Scappoose itself. Record at 2078.

**D. Objection 4: Relationship of UGB Expansion to Employment Growth**

This objection alleges deficiencies in the assumption of the EOA that a UGB expansion will lead to employment growth beyond the historical trend, noting that significant acreage around the Scappoose Airpark zoned for industrial purposes is currently vacant. Appeal at 5.

The commission finds that:

1. The city's *intention* is to deviate from the historic trend by providing more employment for its citizens, a policy choice that is consistent with Goal 9 and its implementing rules. *See* Economics Policy 4; Record at 142. As stated in the response to Objections 2 and 3, Scappoose has provided an evidentiary background that supports the feasibility of such a policy.

2. The EOA does not contend that Scappoose has a short-term shortage of industrial land; it finds a shortage of industrial land to meet 20-year needs. Record at 97-104.

**E. Objection 5: Consistency of Employment & Population Forecasts**

This objection contends the employment forecast in the EOA is inconsistent with the city's adopted population forecast because the rates of increase are considerably different and the resulting jobs-per-resident ratio is uncommonly high. Appeal at 6.

The commission finds that:

1. As set forth in OAR 660-024-0040(5), proportionality between population and job growth forecasts is not required.

2. The city has documented the reasons why the population and economic forecasts are not parallel. Record at 359-363. In addition to the rationale described in the response to Objections 2 through 4 above, the record demonstrates that employment in the city is tied to the Portland metropolitan region as much as it is to Columbia County, and that the EOA has taken

account of the multiplier effect that employment in certain industries has regarding additional employment creation. Record at 359-363.

**F. Objection 6: Job Growth on Residential Lands**

This objection asserts that the EOA erroneously assumes that no new jobs will locate in residential areas. The appellants dispute factual assumptions regarding how many future jobs will be located as home-based businesses on residential land. Appeal at 7.

The commission finds that:

1. The city found that many of the jobs that the appellants assume will be located in home-based businesses will in fact be located on lands that are designated and zoned for employment uses, because of the nature of such businesses (construction, real estate, agents, business consultants, etc.). Record at 1298. The city assumes that a level of home occupation will continue consistent with current patterns, but that projected new jobs created by implementation of new plan policies to increase employment opportunities will site on lands designated for such employment. Record 1293-1301. The city’s assumptions are based upon substantial evidence contained in the EOA.

2. Even if the city’s projections turn out to be erroneous – an outcome that is entirely uncertain – the amount of land differential resulting (40 acres at maximum under the assumptions stated in the Appeal) is, pursuant to ORS 197.747 minor or technical in nature.<sup>14</sup> In addition, pursuant to OAR 660-024-0040(1), any land differential reflects the fact that the 20-year land need determination is an estimate and should not be held to an unreasonably high level of precision.<sup>15</sup>

**G. Objection 7: Location of “Other Services” Jobs.**

This objection asserts that the EOA erroneously assumes that too large of a percentage of “other services” jobs are projected to site on industrial land rather than retail land and that, since

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<sup>14</sup> ORS 197.747 provides:

“For the purposes of \* \* \* \* periodic review under ORS 197.628 to 197.651, ‘compliance with the goals’ means the comprehensive plan and regulations, on the whole, conform with the purposes of the goals and any failure to meet individual goal requirements is technical or minor in nature.”

<sup>15</sup> OAR 660-024-0040(1) provides:

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

industrial land has a lower density of employment per acre, this results in an inflation of total acres of need for employment land. Appeal at 7.

The commission finds that:

1. The appellants and the city use divergent assumptions regarding how many jobs categorized as “other services” will locate on industrially zoned land or on commercially zoned land. The city found that a higher percentage of these jobs will be located on industrially zoned land. Record at 1299. The city derived the allocation of “other services” jobs from the Regional Industrial Land Study Phase III (EcoNorthwest and Otak, Inc., 2001). The city’s assumptions are based upon substantial evidence contained in the EOA and the city’s choice between conflicting evidence.

2. Even if the city’s projections turn out to be erroneous – an outcome that is entirely uncertain – the amount of land differential resulting (16 acres at maximum under the assumptions stated in the Appeal) is, pursuant to ORS 197.747 minor or technical in nature. In addition, pursuant to OAR 660-024-0040(1), any land differential reflects the fact that the 20-year land need determination is an estimate and should not be held to an unreasonably high level of precision.

#### **H. Objection 8: Site Characteristics**

This objection alleges that the record does not contain evidence or findings for the EOA’s conclusion regarding demand for employment sites by parcel size. Appeal at 8.

The commission finds that:

1. The EOA contains detailed information justifying site size for different types of employment-generating development that the city is expecting to attract based upon its economic development strategy. Record at 103-131.

2. The Appeal disregards the city’s finding that it is much easier to divide employment land into small parcels to meet the needs of smaller users than it is to aggregate small parcels in fractured ownerships to meet the needs of a larger user. Record at 103. The distribution of site need by size reflects not only single large employers, but also industrial parks, which provide space for a range of smaller firms. While many of the firms expected to locate in Scappoose are small, these firms tend to cluster into larger multitenant buildings, often in industrial or business parks. The city found that the ability to provide this type of space is critical for its economic development success, as smaller firms cannot typically afford to own their own space. Record at 299. The Land Use Concept Plan for property surrounding the airport illustrates this point, as a large parcel is necessary to provide efficient access to the range of smaller employers consistent with an airport industrial use concept. Record at 334.

## **I. Objection 9: Airport Expansion**

Here the appellants object to the UGB amendment including 50 acres for a runway expansion despite the adopted Airport Master Plan's conclusion that no runway expansion is needed. The appeal contends the decision lacks substantial evidence. Appeal at 9.

The commission finds that:

1. The planning period for the Airpark Master Plan (horizon year of 2022) is not the same as the city's economic development planning (2030), so the absence of an identified need in the Airpark Master Plan is not determinative. Further, the Airpark Master Plan is based on a 2000 population forecast and employment projections, not the coordinated population projection used in the submittal. Finally, because the Airpark Master Plan predates this submittal, it could not take this UGB expansion into consideration.

2. The city found that there is a need for 110 acres for institutional sites, including 50 acres for a future runway extension. This need is established in the city's EOA, and is based upon evidence compiled by the city relating to the future need for an expansion of the airport runway. Record at 104, 136-138, 262-263, 335, 1305, and 1316.

3. The record contains a letter and testimony from the Port of St. Helens supporting the city plan to address the airpark's future needs. Representatives of the Port provided testimony that the airport needed a runway 600 to 800 feet longer than at present to accommodate larger planes and the business opportunities they would provide. Record at 335, 473-474, 754-756.

4. Given the factual situation (which is supported by substantial evidence in the record, it is appropriate for Scappoose to amend its comprehensive plan, with support from the Port of St. Helens, to allow for an expanded runway, with the expectation that the Port will subsequently amend its master plan to allow for the expanded runway.

## **J. Objection 10: Airplane Hangar Expansion**

This objection contends the city's UGB amendment includes 40 acres for airplane hangar expansion that is intended to serve demand beyond the airport's 20-year planning period, in violation of OAR 660-024-0040(1) and Goal 2, adequate factual base. Appeal at 11.

The commission finds that:

1. The planning period for the Airpark Master Plan (horizon year of 2022) is not the same as the city's economic development planning (2030), so the absence of a need demonstrated in the Airpark Master Plan is not determinative of the need identified in the submittal.

2. The record contains a letter and testimony from the Port of St. Helens supporting the city plan to address the airport's future needs. Representatives of the Port provided testimony that the airport would generate additional business opportunities generating the land need in conjunction with a runway expansion that would accommodate larger planes. Record at 335, 473-474, 754-756.

3. A hangar is not solely an air transportation facility operated only by an airport, but can be, and in this case is, proposed as an employment site related to the institutional airport operated by the Port of St. Helens, also known as a "through the fence" facility. Record at 90. The additional capacity is, therefore, a component of the city's economic development strategy, not simply a function of airport needs. Record at 90.

### **K. Objection 11: Industrial Land Inventory**

This objection asserts that the employment land inventory does not provide an adequate factual basis to exclude five lots from the inventory of vacant employment land and four lots from the inventory of developed lands likely to redevelop during the planning period. Appeal at 12.

The commission finds that:

1. The city provided an employment land inventory that used the definitions in OAR 660-009-0005(14) for "vacant land." Record at 254-260. The city provided a detailed rebuttal of the portion of the objection regarding the exclusion of five lots from the inventory of vacant employment lands, noting that the lands the objectors maintained were vacant consisted of small vacant portions of otherwise developed parcels, parcels too small to be included in the inventory, and an active quarry site. May 9, 2012 Scappoose Letter at 16-20. Thus, the commission finds that the city's employment land inventory correctly excluded all but one of the parcels that the objectors claim should have been added to the inventory.

2. Scappoose acknowledged that one of the issues raised by the objectors, consisting of a platted industrial subdivision of 45 acres, should now be considered vacant and available, because the proposed development that was expected to be placed on the site at the time of preparation of the inventory (January 2010), and in some cases had already received city approval for specific site development, has not been built due to economic considerations. May 9, 2012 Scappoose Letter at 17-18. However, the commission finds that, at the time the inventory was performed, the city reasonably assumed that this subdivision was fully committed to development. Further, if the city were to revise its inventory to consider this entire 45-acre area as vacant, it would constitute a small portion of the 380 acres the city added to its UGB. Under the circumstances where it was reasonable to consider it committed to development at the time of the inventory and where it would at most account for a relatively small percent of the expansion, the commission finds, pursuant to ORS 197.747, that any error is minor or technical in nature. In

addition, pursuant to OAR 660-024-0040(1), any land differential reflects the fact that the 20-year land need determination is an estimate and should not be held to an unreasonably high level of precision.

**L. Objection 12: Community College Site**

This objection asserts that the city failed to provide an adequate factual base to justify including 20 acres inside the UGB for a future community college facility. Appeal at 13.

The commission finds that there is an adequate factual base in the record to establish a site need for a community college-type training institution under Goal 9, and concludes that it is reasonable to find an opportunity and need exists for a community college-type workforce training facility at an industrial airpark. The record contains testimony to the feasibility, need and required site characteristics. Record at 963, 1465, 2020-2021, 2027, 2098, and 2100.

**IV. CONCLUSION**

Based on the foregoing, the commission rejects all objections contained in the Appeal, regardless of whether it is discussed herein, and approves the submittal from the City of Scappoose and Columbia County.

All rulings made on objections and motions during the commission hearings are hereby affirmed. Any objections or motions not ruled upon during the commission hearings are hereby overruled.

THEREFORE, IT IS ORDERED THAT:

1. Scappoose Ordinance No. 816, amending the UGB, amending the comprehensive plan text and map, and amending the Scappoose Municipal Code is approved.
2. Columbia County Ordinance No. 2011-3, amending the Scappoose UGB, is approved.

DATED THIS 28<sup>th</sup> DAY OF February 2013.

FOR THE COMMISSION



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Jim Rue, Director  
Department of Land Conservation and Development

NOTE: You may be entitled to judicial review of this order. Judicial review may be obtained pursuant to ORS 197.651(3) by filing a petition for review within 21 days from the service of this final order. Judicial review is pursuant to the provision of ORS 197.650.

Copies of all exhibits are available for review at the department's office in Salem.