



# Oregon

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April 19, 2012

TO: Land Conservation and Development Commission  
Metro  
Parties of Record

FROM: Jim Rue, Acting Director  
Rob Hallyburton, Planning Services Division Manager

SUBJECT: **Agenda Item 4, May 10-11, 2012 LCDC Meeting**

## **DEPARTMENT'S REPORT AND RESPONSE TO OBJECTIONS TO PORTLAND METRO URBAN GROWTH BOUNDARY AMENDMENT**

The report prepared by the Department of Land Conservation and Development responding to Metro's submittal of an amended urban growth boundary, on referral to the Land Conservation and Development Commission pursuant to OAR 660-025-0150(1)(c), is attached.

The department recommends that the commission partially approve and partially remand the submittal, as summarized in Chapter II of this report. Metro has completed a considerable amount of data development and analysis and coordinated extensively with the cities and counties within and outside the Metro boundary. The department recommends that the commission approve the amendments to the Framework and Functional Plans and Metro Code that implement Metro Council's policies on development efficiency and investment strategy.

The errors identified by the department are primarily in establishing the proper application of law, leading to concerns regarding substantial evidence. If the commission partially remands the submittal as recommended, none of the urban growth boundary expansion areas will be approved. This is not because the department recommends that the commission find the amount or location of land included in the boundary is *necessarily* in conflict with applicable regulations, but rather because certain goal and rule provisions were applied in a manner that makes it impossible to determine compliance.

If you have questions about this agenda item, please contact Jennifer Donnelly, DLCD Regional Representative, at (503) 725-2183, or [jennifer.donnelly@state.or.us](mailto:jennifer.donnelly@state.or.us).

**DEPARTMENT’S REPORT AND RESPONSE TO OBJECTIONS TO  
PORTLAND METRO URBAN GROWTH BOUNDARY AMENDMENT**

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**ABBREVIATIONS AND TERMS**

Capacity ordinance	Metro Ordinance No. 10-1244B, as amended
Cap. Ord. Rec. at	Citation to a page number in the capacity ordinance record that was submitted to the department on January 31, 2011
Commission	The Land Conservation and Development Commission
Department	The Department of Land Conservation and Development
Metro	The Portland Area Metropolitan Service District
OAR	Oregon Administrative Rule(s)
ORS	Oregon Revised Statutes
UGB	Urban growth boundary. As used in this report, the UGB refers to the boundary established by Metro
UGB Rec. at	Citation to a page number in the UGB record that was submitted to the department on November 8, 2011
UGB ordinance	Metro Ordinance No. 11-1264B
UGR	Urban Growth Report, January 2010

## **I. AGENDA ITEM SUMMARY**

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

The matter before the Land Conservation and Development Commission (LCDC or “commission”) is Metro’s amendment to the Portland Metropolitan Area urban growth boundary (UGB) to accommodate the full range of urban land uses through 2030. The submittal before the commission includes (1) a determination of the population and employment the region is expected to support in 2030; (2) analysis, findings, and conclusions regarding how much population and employment growth the region can accommodate within the existing UGB (the “capacity ordinance”); (3) a determination of the amount of additional land needed to be added to the UGB; and (4) analysis, findings, and conclusions regarding the appropriate locations for a UGB expansion.

This capacity ordinance and UGB amendment (hereafter, the term “UGB amendment” includes the capacity ordinance) are reviewed by LCDC “in the manner provided for periodic review.” This item is before the commission as a referral from the director of the Department of Land Conservation and Development (DLCD, or “department”). This is a review on the record submitted by Metro. The purpose of the hearing is to review the department’s report responding to the submittal, review the objections and the department’s report responding to those objections, hear argument from the parties, and decide what action to take in response to DLCD’s analysis and the objections.

The commission may do one or more of the following:

1. Approve the submittal;
2. Remand the submittal, or a portion of the submittal; or
3. Require specific plan or land use regulation revisions to be completed by a specific date.

### **B. Staff Contact Information**

If you have questions about this agenda item, please contact Jennifer Donnelly, DLCD Regional Representative, at (503) 725-2183, or [jennifer.donnelly@state.or.us](mailto:jennifer.donnelly@state.or.us)

## **II. SUMMARY OF RECOMMENDED ACTION**

For the reasons described in its report, below, the department recommends that the commission partially approve and partially remand the submittals under consideration. The department recommends the commission approve the amendments to the Regional Framework Plan, Urban Growth Management Functional Plan, and Metro Code adopted by Metro Council in Ordinance No. 10-1244B. See Section V.E of this report.

The department recommends the commission remand the remaining portions of Ordinance No. 10-1244B and Ordinance 11-1264B, which amended the UGB, with instructions as follows:

1. Reconcile forecasted housing and residential land needs to the population forecast. Upon resubmittal, either (1) demonstrate that the findings and conclusions contained in the housing and residential land needs analyses are supported by substantial evidence and based on the population forecast of 625,183, or (2) include the required findings and conclusions and reconsider whether or how much land needs to be added to the UGB. See Section V.B of this report.
2. Complete an employment land inventory in compliance with OAR 660-015-0015, as required by OAR 660-024-0050(1). Upon resubmittal, either (1) demonstrate, based on evidence in the record, that the inventory of employment land within the UGB was completed according to these administrative rules, or (2) include a detailed inventory that identifies the supply of sites suitable for the expected uses as required by administrative rule. See subsection C.3 of Attachment B.
3. Complete the UGB location analysis in a manner consistent with Goal 14 location factors and OAR 660-024-0060. Upon resubmittal, either (1) demonstrate through evidence in the record that the method used by Metro in selection of analysis areas complied with Goal 14 and administrative rules, or (2) include additional findings demonstrating that the decision on selection of areas considered for inclusion in the UGB complies with Goal 14 and OAR 660-024-0060. See subsection V.D.2 of this report.
4. Demonstrate that the final decision complies with the Goal 14 location factors. Upon resubmittal, either (1) demonstrate based on evidence in the record that the comparative analysis of alternative UGB expansion areas complied with the Goal 14 locational analysis independently of local location factors from the Metro Code, or (2) complete a new alternatives analysis that applies the Goal 14 factors separately from local factors. See subsection V.D.3 of this report.

### **III. BACKGROUND**

#### **A. Metro's Actions**

Metro's final decisions to provide capacity for housing and employment to the year 2030 were made on December 16, 2010 and January 13, 2011 (Ordinance Nos. 10-1244B and 11-1252A). Metro submitted its decisions to the department on February 2, 2011. The adopted ordinances identify actions that are intended to address at least half of the housing needs identified in the Urban Growth Report (UGR), state an intent to add large-lot industrial capacity in 2011, amend the Regional Framework Plan which states Metro Council policies, amend the Urban Growth Management Functional Plan and amend Metro Code (Urban Growth Management Functional Plan) to implement regional policies.

Several weeks after submitting the ordinances to DLCD, Metro learned that section 16 of the submitted version of Ordinance No. 10-1244B differed from the version adopted by the Metro Council(council) on December 16, 2010. On March 28, 2011 Metro submitted its revised version of Ordinance No. 10-1244B adopted by the council to replace the version submitted on February 2, 2011. Metro re-noticed the decision at this time. But for this single change, the package of ordinances and exhibits submitted on January 26 remained unchanged.

Pursuant to ORS 197.274(2), Metro had previously requested that the commission review its proposed ordinance in the manner of periodic review under ORS 197.628 to 197.650. LCDC consented to Metro's request on December 2, 2010.

The director referred the review to LCDC on July 20, 2011. Metro requested a waiver of the requirement in OAR 660-025-0150(3) that the director take action on the submittal within 120 days on August 18, 2011. The department notified parties on August 24, 2011 of a revision to review schedule, and that review of the capacity ordinance would coincide with review of the upcoming UGB expansion.

Metro's final decision for the purpose of expanding the UGB to provide capacity for housing and employment to the year 2030 and to amend the Metro code was made on October 20, 2011 (Ordinance No. 11-1264B). Metro submitted its decision to DLCD on November 8, 2011.

### **B. Description of Metro's Decision**

Ordinance No. 10-1244B (the "capacity ordinance") is Metro's response to the requirement in ORS 197.299 that Metro, every five years, assess the region's capacity to accommodate the numbers of people anticipated to live in the region over the next 20 years. Metro chose to complete the analysis for employment as well. To make these determinations, Metro forecasted population and employment growth; conducted inventories of vacant, buildable land inside the UGB; assessed the capacity of the current UGB to accommodate population and employment growth, either on vacant land or through redevelopment and infill; and determined whether additional capacity is needed. The urban growth report (UGR) is the basis for subsequent consideration of the actions to be taken by the Metro Council to address any shortfall in the capacity of the UGB to accommodate the growth that is forecast over the next 20 years.

The capacity ordinance included the UGR and the regional population and employment range forecasts. The UGR identified a potential deficit in the amount of residential land in the UGB relative to forecasted need. The UGR also identified a lack of large-lot industrial sites (defined as 25 acres or more) to support the traded sector over the next 20 years. No shortfall was identified for non-industrial and general industrial employment.

The Metro Council chose to accommodate residential and employment land need based on a forecast between the low end of the forecast range and the high end of the middle third of the forecast range. The council also determined that, with efficiency measures included in the

capacity ordinance, it provided capacity to accommodate at least 50 percent of the housing and employment forecast to the year 2030.

Also as a part of the capacity ordinance, Metro Council adopted new policies in the Regional Framework Plan to focus investments in those places in the region intended to accommodate higher residential densities including regional centers, town centers, light rail station communities, and designated corridors and main streets. The framework plan amendments also proposed investments to focus on parts of the region where households spend more than 50 percent of monthly income on housing and transportation. The capacity ordinance amended the Metro's Urban Growth Management Functional Plan to implement new policies.

Ordinance No. 11-1264B (the "UGB ordinance") expanded the Metro UGB by adding 1,657 acres for residential capacity: south of Hillsboro 1,063 acres, south of Cooper Mountain west of Beaverton 543 acres, west of Tigard 5.16 acres and 330 acres for large-site industrial use north of Hillsboro. A map of the expansion areas is provided in Attachment D.

In reaching this decision, Metro, in coordination with the region's three counties and 25 cities, updated its population forecast; conducted an inventory of vacant, buildable land inside the UGB; and assessed the capacity of the current UGB to accommodate population and employment growth either on vacant land or through redevelopment and infill.

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

Local decisions on UGB amendments are among the most complex issues the commission is asked to confront because a UGB, being the centerpiece of the Oregon land use planning program, is asked to accomplish many policy objectives. From the perspective of the jurisdictions inside the boundary, it must include an adequate amount of land to accommodate 20 years of expected growth in residential, commercial, industrial, public, institutional, recreation, and public facility needs. The land must be situated so that it can be economically served with development infrastructure and be attractive to potential developers. On the other hand, a UGB is relied upon to minimize the conversion of farm and forest lands (especially those of highest productive capability) to urban uses and provide separation between jurisdictions to maintain community identity. Consequently, determination of the appropriate size and location of the UGB amendment are subject to a variety of statutes, goals and administrative rules.

#### **1. Land Need.**

The size of the UGB amendment is a product of comparing the calculated *need* for land to support housing, jobs, and other urban uses for 20 years with the amount of that need that can be accommodated inside the existing UGB. The major issues before commission in this Metro UGB case regarding land need include:

- a. Amount of residential land
  1. Did Metro identify what one-half of a 20-year buildable land supply is as required under ORS 197.299?

2. Did Metro complete the inventory, determination and analysis required under ORS 197.296 to establish sufficiency of buildable lands within the UGB?
  3. Did Metro determine if their planned residential densities are in excess of the residential density assumed in its “UGB Findings” as required under OAR 660-007-0035?
  4. Did Metro provide new construction density or mix standards as required under OAR 660-007-0035?
  5. Did Metro use an adopted population forecast as the basis for their determination of 20-year residential land need as required in OAR 660-024-0040(4) and consistent with the requirements for determining housing needs in Goals 10 and 14, OAR chapter 660, division 7, and applicable provisions of ORS 197.295-197.314?
- b. Amount of employment land
1. Did Metro establish an evidentiary basis to justify its calculation of large-lot industrial need?
  2. Are Metro’s assumptions regarding the redevelopment and infill capacity of the existing UGB for employment uses adequately justified?
  3. Is Metro required to complete an inventory of employment lands consistent with the requirements of the Goal 9 rule?

## **2. Boundary Location.**

The decision on the location of any needed expansion of the UGB is based on application of statutory provisions regarding which lands to include and a balancing of factors provided in Goal 14 addressing the aforementioned tension of which lands are best for urban development and which should be preserved for rural and resource use. The major issues before commission in this Metro UGB case regarding analysis of alternative boundary locations include:

- a. Must Metro analyze all of the first-priority lands for inclusion in the boundary?
- b. Did Metro rely on the commission’s decision on urban reserves inappropriately?
- c. Did Metro appropriately apply the Goal 14 locational factors?
- d. Are Metro’s findings adequate to establish compliance with Goal 14 and supported by substantial evidence?

## **3. Substantial Evidence.**

The decision by Metro to amend the UGB must be based upon an adequate factual base and substantial evidence in the record as a whole. Goal 2 and ORS 197.633 (3)(a). This issue in each case occurs as part of a substantive issue pertaining to one of the topics discussed earlier in this section. The department calls it out separately only to point out that this will be an important consideration for the commission in making its final decision on the UGB submittal.

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

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

The criteria applicable to the amendment of a UGB are found in a number of statutes, goals, and rules. These provisions provide the basis for the department's review in Chapter V and Attachment B of this report. The full text of applicable provisions is provided in Attachment A.

#### **1. Goals.**

Statewide Planning Goal 14 is: "To provide for an orderly and efficient transition from rural to urban land use." This goal requires Metro to have a UGB to separate urban and urbanizable land from rural land. For cities within the Portland metropolitan service district, Metro adopts a regional UGB under ORS 268.390(3)(a). Amendment of a UGB is based on consideration of the following criteria for need under Goal 14:

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).

Compliance with these criteria is guided by administrative rules regarding metropolitan housing (OAR chapter 660, division 7), economic development (OAR chapter 660, division 9), and urban growth boundaries (OAR chapter 660, division 24). Relevant considerations for planning expanded UGBs are also found in the administrative rules regarding public facilities planning (OAR chapter 660, division 11), transportation (OAR chapter 660, division 12), and natural resources (OAR chapter 660, division 23).

Four boundary location factors in Goal 14 are used in considering which land gets included in the boundary (in conjunction with ORS 197.298, discussed in subsection 3 of this section):

1. Efficient accommodation of identified land needs;
2. Orderly and economic provision of public facilities and services;
3. Comparative environmental, energy, economic and social consequences; and
4. Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

The full text of Goal 14 is in Attachment A, p. 1.

#### **2. Administrative Rules.**

OAR chapter 660, division 24 (Attachment A, p. 4) guides application of Goal 14. This rule explains requirements for population forecasting, determining land need, inventorying available land, responding to a deficiency of land in the existing UGB, and boundary

location analysis. Division 24 incorporates or recognizes other administrative rules by reference, including these relevant to Metro:

- Division 7, Metropolitan Housing, regarding residential land need
- Division 12, Transportation Planning, regarding need for land for transportation facilities
- OAR 660-009-0015 regarding an inventory of employment land

### 3. Statutes.

ORS 197.296 (Attachment A, p. 30) sets out requirements for demonstrating that the UGB contains a 20-year supply of buildable residential land. These requirements address buildable lands inventories, housing needs analyses, and planning and zoning of residential lands. This statute directs, along with the need factors of Goal 14, how Metro is to calculate its residential land needs.

Once land need has been established, determining where to expand the boundary is directed by the priority of lands in ORS 197.298 (along with boundary location factors in Goal 14, discussed in subsection 1 of this section). The priorities, in order, are:

1. Lands designated as an urban reserve;
2. “Nonresource” lands or “exception” lands which have rural residential or other development;
3. “Marginal lands” designated pursuant to ORS 197.247;
4. Lower quality farmlands; and
5. Higher quality farmlands.

Metro considered only lands designated as an urban reserve for inclusion in the UGB.

ORS 197.299 (Attachment A, p. 34) requires Metro to, every five years, address its housing residential and land needs, accommodate at least one-half of that need within one year of completing the analysis, and accommodate the remainder of the need within two years of completing the analysis

In addition to these statutes, ORS 197.010 (2)(a) provides legislative land use policy, including these overarching principals:

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

The statute goes on to provide that the overarching principles provide “guidance” to a public body, such as Metro, when the public body adopts or interprets goals, comprehensive plans and land use regulations implementing the plans, or administrative rules implementing a provision of statute; or interprets a law governing land use. However, ORS 197.299(2)(d)

expressly provides that use of the overarching principles ORS 197.299(2)(a) is not a legal requirement for a public body, including Metro, and is not judicially enforceable.

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

Pursuant to ORS 197.274(2), Metro requested that the commission review its proposed ordinance in the manner of periodic review under ORS 197.628 to 197.650. LCDC consented to Metro's request on December 2, 2010. OAR 660-025-0160(6) provides that the commission will hear referrals (such as this case) based on the local record.

In this case, OAR 660-025-0085(5)(c) provides that oral argument is allowed from Metro, an affected local government, and those who filed one or more valid objections. Metro may provide general information on the task submittal and address those issues raised in the department review and objections. Persons who submitted objections may address only those issues raised in their objections. OAR 660-025-0085(5)(f). The commission may take official notice of certain laws, as specified in OAR 660-025-0085(5)(h).

OAR 660-025-0160(7) provides that, in response to a referral, the commission must issue an order that does *one or more* of the following:

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

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

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

The department received seven letters of objection to the initial capacity ordinance submittal and five letters of objection following the re-notice of the revised ordinance. Four of the five objections following the re-notice were from one of the initial seven objectors. In total, there are twelve letters of objection from eight different objectors. The department received nine letters of objection to the UGB ordinance.

The department has analyzed the validity of each objection. Two objections, from the city of Forest Grove and Melissa Jacobson, were found to be invalid. Explanations of why the department found those objections to be invalid is included in the department's responses to objections in Attachment B of this report.

The objection letters are available at: [http://www.oregon.gov/LCD/metro\\_capacity\\_ordinance.shtml](http://www.oregon.gov/LCD/metro_capacity_ordinance.shtml).

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

1. This DLCD staff report including responses to objections.
2. Metro correspondence, pursuant to OAR 660-025-0130(4)(a), identifying material in the record responsive to objections dated April 22, 2011 and December 13, 2011.
3. Metro Ordinance No.10-1244B, including the exhibits thereto, listed as follows:  
[http://library.oregonmetro.gov/files//metro\\_ordinance\\_10-1244b\\_adopded\\_121610.pdf](http://library.oregonmetro.gov/files//metro_ordinance_10-1244b_adopded_121610.pdf):
  - The Regional Framework Plan (RFP) is amended, as indicated by Exhibit A, to adopt: desired outcomes toward which the Metro Council will direct its policies and efforts; new policies on performance measurement to measure progress toward achievement of the outcomes; new policies on efficient use of land, public works and other public services; and new policies on investment in Centers, Corridors, Station communities, Main Streets and Employment Areas.
  - Title 1 (Housing) of the Urban Growth Management Functional Plan (UGMFP) is amended, as indicated in Exhibit B, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet housing needs to year 2030.
  - Title 4 (Industrial and Other Employment Areas) of the UGMFP is amended, as indicated in Exhibit C, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet employment needs to year 2030.
  - The Title 4 Industrial and Other Employment Areas Map is hereby amended, as indicated in Exhibit D, attached and incorporated into this ordinance, to show changes to design type designations to conform to new comprehensive plan designations by cities and counties pursuant to Title 11 of the UGMFP, to respond to needs identified in the UGR, and to make corrections requested by local governments to reflect development on the ground.
  - Title 6 (Centers, Corridors, Station Communities and Main Streets) of the UGMFP is hereby amended, as indicated in Exhibit E, attached and incorporated into this ordinance, to implement new policies and investment strategies in those places.
  - The Title 6 Centers, Corridors, Station Communities and Main Streets Map is hereby adopted, as shown on Exhibit F, attached and incorporated into this ordinance, to implement Title 6 and other functional plan requirements.
  - Title 8 (Compliance Procedures) of the UGMFP is hereby amended, as indicated in Exhibit G, attached and incorporated into this ordinance, to reduce procedural burdens on local governments and Metro.

- Title 9 (Performance Measures) is hereby repealed, as indicated in Exhibit H, to be consistent with new policies on performance measurement.
- Title 10 (Functional Plan Definitions) of the UGMFP is hereby amended, as indicated in Exhibit I, attached and incorporated into this ordinance, to conform to the definitions to the use of terms in the amended UGMFP.
- Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended, as indicated in Exhibit J, attached and incorporated into this ordinance, to provide more specific guidance on planning for affordable housing in new urban areas.
- Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) is hereby repealed, as indicated in Exhibit K, to be replaced by new Title 14 adopted by section 11 of this ordinance.
- Title 14 (Urban Growth Boundary) is hereby adopted and added to the UGMFP, as indicated in Exhibit L, attached and incorporated into this ordinance, with amendments from Metro Code Chapter 3.01 to provide a faster process to add large sites to the UGB for industrial use.
- The UGB, as shown on the attached Exhibit M, is hereby adopted by this ordinance as the official depiction of the UGB and part of Title 14 of the Urban Growth Management Functional Plan (UGMFP). The Council intends to amend the UGB in 2011 to add approximately 310 acres of land suitable for industrial development in order to accommodate the demand identified in the 2009 UGR for large sites, and to add land to accommodate any remaining need for residential capacity not provided by the actions taken by the ordinance.
- Metro Code Chapter 3.09 (Local Government Boundary Changes) is hereby amended, as indicated in Exhibit N, attached and incorporated into this ordinance, to conform to revisions to ORS 268.390 and adoption of urban and rural reserves pursuant to ORS 195.141, and to ensure newly incorporated cities have the capability to become great communities.
- The 2040 Growth Concept Map, the non-regulatory illustration of the 2040 Growth Concept in the RFP, is hereby amended, as shown on Exhibit O, attached and incorporated into this ordinance, to show new configurations of 2040 Growth Concept design-type designations and transportation improvements.
- The “Urban Growth Report 2009-2030 and the 20 and 50 Year Regional Population and Employment Range Forecasts,” approved by the Metro Council by Resolution No. 094094 on December 17, 2009, and the Staff Report dated November 19, 2010, are adopted to support the decisions made by this ordinance. The Council determines that, for the reasons set forth in the 2010 Growth Management Assessment, August,

2010, it will direct its capacity decisions to a point between the low end and the high end of the middle third of the forecast range.

- The council adopts the Community Investment Strategy recommended by the Chief Operating Officer in the 2010 Growth Management Assessment, August 10, 2010, including the investments set forth at pages 8-21 of the Introduction to Volume I; Assessment, pages 18-20; Appendix 1 of the Assessment, pages 32-33; and Appendix 3 of the Assessment, as a component of its overall strategy to increase the capacity of land inside the UGB by using land more efficiently.
- The Findings of Fact and Conclusions of Law in Exhibit P.
- An emergency is declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

4. Ordinance No. 11-1264B and the exhibits thereto, listed therein as follows:

(<http://www.oregonmetro.gov/index.cfm/go/by.web/id=37518>)

- The UGB is amended to add areas shown on Exhibit A, attached and incorporated into this ordinance, to provide capacity for housing and employment.
- The conditions set forth in Exhibit B, attached and incorporated into this ordinance, are applied to areas added to the UGB to ensure they contribute to achievement of the Outcomes in the Regional Framework Plan.
- The Urban Growth Boundary and Urban and Rural Reserves Map in Title 14 of the Urban Growth Management Functional Plan is amended to be consistent with Exhibits A and B, as shown in Exhibit C, attached and incorporated into this ordinance.
- The “Urban Growth Report 2009-2030 and the 20 and 50 Year Regional Population and Employment Range Forecasts” are adopted as supporting documents for, and as the basis for capacity decisions made by the Council in Ordinances Nos. 10-1244B and 11-1264B. With the actions taken by Ordinance No. 10-1244B to use land within the UGB more efficiently and the addition by Ordinance No. 11-1264B of 1,985 acres to the UGB for housing and employment at the capacities established in Exhibit B, the UGB has capacity to accommodate 625,183 new people and 300,000 new jobs. The Council intends these capacities to accommodate population and employment at the lower end of the middle third of the ranges determined for the next 20 years in the *20 and 50 Year Regional Population and Employment Range Forecasts*.
- The Findings of Fact and Conclusions of Law in Exhibit D, attached and incorporated into this ordinance, explain how the additions to the UGB made by this ordinance comply with state law and the Regional Framework Plan.

5. Objections. The following list shows the name of the individual or organization that submitted a letter objecting to the Metro Capacity Ordinance or UGB submittals, or both, as indicated. The reference number associated with the letter corresponds to the order of the letters in the following list and is used throughout this report. The reference number has no importance beyond identification. The validity of the objections is addressed in Section IV.B and Attachment B.

**Ref. No.    Objector**

1.     City of Cornelius (UGB)
2.     City of Forest Grove (UGB)
3.     City of Hillsboro (capacity ordinance and UGB)
4.     City of Sherwood (UGB)
5.     1000 Friends of Oregon *et al.* (capacity ordinance and UGB)
6.     Coalition for a Prosperous Region (capacity ordinance)
7.     South Hillsboro Partners (capacity ordinance and UGB)
8.     Westside Economic Alliance (capacity ordinance)
9.     Elizabeth Graser-Lindsey (capacity ordinance)
10.    Melissa J. Jacobsen (capacity ordinance)
11.    Christine Kosinski (capacity ordinance)
12.    David Meyers (UGB)
13.    Jim Standring (UGB)

The objections are available on the department website at:  
[http://www.oregon.gov/LCD/metro\\_capacity\\_ordinance.shtml](http://www.oregon.gov/LCD/metro_capacity_ordinance.shtml).

6. Any valid exceptions to the department's report and response from the department.

**V.        DEPARTMENT ANALYSIS**

This chapter contains the department's review of Metro's capacity ordinance and UGB decision, while Attachment B provides the department's responses to objections received from local governments, individuals and organizations. The department's review is confined to the submittal, valid objections, and evidence in the local record. The department and the commission's standard of review is provided in ORS 197.633(3):

- (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 the term “compliance” in the phrase “compliance with the goals” in ORS 197.747.

The department’s analysis includes, but is not limited to, consideration of the merits of valid objections. The commission must sustain or deny each objection but must make a determination regarding whether the submittal complies with applicable goals, statutes and administrative rules regarding requirements that no objections addressed. The analysis in this chapter addresses those legal and policy issues identified by objectors and by the department.

#### **A. Population forecasting**

The statutory and administrative rule requirements regarding population forecasts and their role in UGB amendments include ORS 195.036:

The coordinating body under ORS 195.025 (1) shall establish and maintain a population forecast for the entire area within its boundary for use in maintaining and updating comprehensive plans, and shall coordinate the forecast with the local governments within its boundary.

The “coordinating body” in this case is Metro. Goal 14 Need Factor 1 requires that a UGB amendment be “consistent with a 20-year population forecast coordinated with affected local governments.” OAR 660-024-0030 (Attachment A, p. 6) includes provisions regarding forecasting data and methods, coordination among jurisdictions, adoption, and “safe harbors” for establishing a forecast.

The Metro UGB is unique in the state in that a single body, Metro, has authority to amend the boundary, and the same body establishes the population forecast. While Metro must coordinate with its constituent cities and counties when providing area-specific forecasts, the population forecast for the entire area within the boundary is essentially Metro’s decision to make.

Metro began by establishing a population range, with high and low forecasts for the planning period to 2030. The range was bounded by the fifth and ninety-fifth percentile probabilities of growth for the seven-county region<sup>1</sup> around Metro. Metro assigned a “capture rate” to derive a forecast for the urban area defined by the Metro UGB, still defined as a range. With the adoption of the UGB ordinance, the Metro Council “decided to accommodate growth in population and employment at the lower end of the middle third of the population and employment range forecasts.” UGB Ord. at 4.

While it is unusual for the population forecast to be selected so late in the UGB amendment process, the department finds that Metro’s forecast and process for establishing it does not conflict with the provisions of relevant statutes and rules. The department received no objections to the population forecast.

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<sup>1</sup> Clackamas, Clark (Wash.), Columbia, Multnomah, Skamania (Wash.), Washington, and Yamhill counties.

**B. The Quantity of Land Required for Needed Housing**

*a. Legal requirements.* The relevant provisions of statute and rule specific to determining the land supply needed to accommodate needed housing are ORS 197.295–197.314, 197.475–197.492 and 197.660–197.670; Statewide Planning Goals 10 and 14; and OAR chapter 660, divisions 7 and 24. See Attachment A for the complete text of applicable regulations. Metro must periodically demonstrate that its plans provide for sufficient buildable lands within the UGB to accommodate needed housing for 20 years. Metro satisfies this requirement by:

1. Forecasting what the population within the UGB will be in 20 years, relying on an adopted coordinated population forecast; OAR 660-024-0030(3) and (4).
2. Accommodating needed housing and analyzing the supply of buildable land by completing an inventory and analysis required under ORS 197.296 (Factors to establish sufficiency of buildable lands within urban growth boundary) not later than five years after completion of the previous inventory, determination and analysis. ORS 197.299. Metro must take such actions as necessary under ORS 197.296(6)(a) to accommodate one-half of the 20-year buildable land supply within one year of completing the analysis. All final actions necessary to accommodate a 20-year buildable land supply must be taken within two years of completing the analysis. Metro must take action under ORS 197.296(6)(b), within one year after the analysis required under ORS 197.296(3)(b) is completed, to provide sufficient buildable land within the urban growth boundary to accommodate the estimated housing needs for 20 years from the time the actions are completed. Metro must consider and adopt new measures that the governing body deems appropriate under ORS 197.296(6)(b).
3. Inventorying the supply of “buildable lands” within the existing UGB and determining the capacity of those lands for additional residential development over the 20-year period under current zoning; ORS 197.296(3)(a); ORS 197.299
4. Determining what is “needed housing” (ORS 197.303 and OAR 660-024-0010(3)) by housing type and density, and determining the number of housing units needed by type, and the amount of land needed for each needed housing type for the 20-year period; ORS 197.296(3)(b).
5. If Metro determines that its housing need (third step) exceeds its UGB’s current capacity (second step), the city must first determine whether land inside the UGB can be rezoned to accommodate the additional need. If so, the city must also amend its land use regulations to add new measures that demonstrably increase the likelihood that lands within the existing UGB will accommodate the remaining need. If Metro determines it must add land to its UGB to meet some or all of its projected housing needs, it may do so only after demonstrating that those needs cannot reasonably be accommodated on land already inside the UGB. Goal 14.

6. As part of step 4, Metro must determine the density and mix of needed housing types that must occur to meet projected overall housing needs for the 20-year planning period. If that planned density is greater than the actual density of development that has occurred within the UGB since the last periodic review, Metro must adopt measures to demonstrably increase the likelihood that future residential development in the UGB will occur at the density required to meet the projected housing needs.
7. Similarly, if the overall mix of needed housing types during the 20-years planning period is different from the actual mix that has occurred within the UGB since the last analysis, Metro must adopt measures to demonstrably increase the likelihood that future residential development will occur in a manner that meets projected housing needs. ORS 197.296(7)-(9).
8. If Metro determines that some or all of its additional need cannot be met by rezoning and other efficiency measures inside the current UGB (steps 4 and 5), it must add land to its UGB to accommodate the remaining need. See ORS 197.296(6).

**b. Evaluating the capacity of Metro's UGB.** The results of Metro's evaluation was reported in the Urban Growth Report (UGR). Cap. Ord. Rec. at 4028. In 2009, the Metro Council accepted the UGR, an analysis of the region's capacity to accommodate forecasted population and employment growth over the next 20 years. The UGR provided range forecasts of both capacity and demand. In December 2010, the council narrowed the range by finding that actions taken by Metro and local governments provided capacity for at least 50 percent of the housing and employment forecast. What remained was how to address any remaining capacity gap.

On December 16, 2010, the Metro Council adopted Ordinance No. 10-1244B, which included the UGR and the "20 and 50 Year Regional Population and Employment Range Forecasts," approved by the Metro Council by Resolution No. 09-4094. The UGR identified a shortfall between the forecast demand for housing over the next 20 years and the likelihood of the market to provide that housing within the current UGB.

Metro assessed the region's capacity to accommodate needed housing inside the UGB over the next 20 years. To make this determination, Metro forecasted population ranges using a 20- to 50-year timeframe; conducted an inventory of vacant, buildable land inside the UGB using a low- and high-growth scenario simulations; assessed the capacity of the current UGB to accommodate housing either on vacant land or through redevelopment and infill; determined whether additional capacity was needed; and documented the results of these analyses in the UGR. The adopted ordinances identify actions that are claimed to increase capacity and address at least half of the housing needs identified in the UGR.

The council determined that this ordinance provided capacity to accommodate at least 50 percent of the housing and employment forecast to the year 2030, including 30,300 dwelling units of new capacity attributable to actions taken by the Metro Council and local governments. Those actions included upzoning in certain areas and adoption of the Regional Transportation Plan that includes investments in new transit and other transportation

facilities that will encourage the development of more housing in existing communities. UGB Rec. at 451.

Metro identified a range of 224,000 and 301,500 new dwelling units needed through the year 2030. Metro found ample zoned capacity within the current UGB to accommodate these dwelling units. Cap. Ord. Rec. at 4124-4164; 6896. This capacity was calculated from local zoning and comprehensive plan designations and it comes not only from vacant land but also from infill and redevelopment on land that is considered “developed” under the region’s inventory methodology. Cap. Ord. Rec. at 4144. However, Metro came to the conclusion that much of the maximum zoned capacity will not be developed in the next 20 years because infrastructure and land values will not support residential development.

Relying upon the zoned capacity of the vacant, buildable land and historic infill and redevelopment (refill) rates, Metro’s analysis shows it has capacity for 196,600 new dwelling units without taking actions to use more of the maximum zoned capacity by “leading” the market. This determination left a need to accommodate between 27,400 to 79,300 new dwelling units. Cap. Ord. Rec. at 8160. Metro’s assumptions that underlie this determination are discussed in UGR, Appendix 6 pp.6-2 to 6-17 and the staff report of November 19, 2010.

**c. Metro’s actions to accommodate residential land need.** Metro adopted Ordinance 11-1252A on Jan. 13, 2011. The Findings of Fact and Conclusions of Law in Exhibit P explain how the actions taken by the council in this ordinance provide capacity to accommodate at least 50 percent of the housing and employment forecast to the year 2030 and how they comply with state law and the Regional Framework Plan.

The actions taken in the capacity ordinance to increase efficiency inside Metro’s UGB reduced but did not eliminate the 20-year need for housing capacity identified in the UGR. The capacity ordinance did not complete the determination of housing capacity need. By the ordinance, the council directed its final capacity decision, made in UGB ordinance 11-1252A, “to a point between the low end and the high end of the middle third of the [population] forecast range.” Ordinance No. 10-1244B, section 16, p. 4. Metro found that it is more likely that actual population growth over the next 20 years will fall into the middle third of the forecast range than into the upper or lower thirds of the range. Cap. Ord. Rec. at 8161-8162.

The UGB ordinance completed the determination of need: on the recommendation of MPAC, the council decided to accommodate growth at the lower end of the middle third of the population and employment range forecasts.<sup>2</sup> Metro found that the addition of 1,657 acres will accommodate the need for housing capacity that derives from the chosen point on the population forecast.

**d. Metro’s actions for addressing unmet residential land need.** The Metro Council added three areas to the UGB—South Hillsboro, South Cooper Mountain and a

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<sup>2</sup> With the addition of land to the UGB, the UGB has capacity to accommodate 625,183 new people. UGB Ord. at 2.

portion of the Roy Rogers area—to accommodate the calculated need for residential land. Through implementation of Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan and conditions imposed by Exhibit B to the UGB ordinance, the three areas will be zoned to allow a minimum of 15,896 dwellings units. This capacity, combined with increased capacity within the pre-expansion UGB to be achieved by efficiency measures adopted by the capacity ordinance, provides total residential capacity to accommodate 625,183 new people, near the low end of the middle third of the population range forecast accepted by the Metro Council in the capacity ordinance and adopted by this UGB ordinance. UGB Ordinance; Staff Report, October 14, 2011, pp. 5-6, UGB Ord Rec Part 1.

Metro identifies the UGR as the basis for actions to be taken by the council to address any shortfall in the capacity of the UGB to accommodate growth. Cap. Ord. 10-1152B and UGB Ord. 11-1264B. To understand the context of the UGR, the department analyzed the accompanying appendices that show the technical assumptions and the methodology behind the report. The department's review starts with the assumptions and findings of the UGR to determine if Metro established the buildable land supply and housing densities necessary to accommodate estimated housing needs. Finally, we'll review Metro's analysis through the lens of Goal 14 and Goal 10 to determine if it demonstrably increased the likelihood that residential development will take place at densities and particular forms to establish sufficiency inside the UGB.

**Urban Growth Report.** The UGR sets forth Metro's analysis of residential capacity within the UGB; Appendix 6 (Residential capacity methodology) supplements this analysis and provides a more thorough explanation. Metro explains its maximum zoned capacity-market-based approach as a product of zoning, public investments, market dynamics and regional growth management policy. Metro also relied heavily on the 2040 Growth Concept for encouraging growth in centers and corridors to minimize impacts on existing neighborhoods and the need for UGB expansions.

The UGR identified that the current Metro UGB has ample zoned capacity but indicated that much of it will not be absorbed in the next 20 years because infrastructure and land values will not support residential development. Metro does not plan to accommodate future growth through UGB expansions alone; it is accomplished through the 2040 growth concept and Goal 14 efficiency measures such as reliance on the zoned capacity of vacant land, buildable land, and refill rates. The report identifies that, in most cases, the maximum zoned capacity in centers and corridors is adequate to meet demand but recognizes the challenge is to attract the market to that zoned capacity.

Former UGB expansions have added 28,000 acres, or 11 percent, to Metro's UGB. However, only 5 percent of all the residential units permitted in the three-county area during the 1998 to 2008 period occurred in expansion areas, while 95 percent occurred within the original 1979 UGB. Almost all of the residential development in expansion areas has been single-family homes. Metro found that accommodating the majority of future growth through UGB expansions is unrealistic for several reasons, including the unlikelihood that there will be adequate funding for infrastructure. Cap. Ord. Rec. at 1892; 1905-1906.

When calculating the UGB's capacity, the UGR assumes that current zoning remains unchanged. No changes to zoning are assumed even though Metro predicts that a number of cities will be updating their comprehensive plans to reflect changing local aspirations and to support vibrant communities. Cap. Ord. Rec. at 2513. Metro must justify a future UGB expansion to accommodate the remaining half of its 20-year residential land need per ORS 197.299(2) (b) and Goals 10 and 14.<sup>3</sup>

Metro relies on MetroScope, a land use and transportation simulation model that forecasts how real estate markets will react to a set of policy and investment inputs. One of MetroScope's outputs is a residential refill rate. The scenarios that inform the UGR assume a continuation of current policy and investment trends. Cap. Ord. Rec. at 1926.

Taking into consideration past refill rates, shifts in housing preferences, scenario results and the public testimony, Metro estimated that current policy direction and investment trends will produce an average refill rate of approximately 33 percent through the year 2030. Market-feasibility is derived from a discrete MetroScope scenario. MetroScope scenarios lead to a 50 percent market-feasibility factor applied to high-density multifamily use, which is reduced over the 20-year period as the market "catches up" to the zoning. New urban areas are not expected to yield full development at maximum planned density in the next 20 years due to infeasible market conditions, lack of infrastructure and/or financing ability to produce urban densities. Market feasibility is derived from a MetroScope scenario showing half of the capacity of the new urban areas will be available within the 20-year period under current infrastructure investment expectations.

Metro's capacity analysis distinguishes between capacity that may be counted on within the next 20-year period and that which relies upon changing market dynamics. It is based on a number of assumptions. Most are made with firm historical data, but many could differ depending on policies and investments. Apart from changing local zoning, the components of the analysis that create a capacity range are residential redevelopment and infill demand, market feasibility for high-density multifamily development, and infrastructure availability in new urban areas. Cap. Ord. Rec. at 1927.

***Metro's capacity (supply) range.*** Metro depicts its capacity range in two primary ways: expected housing capacity based on current policies and potential housing capacity based on future policy choices.

The first type of capacity is zoned capacity inside the current UGB that is market-feasible by the year 2030 with no change in policy or investment trends. A significant portion of this capacity is on vacant lands. Half of the capacity in new urban areas (land brought into the UGB since 1997) is deemed to be market-feasible by the year 2030 and will be counted towards meeting the region's identified 20-year residential demand.

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<sup>3</sup> Also note that Goal 10 rules require "efficient use of residential land within the regional UGB consistent with Goal 14 Urbanization" (OAR 660-007-0000), and that a housing needs projection must be "consistent with Goal 14 requirements for the efficient provision of public facilities and services, and efficiency of land use" (OAR 660-007-0005(5)(c)).

The second type of capacity is zoned capacity inside the UGB that is likely to require changes to policies and investments to make it market-feasible by the year 2030. Policy and investment actions taken at the local and regional level can increase the refill rate as well as the market feasibility of vacant lands. The refill and market-feasibility rates are derived from MetroScope scenarios that test the effects of different policy and investment options.

**Housing Trends.** Metro finds that, historically, “housing preferences” have favored single-family residences inside the Metro UGB, based on surveys that included current homeowners and resale buyers. Metro examined demographic and other trends and concluded that more compact development forms, regardless of location, could be favored during the planning period.

**d. Findings regarding residential land need.** Table 1 below summarizes the potential capacity gaps (or surpluses) at different points in the forecast range after having accounted for efficiency measures. Under the scenarios depicted in Table 1, a UGB expansion would need to provide up to 26,600 dwelling units of additional capacity, beyond the 30,300 units already accounted for through efficiency measures, depending on the point in the demand forecast that is chosen.

**Table 1: Dwelling unit surplus or shortfall at different points in the range forecast after accounting for efficiency measures (Metro UGB 2007 - 2030)<sup>4</sup>**

<b>Point in demand forecast range</b>	<b>Remaining surplus or (shortfall) of dwelling units</b>
Low	2,900
Low end of middle third	(15,400)
Middle	(21,000)
High end of middle third	(26,600)

We now turn to Appendix 6 and Appendix 8, which together provide the assumptions and methodology identifying the buildable land inventory, factors to establish efficiency in the UGB and the determination and analysis fulfilling the needed housing requirements.

The department has compared Metro’s submittal with the requirements of relevant goals, statutes, and rules, considering objections and its own analysis.

**Step 1: Forecasting the population.** Calculation of residential land needs for an urban growth boundary analysis starts with a forecast of population growth. ORS 195.025 and 195.036, along with OAR 660-024-0030 require Metro to, among other things, “establish and maintain” a population forecast for the entire area. The administrative rule requires that a forecast be developed using “commonly accepted practices and standards for population forecasting used by professional practitioners in the field of demography or economics.” OAR 660-024-0030(2). Metro developed range population and employment forecasts for the region. The forecasts for these ranges were derived from past trends, cohort survival data, and national economic and demographic information and were adjusted by Metro based on

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<sup>4</sup> COO Recommendation 2011 Growth Management Decision.

regional growth factors. The forecasts cover the seven-county Portland-Beaverton-Vancouver Primary Metropolitan Statistical Area. It does not predict where within the statistical area future population and jobs may locate nor does it determine what portion may locate within the Metro urban growth boundary.

Metro submitted the capacity and UGB ordinances based on multiple scenarios related to the range forecasts. These three economic scenarios were used to determine high and low demand “ranges” for housing “need” in the 2009 UGR (page 2).<sup>5</sup> The forecasts are “a range of possible population and employment *outcomes and trends*” but are not a specific forecast.

Metro may use a range forecast developed through the Urban and Rural Reserves process as part of its methodology to determine a 20-year forecast for the region, provided Metro identifies and adopts a point in the range forecast in the end for purposes of determining the land needs inside the UGB.

While the use of a range forecast allows for the consideration of a number of possible outcomes, rather than only planning for one future, ultimately a single “point” 20-year population forecast is required for determining the Metro UGB (see Goal 14, OAR 660-024-0030(1)). Metro must revise its housing needs analysis to conform to the point forecast, including housing types and density.

***Step 2: Determining capacity; inventorying the supply of buildable lands.*** Metro must provide a 20-year supply of residential land at any legislative update of the UGB (under ORS 197.296 (2), Goal 14, and OAR chapter 660, division 24). Because the department is reviewing this UGB amendment together with the capacity ordinance, we first look to ORS 197.299, which authorizes Metro’s housing need schedule, to see if Metro can accommodate one-half of a 20-year buildable land supply determined under ORS 197.296.

Metro identifies the 2007 gross vacant land inventory as the first step in the residential analysis. From this, Metro calculated capacity on environmentally constrained lands and pre-platted lots. Further, they applied technical assumptions to get to a net land inventory and then applied a redevelopment rate and infill expectation. Finally they calculated capacity in “new urban areas”<sup>6</sup> based on infrastructure availability, bringing a conclusion of a 20-year capacity range, expressed in dwelling units.

To determine if Metro appropriately inventoried buildable land the department reviewed the UGR appendices 6 (Residential Capacity Methodology) and 8 (Needed Housing Data Tables). Because these appendices contain the findings and methodology determining need we review them side-by-side and then offer a conclusion.

*Appendix 6:* To get to a housing need, Metro used the 61.8-percent capture rate to inform the regional forecast model to derive capacity by converting the population forecast ranges to the number of households. Cap. Ord. Rec. at 2063. Housing unit estimates were then

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<sup>5</sup> The housing and residential land needs analyses are based on Metro’s population forecast ranges and therefore will presumably have to be revised when Metro adopts a single-point forecast.

<sup>6</sup> Areas currently inside Metro’s UGB added after 1997.

converted from households using a vacancy rate of 4 percent, which was the same assumption Metro used in the 2002 Residential UGR.

Next Metro looked at housing supply, starting with vacant land inside the current UGB (as of January 2009), and calculated it based on measurements of vacant land. They removed environmentally constrained land to get to their gross vacant buildable acres and then applied gross-to-net assumptions to get to net vacant buildable acres. The final dwelling unit capacity was determined based on the range of their population forecasts.

*Appendix 8:* The tables included in this report contain the information required to address the “housing needs” requirements in ORS 197.296 and 197.303. This appendix provides the region’s historic and forecasted performance in housing mix, density, cost and affordability. Low-growth and high-growth scenarios are used to forecast future housing needs.

The scenario assumptions and results Metro used in Appendix 8 only inform the UGR, they do not constitute it. The UGR is an analysis of residential capacity or supply, while the scenarios provide information about the possible performance of the region’s residential supply in light of forecasted need. The scenarios do not identify a “gap” or “need.” Cap. Ord. Rec. at 2128. That determination is left to the UGR.

*Conclusion:* The department understands the intent of the UGR, Appendix 6 and Appendix 8 combined, to provide the necessary findings to meet the requirements of ORS 197.299, ORS 197.296, Goal 14 and Goal 10 related to residential land need. However, these documents consist of separate, disconnected analyses while they should be consistent, connected, and present clear findings with regards to regional housing needs.

The department’s review starts with a population forecast, and we are unable to determine whether the analysis of residential land need complies with the requirements of Goals 10 and 14 and ORS 197.296 because the region had not settled on a regional population forecast for the end of the planning period until after the analysis was complete. The department highlighted this as a concern for Metro stating, “Many conclusions regarding housing and residential land needs are necessarily made subsequent to the decision on the population forecast, so we presume the housing and residential land needs analyses will be revised as appropriate when a point forecast is adopted.” UGB Ord. Rec.at 879-883.

Housing need (expressed in dwelling units) identified in Appendix 6 and Appendix 8 were never reconciled to a land need by housing type or density as required by ORS 197.296, therefore the department is unable to determine whether Metro had at least one-half of a 20-year buildable land supply as required by ORS 197.299.

The department cannot conclude that Metro has appropriately inventoried its supply of buildable land for the following reasons:

- The buildable land inventory year varies from 2007 to 2008 to 2009.

- Metro uses a formula of 1.4 acres per 1000 new residents in order to estimate 20-year land need for churches, which it took from its 1997 UGR. Cap. Ord. Rec. at 2065. The UGR lacks findings supported by evidence justifying use of a 1997 formula for the 2010-2030 periods.
- In presenting the results of its residential buildable land inventory, Metro does not justify its assumption that only one dwelling per current tax lot should be assumed to protect water quality. Metro does not provide the data, assumptions and calculations used to determine the location and amount of land to be so protected. Cap. Ord. Rec. at 1916.
- Metro does not justify the assumption that development capacity in habitat conservation areas is 80 percent of zoned capacity nor does it provide the data, calculations, or other evidence used to conclude that development capacity in habitat conservation areas is 80 percent of zoned capacity. Cap. Ord. Rec. at 1916.
- Metro does not justify its assumptions that infill will occur only in centers and along corridors and not in existing neighborhoods. Cap. Ord. Rec. at 2515.

***Step 3: Determining needed housing by type and density.*** The UGR, coupled with Appendix 6 and Appendix 8, have provided data through scenarios and population ranges relating the number, density and average mix of housing types of urban residential development that have actually occurred; trends in density and average mix of housing types of urban residential development; demographic and population trends; economic trends and cycles; and the number, density and average mix of housing types that have occurred on the buildable lands.

Metro has not provided the assessment to determine if the housing need for the next 20 years is greater than the housing capacity as required under ORS 197.296 (6). The report does not include the numbers and types of needed housing within the Metro UGB for its current and future residents for the 20-year planning period as required by Goal 10; OAR chapter 660, division 7; and ORS 197.296. The report does not comply with ORS 197.296 (3)(b), which requires Metro to “[c]onduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and [Goal 10], to determine the number of units and amount of *land needed* for each housing type for the next 20 years.” (emphasis added)

***Step 4: Efficiency measures inside the UGB.*** Goal 14 compels the region to first look inside UGB for capacity before expanding it. ORS 197.296(6) requires Metro to demonstrate it has “sufficient buildable lands within the urban growth boundary . . . to accommodate estimated housing needs for 20 years.” In order to make this determination, Metro must inventory the supply of buildable lands within the existing UGB, determine the housing capacity of such lands, and conduct a housing needs analysis by type and density range pursuant to ORS 197.303 and Statewide Land Use Planning Goal 10 (housing). ORS 197.296(3) and (4).

Metro has not determine the number of units and the amount of land needed for each needed housing type for the next 20 years. ORS 197.296(5). Therefore one cannot determine whether housing need is greater than housing capacity pursuant to the above analysis.

ORS 197.296 further requires Metro to adopt one of three strategies to address their need:

1. Amend the UGB to accommodate the need;
2. Amend the plan or land use regulations to include new measures that “demonstrably increase the likelihood” that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years; or
3. Adopt a combination of the two actions.

The UGR’s calculation of residential need included three primary measures of possible market responses to zoned capacity as a component of the overall strategy to increase the capacity of land inside the UGB by using land more efficiently. In completing this analysis, Metro relied on several methods: MetroScope scenarios, development form assessment tool, and city and county staff knowledge.

*Refill rate:* The refill rate represents the share of new residences that are built through redevelopment or infill. Refill occurs on land that is not vacant. Refill rates may be tracked historically or forecasted. The UGR assumed that 33 percent of future residential growth through the year 2030 would occur through refill. However, the UGB expansion ordinance changed that rate to 38 percent.

*Vacant mixed-use and multi-family capacity:* The UGR applied an assumption that, by the year 2030, only 50 percent of the capacity on vacant multifamily land would be developed. This underutilization was assumed for a number of reasons including lagging market demand and inadequate public investments in some centers and corridors.

*New urban area capacity:* The UGR assumed that only 50 percent of the capacity in new urban areas would be market feasible through the year 2030. While Metro and all of the cities within the region have determined to direct policy and investments in those areas to support local aspirations and visions using the guiding policy choices such as existing zoning, investments in centers and corridors through urban renewal, urban design improvements, and targeted infrastructure investments, Metro does not reconcile their efficiency measures to their buildable land inventory or housing needs analysis.

*Conclusion:* Metro identified that efficiency measures inside the UGB account for 30,300 dwelling units, but does not identify what type of housing units they would be, at what density, and what the deficit would be requiring Metro to expand the UGB. UGB Ord. 11-1252A.

***Step 5: Overall density and mix.*** After Metro inventories buildable residential land, identifies housing needs, and addresses efficiency measures, it must “determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 20 years.”

ORS 197.296(7). In order to determine statutory and Goal 10 compliance regarding needed housing, OAR chapter 660, division 7 provides specific requirements to ensure planning and zoning in the Metro area provide sufficient opportunity for adequate numbers of needed housing units and the efficient use of land within the Metro UGB. OAR 660-007-0030 through 660-007-0037 establish regional residential density and mix standards to measure both Goal 10 Housing compliance for Metro-area cities and counties, and to ensure the efficient use of residential land within the regional UGB consistent with Goal 14.

OAR 660-007-0035 requires that, region-wide, planned residential densities must be considerably in excess of the residential density assumed in Metro's 1980 "UGB Findings." The standards in this rule for new construction density and mix, and the criteria for varying from them, take into consideration and also satisfy the price range and rent level criteria for needed housing as set forth in ORS 197.303.

Metro identifies (in Appendix 8) an overall density and overall mix that may occur under two scenarios: low-growth and high-growth. Metro does not determine land need for housing in the region, including the number and types of housing units needed to meet Goal 10.<sup>7</sup> While the scenarios highlight the current region-wide planned densities in excess of the 1980 assumed UGB densities, the descriptions of housing that may occur under the two scenarios are not reconciled with the "point" population forecast for the region, which was determined later and thus do not provide an estimate of the 20-year housing need. Further, the findings concerning the two areas added to the UGB do not determine or address the needed housing mix or density. Instead, the findings only provide the estimated dwelling unit capacity of the areas, as addressed in the next section of the report.

**Step 6: UGB amendments for residential land.** Metro completed an analysis of residential land need based on two "scenarios" and these scenarios provide a *range* of housing starts that may occur. Near the end of the hearings process, Metro chose a "point forecast" of population, but did not revise the scenarios or otherwise use that point projection to determine the number, type and density of housing needed in the Metro region for the 20-year planning period. It is not possible for the department to use the numbers in all the analyses and scenarios to determine how much land for housing, and at what types and densities, is needed. Consequently, the submittal does not demonstrate whether Metro can accommodate needed housing in the current UGB.

The housing need analysis and residential land need analysis requirements of ORS 197.296 specify a process for Metro to determine whether there is a 20-year residential land supply provided on land already in the UGB. Metro followed this statutory process to a large extent, but did so using a "range forecast," which was intended only to inform preliminary decisions. As such, it impossible for the department to reconcile the Metro findings with the "point forecast" that Metro determined later in the process.

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<sup>7</sup> Metro provided the department data that reconciles the calculations of housing land need in this analysis and the UGR, but this was not included in the record and the commission cannot consider it.

As part of its decision required under ORS 197.299, Metro decided to bring two areas into the UGB, the South Hillsboro Area and the South Cooper Mountain Area. Metro states that these areas would add capacity for approximately 15,417 additional dwellings units; 10,766 dwelling units for South Hillsboro and 4,651 dwelling units for South Cooper Mountain. This determination is not supported by findings or by any clear analyses that the department may use to reach a conclusion as to whether this land would indeed provide that capacity, or whether is needed or sufficient to meet housing needs for the planning period.

**Department Conclusions:** Metro has not justified a future UGB expansion to accommodate the remaining half of its 20-year residential land need per ORS 197.299(2)(b), ORS 197.296, Goal 10 or Goal 14 for the primary reasons summarized below.

1. Metro has not adequately determined housing needs for the planning period by determining:
  - a. Overall amount needed,
  - b. Housing type,
  - c. density, and
  - d. land need
2. Metro has not demonstrated that it has provided a 20-year supply, using a combination of infill, land added to the UGB, or both, as required by ORS 197.296 and 197.299.
3. Metro has not demonstrated that it has provided half the land needed for 20 years, as required by ORS 197.299.

Based on these conclusions and on related issues that the department addressed in response to objections, the record does not adequately demonstrate:

1. Whether there is sufficient capacity the UGB to meet long-term need without expanding the UGB;
2. The capacity for the areas added, and whether there is sufficient assurance that it will be zoned to provide for the needs for which it was included and whether rules on housing types and density are being followed for this land.

**Recommendation.** The department recommends that the commission remand the housing and residential lands needs portions of Metro's UGB submittal to either (1) demonstrate that the findings and conclusions contained in its housing needs analysis and residential land needs analysis are supported by substantial evidence, based on the population forecast of 625,183, or (2) develop the required findings and conclusions and reconsider whether or how much land needs to be added to the UGB.

### **C. Applicability of Goal 9 to Metro's employment land need analysis**

On July 25, 2005, the commission concluded, as part of Periodic Review Task 2 Partial Approval and Remand (LCDC Order 05-WKTASK-001673), that Goal 9 does not apply to Metro. However, the commission's subsequent adoption of OAR chapter 660, division 24 does require that the employment land inventory required under Goal 14 be conducted in accordance with a provision of the Goal 9 rule, OAR 660-009-0015. Several capacity

ordinance objections, notably 1-3 from the city of Cornelius, 3-3 from the city of Hillsboro, and 8-5 from Westside Economic Alliance, as well as other objections, raise Goal 9 questions that may result in the commission choosing to further refine how Metro considers employment land need in consideration of amending the UGB. (See Attachment B for the department's responses to objections.)

In the UGB rules, OAR 660-024-0040(5) specifically exempts Metro from the provisions of Goal 9 and its administrative rule for the determination of employment land need, but does not specify an applicable methodology to replace them. OAR 660-024-0050(1) requires that local governments,<sup>8</sup> including Metro, conduct an inventory of existing employment lands in compliance with OAR 660-009-0015. Thus, under OAR 660-024-0050(1), the manner in which Metro is required to inventory employment land is provided in division 9. To be clear, the department is not asserting that Goal 9 applies to Metro; it is Goal 14 as implemented by division 24 that requires Metro to utilize the methodology in OAR 660-009-0015 for conducting an employment land inventory that includes suitable vacant and developed land designated for industrial or other employment use.

The Goal 14 need factors oblige Metro to provide an adequate supply of land to accommodate a "demonstrated need for. . . employment opportunities." The question remains how Metro determines its employment land need in light of the Goal 9 obligations imposed on cities within Metro. The department received objections that Metro included too little land in the UGB for employment uses (Hillsboro, Westside Economic Alliance), and that Metro did not establish that *any* need had been demonstrated (1000 Friends *et al.*). (See Attachment B for analysis of these objections.) Since the specific provisions of Goal 9 does not apply to Metro, there are no prescribed guidelines for Metro's determination of an adequate supply, leaving the only standard whether Metro assembled an adequate factual base and properly coordinated with its member jurisdictions as required by Goal 2.

Metro completed detailed analysis of forecasted employment, building types, and site sizes in determining the region's employment land needs for the planning period. Cap. Ord. Rec. at 4040-4088, 4091-4093, 4113-4119, 4270-4292, and 4300-4302. Metro coordinated with cities through a variety of venues to receive input from the cities. Ord. No. 11-1264B, Exhibit B at 1-2. The record contains considerable description of how Metro completed its analysis and why it made the conclusions it did. UGB Rec. at 8-10.

#### **D. Boundary Location**

Once Metro has determined that there is a need for additional land in the UGB, it must decide where to locate any expansion areas. This decision is guided by Goal 14, OAR 660-024-0060, and ORS 197.298 (Attachment A, pp. 1, 14 and 33, respectively). The department reviewed the record, findings and conclusions submitted by Metro and objections from 1000 Friends of Oregon as part of this analysis.

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<sup>8</sup> OAR 660-024-0010(4) defines "local government" to mean "a city or county, or a metropolitan service district described in ORS 197.015(13)."

The Metro Council stated that its growth management decision should reinforce investment and development in existing downtowns, main streets and employment areas, consistent with the six desired outcomes and the goals of the 2040 Growth Concept. With UGB expansions as part of the region's strategy, it looked at expansion areas that had the right finance tools, governance support and market readiness in place to succeed. Metro sought to improve the outcomes of other UGB expansions of the past decade, where there has been little development and the development that has occurred has often happened at relatively low densities. The council also wanted to ensure UGB expansions support regional and local efforts in downtowns and main streets and that there are adequate public resources to pay for the facilities and amenities necessary to achieve higher density developments. An additional consideration was the current level of local government support for including the area in the UGB.

### **1. ORS 197.298.**

ORS 197.298 (1) provides priorities of land for consideration in UGB amendment decisions. The first priority in the statute is urban reserve land. Metro adopted urban reserves, which were approved by the commission in August 2011. Metro performed its consideration of UGB amendments with the understanding that the urban reserves were approved, and the analysis, findings and conclusions assume that only first-priority lands were considered for the location of expansion areas. UGB Ordinance No. 11-1264B, Exhibit D at 10. Consequently, Metro did not apply the provisions of ORS 197.298 that address lower-priority lands.

The department received one objection, from 1000 Friends of Oregon, suggesting that Metro should have completed the boundary location analysis assuming the urban reserves do not exist. See subsection E.3 of Attachment B for the department's response to this objection.

At the time of this report, the order implementing commission's approval decision on the urban reserves has not been issued. The department completed its review of the UGB submittal with the understanding that Metro properly relied on the urban reserves. If the urban reserves order is not issued prior to the commission's decision on the UGB, the commission will need to consider the implications of that circumstance at that time.

### **2. Analysis Areas.**

The department's analysis, and an objection from 1000 Friends of Oregon, identified a potential compliance problem with the way Metro selected lands to study for possible inclusion in the UGB. The department's response to the objection is at subsection E.4 of Attachment B.

The urban reserves contain 28,256 acres. Early in its analysis of which lands to include in the UGB, Metro chose 9,799 acres for further consideration. A map of the analysis areas is provided in Attachment C. Metro explains the process for selecting the "analysis areas" as follows (UGB Rec. at 473-475):

As part of the process to maintain a 20-year land supply for residential and employment uses, Metro completed an assessment of approximately 9,800 acres of urban reserve land adjacent to the current

UGB. These 9,800 acres are a subset of the more than 28,000 acres of urban reserves that Metro, in conjunction with Clackamas, Multnomah and Washington Counties adopted in April 2011 (Attachment 1). The designation of these areas as urban reserves is essentially the first filter in determining that the areas are suitable for urbanization. Metro staff, utilizing information from past studies such as the Great Communities Report and the findings from the urban and rural reserve process, as well as local government staff input and Metro policies that call for equity and balance in UGB expansions and to consider lands in all parts of the region, narrowed down the urban reserve lands to the approximately 9,800 acres of analysis areas evaluated in this report.

In October 2010 the Land Conservation and Development Commission (LCDC) made an oral decision on urban and rural reserves, remanding a portion of the urban reserves and all of the rural reserves in Washington County. \* \* \*

As a result of the urban and rural reserves remand, the adoption of new urban and rural reserves in Washington County and Metro's desire to provide a formal opportunity for local governments to submit areas for consideration, a three-step analysis process occurred. Initially, Metro staff analyzed 8,298 acres of land for consideration as outlined in Appendix 8 of the Metro Chief Operating Officer's report, Community Investment Strategy: *Building a sustainable, prosperous and equitable region*. In August 2010 and again in April 2011, Metro's Chief Operating Officer issued a formal letter to the mayors and county commission chairs, inviting them to submit any additional urban reserve areas that they would like considered as part of the growth management policy discussions. All additional areas submitted for consideration must be sponsored by local governments, as their support is critical for provision of infrastructure, governance, and planning, and must include an assessment of how the subject area is responsive to Metro's legislative UGB amendment criteria, contained in Metro Code Section 3.07.1425. Below is a list of the urban reserve analysis areas that were submitted by the local governments through these two requests.

*[lists of submitted areas omitted]*

As noted above, a requirement of the local government submittals was an assessment of how the subject area is responsive to Metro's legislative UGB amendment criteria, therefore the analysis area assessments in the report for these areas submitted in 2010 and 2011 in response to the COO request, were completed by the local government staff with some minor editing by Metro staff for consistency.

The purpose of this analysis is to inform the Metro COO Recommendation for the 2011 Growth Management Decision (July 2011), and assist the Metro Council in evaluating the potential expansion areas to meet any identified shortfalls for residential and large-site industrial land need.

The information in this analysis will help the Metro Council determine which of the selected analysis areas merit further consideration as candidates for inclusion in the UGB. Finally, additional information regarding the effect of the final proposed UGB amendments on existing residential neighborhoods will be developed and sent to all households within one mile of the proposed UGB amendment areas, consistent with Metro Code Section 3.07.1420 (26-29 Report).

OAR 660-024-0060(1) includes guidance on which lands must be considered under the Goal 14 location factors. It states:

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.

\* \* \*

(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.

The department does not find evidence that Metro's narrowing of the acreage under consideration was based on whether the land was "suitable to accommodate the need." To the extent the findings explain on what basis the selection occurred, it appears urban reserve lands that were removed from consideration prior to application of the Goal 14 location factors may have been eliminated for reasons other than because they were unsuitable.

The department does not find evidence that Metro employed proper considerations when selecting which lands to consider for locating UGB expansions. The department recommends the commission remand the UGB decision for additional findings demonstrating that the decision on selection of areas considered for inclusion in the UGB complies with OAR 660-024-0060 and the Goal 14 location factors.

### **3. Consideration of Goal 14 Location Factors**

Goal 14 provides factors for local governments to consider when deciding which land to bring into a UGB once a land need has been established. This part of the goal is further implemented by OAR 660-024-0060. In order for the commission to approve Metro's UGB submittal, it must find that the local decision-makers considered and balanced the factors in making the UGB decision, based the decision on substantial evidence, and explained the decision with findings and conclusions.

Metro's findings and conclusions are found at UGB Ord. No. 11-1264B, Appendix D at 11-28 and UGB Rec. at 471-718. The "Recommendations from Metro's Chief Operating Officer; Preliminary analysis of potential urban growth boundary expansion areas" report describes the considerations Metro employed as follows. UGB Rec. at 476.

The structure of this report is based on Metro's UGB Legislative Amendment factors located in Metro Code Section 3.07.1425, which implement the boundary locational factors of Statewide Planning Goal 14. The following list identifies the Goal 14 and Metro UGB amendment factors:

- Metro UGB Amendment Factor & Statewide Planning Goal 14 Factor 1 – Efficient accommodation of identified land needs.
- Metro UGB Amendment Factor & Statewide Planning Goal 14 Factor 2 – Orderly and economic provision of public facilities and services.

- Metro UGB Amendment Factor & Statewide planning Goal 14 Factor 3 – Comparative environmental, energy, economic and social consequences.
- Metro UGB Amendment Factor & Statewide Planning Goal 14 Factor 4 – Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

In addition, Metro Code Section 3.07.1425 provides five additional factors that must be considered when evaluating land for inclusion in the UGB:

- Equitable and efficient distribution of housing and employment opportunities throughout the region;
- Contribution to the purposes of Centers;
- Protection of farmland that is most important for the continuation of commercial agriculture in the region;
- Avoidance of conflict with regionally significant fish and wildlife habitat; and
- Clear transition between urban and rural lands, using natural and built features to mark the transition.

The report goes on to note that, “Statewide Planning Goal Factor 1 and the first additional Metro factor, are not evaluated for each analysis area, but findings for these two factors are made on the final UGB expansion decision.” See also the department’s response to objection 5-5 in subsection E.5 of Attachment B

Metro’s used nine factors in consideration of individual analysis areas as described above. UGB Ord. No. 11-1264B, Appendix D at 11-28 and UGB Rec. at 497-713. Goal 14 and OAR 660-024-0060 require that Metro analyze alternative locations for UGB expansions using the four factors in the first list above. They do not provide for additional, locally adopted factors or deferral of consideration of one factor until the end of the decision-making process. Although Metro must additionally comply with applicable requirements of its own code, Metro must demonstrate that the analysis areas are subject to the weighing and balancing using all four Goal 14 location factors, and this must be completed *before* the local factors may be applied. See *City of West Linn v. LCDC*, 201 Or App 419, 446-447, 119 P3d 285 (2005) (remanding LCDC partial approval where Metro’s alternatives analysis under Goal 14 did not make additional finding required by Metro Code provision).

With Goal 14 and local factors being applied together, and some of the factors not being applied to all the analysis areas, the department is unable to determine that Goal 14 location factors have been properly considered or that the final UGB decision complies with the goal. The department recommends that the commission remand the UGB decision with instructions to Metro to apply the Goal 14 location factors to UGB analysis areas separately from application of local factors.

#### **E. Implementing Plans and Code**

Metro adopted a host of amendments to its Regional Framework Plan, Urban Growth Management Functional Plan, and Metro Code. Cap. Ord. at 4-6 and subsection IV.C.3 of

this report. These provisions add or amend policies and implementation measures to address efficient urban development, public investments, affordable housing, protection of industrial and other employment sites, compliance and amendment procedures, and planning for new urban areas. The department received no objections to these amendments.

Metro Council adopted these plan and code amendments prior to the decision on the UGB, in order to establish the policy framework to help substantiate and guide future decisions on the capacity of and development within the UGB. These amendments do not amend the UGB or provide the evidentiary basis for the UGB amendment. The department has reviewed the plan and code amendments and recommends the commission approve them. This recommendation includes Ordinance 10-1244B Exhibits A through O and the Community Investment Strategy (nos. 1-15 and 17).

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

### **A. Recommendation**

For the reasons described in its report, below, the department recommends that the commission partially approve and partially remand the submittals under consideration. The department recommends the commission approve Ordinance No. 10-1244B except (1) the “*Urban Growth Report 2009-2030 and the 20 and 50 Year Regional Population and Employment Range Forecasts*, approved by the Metro Council by Resolution No. 094094 on December 17, 2009” and (2) the findings of fact and conclusions of Law in Exhibit P.

The department further recommends that the commission remand the Urban Growth Report and Exhibit P from Ordinance No. 10-1244B and remand Ordinance 11-1264B, which amended the UGB, with instructions as follows:

1. Reconcile forecasted housing and residential land needs to the population forecast. Upon resubmittal, either (1) demonstrate that the findings and conclusions contained in the housing and residential land needs analyses are supported by substantial evidence and based on the population forecast of 625,183, or (2) include the required findings and conclusions and reconsider whether or how much land needs to be added to the UGB. See Section V.B of this report.
2. Complete an employment land inventory in compliance with OAR 660-015-0015, as required by OAR 660-024-0050(1). Upon resubmittal, either (1) demonstrate, based on evidence in the record, that the inventory of employment land within the UGB was completed according to these administrative rules, or (2) include a detailed inventory that identifies the supply of sites suitable for the expected uses as required by administrative rule. See subsection C.3 of Attachment B.
3. Complete the UGB location analysis in a manner consistent with Goal 14 location factors and OAR 660-024-0060. Upon resubmittal, either (1) demonstrate through evidence in the record that the method used by Metro in selection of analysis areas complied with Goal 14 and administrative rules, or (2) include additional findings

demonstrating that the decision on selection of areas considered for inclusion in the UGB complies with Goal 14 and OAR 660-024-0060. See subsection V.D.2 of this report.

4. Demonstrate that the final decision complies with the Goal 14 location factors. Upon resubmittal, either (1) demonstrate based on evidence in the record that the comparative analysis of alternative UGB expansion areas complied with the Goal 14 locational analysis independently of local location factors from the Metro Code, or (2) complete a new alternatives analysis that applies the Goal 14 factors separately from local factors. See subsection V.D.3 of this report.

### **B. Proposed Motion**

***Recommended Motion:*** I move that the commission partially approve and partially remand Metro's capacity ordinance and urban growth boundary amendment submittals, based on the findings and conclusions in the director's report.

### **C. Optional Motions**

***For approval:*** I move that the commission approve Metro's capacity ordinance and urban growth boundary amendment submittals, based on the commission's findings that: \_\_\_\_\_.

### **ATTACHMENTS**

- A. Applicable regulations
- B. Responses to objections
- C. Analysis areas map
- D. UGB expansion area map

**Oregon's Statewide Planning Goals & Guidelines**

GOAL 14: URBANIZATION

**OAR 660-015-0000(14)**

*(Effective April 28, 2006)*

**To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.**

**Urban Growth Boundaries**

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. An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements, except for the Metro regional urban growth boundary established pursuant to ORS chapter 268, which shall be adopted or amended by the Metropolitan Service District.

**Land Need**

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.

**Boundary Location**

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.

### **Urbanizable Land**

Land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.

### **Unincorporated Communities**

In unincorporated communities outside urban growth boundaries counties may approve uses, public facilities and services more intensive than allowed on rural lands by Goal 11 and 14, either by exception to those goals, or as provided by commission rules which ensure such uses do not adversely affect agricultural and forest operations and interfere with the efficient functioning of urban growth boundaries.

### **Single-Family Dwellings in Exception Areas**

Notwithstanding the other provisions of this goal, the commission may by rule provide that this goal does not prohibit the development and use of one single-family dwelling on a lot or parcel that:

- (a) Was lawfully created;
- (b) Lies outside any

acknowledged urban growth boundary or unincorporated community boundary;

- (c) Is within an area for which an exception to Statewide Planning Goal 3 or 4 has been acknowledged; and

- (d) Is planned and zoned primarily for residential use.

### **Rural Industrial Development**

Notwithstanding other provisions of this goal restricting urban uses on rural land, a county may authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, on certain lands outside urban growth boundaries specified in ORS 197.713 and 197.714, consistent with the requirements of those statutes and any applicable administrative rules adopted by the Commission.

### **GUIDELINES**

#### **A. PLANNING**

1. Plans should designate sufficient amounts of urbanizable land to accommodate the need for further urban expansion, taking into account (1) the growth policy of the area; (2) the needs of the forecast population; (3) the carrying capacity of the planning area; and (4) open space and recreational needs.

2. The size of the parcels of urbanizable land that are converted to urban land should be of adequate dimension so as to maximize the utility of the land resource and enable the logical and efficient extension of services to such parcels.

3. Plans providing for the transition from rural to urban land use should take into consideration as to a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

4. Comprehensive plans and implementing measures for land inside urban growth boundaries should encourage the efficient use of land and

the development of livable communities.

#### B. IMPLEMENTATION

1. The type, location and phasing of public facilities and services are factors which should be utilized to direct urban expansion.

2. The type, design, phasing and location of major public transportation facilities (i.e., all modes: air, marine, rail, mass transit, highways, bicycle and pedestrian) and improvements thereto are factors which should be utilized to support urban expansion into urbanizable areas and restrict it from rural areas.

3. Financial incentives should be provided to assist in maintaining the use and character of lands adjacent to urbanizable areas.

4. Local land use controls and ordinances should be mutually

supporting, adopted and enforced to integrate the type, timing and location of public facilities and services in a manner to accommodate increased public demands as urbanizable lands become more urbanized.

5. Additional methods and devices for guiding urban land use should include but not be limited to the following: (1) tax incentives and disincentives; (2) multiple use and joint development practices; (3) fee and less-than-fee acquisition techniques; and (4) capital improvement programming.

6. Plans should provide for a detailed management program to assign respective implementation roles and responsibilities to those governmental bodies operating in the planning area and having interests in carrying out the goal.

**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

**DIVISION 24  
URBAN GROWTH BOUNDARIES**

**660-024-0000**

**Purpose and Applicability**

(1) The rules in this division clarify procedures and requirements of Goal 14 regarding a local government adoption or amendment of an urban growth boundary (UGB).

(2) The rules in this division interpret Goal 14 as amended by Land Conservation and Development Commission (the Commission) on or after April 28, 2005, and are not applicable to plan amendments or land use decisions governed by previous versions of Goal 14 still in effect.

(3) The rules in this division adopted on October 5, 2006, are effective April 5, 2007. The rules in this division amended on March 20, 2008, are effective April 18, 2008. The rules in this division adopted March 13, 2009, and amendments to rules in this division adopted on that date, are effective April 16, 2009, except as follows:

(a) A local government may choose to not apply this division to a plan amendment concerning the evaluation or amendment of a UGB, regardless of the date of that amendment, if the local government initiated the evaluation or amendment of the UGB prior to April 5, 2007;

(b) For purposes of this rule, "initiated" means that the local government either:

(A) Issued the public notice specified in OAR 660-018-0020 for the proposed plan amendment concerning the evaluation or amendment of the UGB; or

(B) Received LCDC approval of a periodic review work program that includes a work task to evaluate the UGB land supply or amend the UGB;

(c) A local government choice whether to apply this division must include the entire division and may not differ with respect to individual rules in the division.

**660-024-0010**

**Definitions**

In this division, the definitions in the statewide goals and the following definitions apply:

(1) "Buildable Land" is a term applying to residential land only, and has the same meaning as provided in OAR 660-008-0005(2).

(2) "EOA" means an economic opportunities analysis carried out under OAR 660-009-0015.

(3) "Housing need" or "housing need analysis" refers to a local determination as to the needed amount, types and densities of housing that will be:

(a) Commensurate with the financial capabilities of present and future area residents of all income levels during the 20-year planning period;

(b) Consistent with any adopted regional housing standards, state statutes regarding housing need and with Goal 10 and rules interpreting that goal; and

(c) Consistent with Goal 14 requirements.

(4) "Local government" means a city or county, or a metropolitan service district described in ORS 197.015(13).

(5) "Metro boundary" means the boundary of a metropolitan service district defined in ORS 197.015(13).

(6) "Net Buildable Acre" consists of 43,560 square feet of residentially designated buildable land after excluding future rights-of-way for streets and roads.

(7) "Safe harbor" means an optional course of action that a local government may use to satisfy a requirement of Goal 14. Use of a safe harbor prescribed in this division will satisfy the requirement for which it is prescribed. A safe harbor is not the only way or necessarily the preferred way to comply with a requirement and it is not intended to interpret the requirement for any purpose other than applying a safe harbor within this division.

(8) "Suitable vacant and developed land" describes land for employment opportunities, and has the same meaning as provided in OAR 660-009-0005 section (1) for "developed land," section (12) for "suitable," and section (14) for "vacant land."

(9) "UGB" means "urban growth boundary."

(10) "Urban area" means the land within a UGB.

#### **660-024-0020**

##### **Adoption or Amendment of a UGB**

(1) All statewide goals and related administrative rules are applicable when establishing or amending a UGB, except as follows:

(a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);

(b) Goals 3 and 4 are not applicable;

(c) Goal 5 and related rules under OAR chapter 660, division 23, apply only in areas added to the UGB, except as required under OAR 660-023-0070 and 660-023-0250;

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

(e) Goal 15 is not applicable to land added to the UGB unless the land is within the Willamette River Greenway Boundary;

(f) Goals 16 to 18 are not applicable to land added to the UGB unless the land is within a coastal shorelands boundary;

(g) Goal 19 is not applicable to a UGB amendment.

(2) The UGB and amendments to the UGB must be shown on the city and county plan and zone maps at a scale sufficient to determine which particular lots or parcels are included in the UGB. Where a UGB does not follow lot or parcel lines, the map must provide sufficient information to determine the precise UGB location.

### **660-024-0030**

#### **Population Forecasts**

(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.

(4) A city and county may apply one of the safe harbors in subsections (a), (b), or (c) of this section, if applicable, in order to develop and adopt a population forecast for an urban area:

(a) If a coordinated population forecast was adopted by a county within the previous 10 years but does not provide a 20-year forecast for an urban area at the time a city initiates an evaluation or amendment of the UGB, a city and county may adopt an updated forecast for the urban area consistent with this section. The updated forecast is deemed to comply with applicable goals and laws regarding population forecasts for purposes of the current UGB evaluation or amendment provided the forecast:

(A) Is adopted by the city and county in accordance with the notice, procedures and requirements described in section (1) of this rule; and

(B) Extends the current urban area forecast to a 20-year period commencing on the date determined under OAR 660-024-0040(2) by using the same growth trend for the urban area assumed in the county's current adopted forecast.

(b) A city and county may adopt a 20-year forecast for an urban area consistent with this section. The forecast is deemed to comply with applicable goals and laws regarding population forecasts for purposes of the current UGB evaluation or amendment provided the forecast:

(A) Is adopted by the city and county in accordance with the notice, procedures and requirements described in section (1) of this rule;

(B) Is based on OEA's population forecast for the county for a 20-year period commencing on the date determined under OAR 660-024-0040(2); and

(C) Is developed by assuming that the urban area's share of the forecasted county population determined in subsection (B) of this rule will be the same as the urban area's current share of county population based on the most recent certified population estimates from Portland State University and the most recent data for the urban area published by the U.S. Census Bureau.

(c) A city may adopt a revised 20-year forecast for its urban area by following the requirements in ORS 195.034.

**660-024-0040**

**Land Need**

(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 part of a periodic review work program, the 20-year planning period must commence on the date initially scheduled for completion of the appropriate work task. 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).

(4) The determination of 20-year residential land needs for an urban area must be consistent with the adopted 20-year coordinated population forecast for the urban area, and with the requirements for determining housing needs in Goals 10 and 14, OAR chapter 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.

(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.

(6) Cities and counties may jointly conduct a coordinated regional EOA for more than one city in the county or for a defined region within one or more counties, in

conformance with Goal 9, OAR chapter 660, division 9, and applicable provisions of ORS 195.025. A defined region may include incorporated and unincorporated areas of one or more counties.

(7) The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Goals 11 and 12, rules in OAR chapter 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of school facility needs must also comply with ORS 195.110 and 197.296 for local governments specified in those statutes.

(8) The following safe harbors may be applied by a local government to determine housing need under this division:

(a) A local government may estimate persons per household for the 20-year planning period using the persons per household for the urban area indicated in the most current data for the urban area published by the U.S. Census Bureau.

(b) If a local government does not regulate government-assisted housing differently than other housing types, it is not required to estimate the need for government-assisted housing as a separate housing type.

(c) If a local government allows manufactured homes on individual lots as a permitted use in all residential zones that allow 10 or fewer dwelling units per net buildable acre, it is not necessary to provide an estimate of the need for manufactured dwellings on individual lots.

(d) If a local government allows manufactured dwelling parks required by ORS 197.475 to 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a separate estimate of the need for manufactured dwelling parks is not required.

(e) A local government outside of the Metro boundary may estimate its housing vacancy rate for the 20-year planning period using the vacancy rate in the most current data published by the U.S. Census Bureau for that urban area that includes the local government.

(f) A local government outside of the Metro boundary may determine housing needs for purposes of a UGB amendment using the combined Housing Density and Housing Mix safe harbors described in this subsection and in Table 1, or in combination with the Alternative Density safe harbor described under subsection (g) of this section and in Table 2. To meet the Housing Density safe harbor in this subsection, the local government may Assume For UGB Analysis that all buildable land in the urban area, including land added to the UGB, will develop at the applicable average overall density specified in column B of Table 1. Buildable land in the UGB, including land added to the UGB, must also be Zoned to Allow at least the average overall maximum density specified as Zone To Allow in column B of Table 1. Finally, the local government must adopt zoning that ensures buildable land in the urban area, including land added to the

UGB, cannot develop at an average overall density less than the applicable Required Overall Minimum density specified in column B of Table 1. To meet the Housing Mix safe harbor in this subsection, the local government must Zone to Allow the applicable percentages of low, medium and high density residential specified in column C of Table 1.

(g) When using the safe harbor in subsection (f), a local government may choose to also use the applicable Alternative Density safe harbors for Small Exception Parcels and High Value Farm Land specified in Table 2. If a local government chooses to use the Alternative Density safe harbors described in Table 2, it must

(A) Apply the applicable Small Exception Parcel density assumption and the High Value Farm Land density assumption measures specified in the table to all buildable land that is within these categories, and

(B) Apply the Housing Density and Mix safe harbors specified in subsection (f) of this section and specified in Table 1 to all buildable land in the urban area that does not consist of Small Exception Parcels or High Value Farm Land.

(h) As an alternative to the density safe harbors in subsection (f) and, if applicable, subsection (g), of this section, a local government outside of the Metro boundary may assume that the average overall density of buildable residential land in the urban area for the 20-year planning period will increase by 25 percent over the average overall density of developed residential land in the urban area at the time the local government initiated the evaluation or amendment of the UGB. If a local government uses this Incremental Housing Density safe harbor, it must also meet the applicable Zoned to Allow density and Required Overall Minimum density requirements in Column B of Table 1 and, if applicable, Table 2, and must use the Housing Mix safe harbor in Column C of Table 1.

(i) As an alternative to the Housing Mix safe harbor required in subsection (f) of this section and in Column C of Table 1, a local government outside the Metro boundary that uses the housing density safe harbor in either subsection (f), (g) or (h) of this section may estimate housing mix using the Incremental Housing Mix safe harbor described in paragraphs (A) to (C) of this subsection, as illustrated in Table 3:

(A) Determine the existing percentages of low density, medium density, and high density housing on developed land (not “buildable land”) in the urban area at the time the local government initiated the evaluation or amendment of the UGB;

(B) Increase the percentage of medium density housing estimated in paragraph (A) of this subsection by 10 percent, increase the percentage of high density housing estimated in paragraph (A) of this subsection by five percent, as illustrated in Table 3, and decrease the percentage of low density single family housing by a proportionate amount so that the overall mix total is 100 percent, and

(C) Zone to Allow the resultant housing mix determined under subparagraphs (A) and (B) of this subsection.

(j) Tables 1, 2 and 3 are adopted as part of this rule, and the following definitions apply to terms used in the tables:

(A) “Assume For UGB Analysis” means the local government may assume that the UGB will develop over the 20-year planning period at the applicable overall density specified in Column B of Tables 1 and 2.

(B) “Attached housing” means housing where each unit shares a common wall, ceiling or floor with at least one other unit. “Attached housing” includes, but is not limited to, apartments, condominiums, and common-wall dwellings or row houses where each dwelling unit occupies a separate lot.

(C) “Average Overall Density” means the average density of all buildable land in the UGB, including buildable land already inside the UGB and buildable land added to the UGB, including land zoned for residential use that is presumed to be needed for schools, parks and other institutional uses.

(D) “Coordinated 20-year Population Forecast” under Column A of the Tables refers to the population forecast for the urban area described under OAR 660-024-0030.

(E) “Density” means the number of dwelling units per net buildable acre.

(F) “High Value Farm Land” has the same meaning as the term defined in ORS 195.300(10).

(G) “Required Overall Minimum” means a minimum allowed overall average density, or a “density floor,” that must be ensured in the applicable residential zones with respect to the overall supply of buildable land for that zone in the urban area for the 20-year planning period.

(H) “Single Family Detached Housing” means a housing unit that is free standing and separate from other housing units, including mobile homes and manufactured dwellings under ORS 197.475 to 197.492.

(I) “Small Exception Parcel” means a residentially zoned parcel five acres or less with a house on it, located on land that is outside a UGB prior to a proposed UGB expansion, subject to an acknowledged exception to Goal 3 or 4 or both.

(J) “Zone To Allow” or “Zoned to Allow” means that the comprehensive plan and implementing zoning shall allow the specified housing types and densities under clear and objective standards and other requirements specified in ORS 197.307(3)(b) and (6).

(9) The following safe harbors may be applied by a local government to determine its employment needs for purposes of a UGB amendment under this rule, Goal 9, OAR chapter 660, division 9, Goal 14 and, if applicable, ORS 197.296.

(a) A local government may estimate that the current number of jobs in the urban area will grow during the 20-year planning period at a rate equal to either:

(A) The county or regional job growth rate provided in the most recent forecast published by the Oregon Employment Department; or

(B) The population growth rate for the urban area in the adopted 20-year coordinated population forecast specified in OAR 660-024-0030.

(b) A local government with a population of 10,000 or less may assume that retail and service commercial land needs will grow in direct proportion to the forecasted urban area population growth over the 20-year planning period. This safe harbor may not be used to determine employment land needs for sectors other than retail and service commercial.

(10) As a safe harbor during periodic review or other legislative review of the UGB, a local government may estimate that the 20-year land needs for streets and roads, parks and school facilities will together require an additional amount of land equal to 25 percent of the net buildable acres determined for residential land needs under section (4) of this rule, and in conformance with the definition of "Net Buildable Acre" as defined in OAR 660-024-0010(6).

#### **660-024-0050**

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

(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. For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute. 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.

(2) As safe harbors, a local government, except a city with a population over 25,000 or a metropolitan service district described in ORS 197.015(13), may use the following assumptions to inventory the capacity of buildable lands to accommodate housing needs:

(a) The infill potential of developed residential lots or parcels of one-half acre or more may be determined by subtracting one-quarter acre (10,890 square feet) for the existing dwelling and assuming that the remainder is buildable land;

(b) Existing lots of less than one-half acre that are currently occupied by a residence may be assumed to be fully developed.

(3) As safe harbors when inventorying land to accommodate industrial and other employment needs, a local government may assume that a lot or parcel is vacant if it is:

(a) Equal to or larger than one-half acre, if the lot or parcel does not contain a permanent building; or

(b) Equal to or larger than five acres, if less than one-half acre of the lot or parcel is occupied by a permanent building.

(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.

(5) In evaluating an amendment of a UGB submitted under ORS 197.626, the director or the Commission may determine that a difference between the estimated 20-year needs determined under OAR 660-024-0040 and the amount of land and development capacity added to the UGB by the submitted amendment is unlikely to significantly affect land supply or resource land protection, and as a result, may determine that the proposed amendment complies with section (4) of this rule.

(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. The requirements of ORS 197.296 regarding planning and zoning also apply when local governments specified in that statute add land to the UGB.

(7) As a safe harbor regarding requirements concerning "efficiency," a local government that chooses to use the density and mix safe harbors in OAR 660-024-0040(8) is deemed to have met the Goal 14 efficiency requirements under:

(a) Sections (1) and (4) of this rule regarding evaluation of the development capacity of residential land inside the UGB to accommodate the estimated 20-year needs; and

(b) Goal 14 regarding a demonstration that residential needs cannot be reasonably accommodated on residential land already inside the UGB, but not with respect to:

(A) A demonstration that residential needs cannot be reasonably accommodated by rezoning non-residential land, and

(B) Compliance with Goal 14 Boundary Location factors.

**660-024-0060**

**Boundary Location Alternatives Analysis**

(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.

(2) Notwithstanding OAR 660-024-0050(4) and subsection (1)(c) of this rule, except during periodic review or other legislative review of the UGB, a local government may approve an application under ORS 197.610 to 197.625 for a UGB amendment proposing to add an amount of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all other applicable requirements.

(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

(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.

**660-024-0080**

**LCDC Review Required for UGB Amendments**

A metropolitan service district that amends its UGB to include more than 100 acres, or a city with a population of 2,500 or more within its UGB that amends the UGB to include more than 50 acres shall submit the amendment to the Commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175.

**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

**DIVISION 7  
METROPOLITAN HOUSING**

**660-007-0000**

**Statement of Purpose**

The purpose of this division is to ensure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metropolitan Portland (Metro) urban growth boundary, to provide greater certainty in the development process and so to reduce housing costs. OAR 660-007-0030 through 660-007-0037 are intended to establish by rule regional residential density and mix standards to measure Goal 10 Housing compliance for cities and counties within the Metro urban growth boundary, and to ensure the efficient use of residential land within the regional UGB consistent with Goal 14 Urbanization. OAR 660-007-0035 implements the Commission's determination in the Metro UGB acknowledgment proceedings that region wide, planned residential densities must be considerably in excess of the residential density assumed in Metro's "UGB Findings". The new construction density and mix standards and the criteria for varying from them in this rule take into consideration and also satisfy the price range and rent level criteria for needed housing as set forth in ORS 197.303.

**660-007-0005**

**Definitions**

For the purposes of this division, the definitions in ORS 197.015, 197.295, and 197.303 shall apply. In addition, the following definitions apply:

- (1) A "Net Buildable Acre" consists of 43,560 square feet of residentially designated buildable land, after excluding present and future rights-of-way, restricted hazard areas, public open spaces and restricted resource protection areas.
- (2) "Attached Single Family Housing" means common-wall dwellings or rowhouses where each dwelling unit occupies a separate lot.
- (3) "Buildable Land" means residentially designated land within the Metro urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:
  - (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;
  - (b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6 or 15;

(c) Has slopes of 25 percent or greater;

(d) Is within the 100-year flood plain; or

(e) Cannot be provided with public facilities.

(4) "Detached Single Family Housing" means a housing unit that is free standing and separate from other housing units.

(5) "Housing Needs Projection" refers to a local determination, justified in the plan, as to the housing types, amounts and densities that will be:

(a) Commensurate with the financial capabilities of present and future area residents of all income levels during the planning period;

(b) Consistent with OAR 660-007-0010 through 660-007-0037 and any other adopted regional housing standards; and

(c) Consistent with Goal 14 requirements for the efficient provision of public facilities and services, and efficiency of land use.

(6) "Multiple Family Housing" means attached housing where each dwelling unit is not located on a separate lot.

(7) "Needed Housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels, including at least the following housing types:

(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and

(e) Housing for farmworkers.

(8) "Redevelopable Land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period.

**660-007-0015**

**Clear and Objective Approval Standards Required**

(1) Except as provided in section (2) of this rule, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

(2) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in section (1) of this rule, a local government may adopt and apply an optional alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of section (1);

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in section (1) of this rule.

(3) Subject to section (1), this rule does not infringe on a local government's prerogative to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

**660-007-0018**

**Specific Plan Designations Required**

(1) Plan designations that allow or require residential uses shall be assigned to all buildable land. Such designations may allow nonresidential uses as well as residential uses. Such designations may be considered to be "residential plan designations" for the purposes of this division. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in OAR 660-007-0030 through 660-007-0037.

(2) A local government may defer the assignment of specific residential plan designations only when the following conditions have been met:

- (a) Uncertainties concerning the funding, location and timing of public facilities have been identified in the local comprehensive plan;
- (b) The decision not to assign specific residential plan designations is specifically related to identified public facilities constraints and is so justified in the plan; and
- (c) The plan includes a time-specific strategy for resolution of identified public facilities uncertainties and a policy commitment to assign specific residential plan designations when identified public facilities uncertainties are resolved.

**660-007-0020**

**The Rezoning Process**

A local government may defer rezoning of land within the urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified:

- (1) The plan must contain a justification for the rezoning process and policies which explain how this process will be used to provide for needed housing.
- (2) Standards and procedures governing the process for future rezoning shall be based on the rezoning justification and policy statement, and must be clear and objective.

**660-007-0022**

**Restrictions on Housing Tenure**

Any local government that restricts the construction of either rental or owner occupied housing on or after its first periodic review shall either justify such restriction by an analysis of housing need according to tenure or otherwise demonstrate that such restrictions comply with ORS 197.303(1)(a) and 197.307(3).

**660-007-0030**

**New Construction Mix**

(1) Jurisdictions other than small developed cities must either designate sufficient buildable land to provide the opportunity for at least 50 percent of new residential units to be attached single family housing or multiple family housing or justify an alternative percentage based on changing circumstances. Factors to be considered in justifying an alternate percentage shall include, but need not be limited to:

- (a) Metro forecasts of dwelling units by type;
- (b) Changes in household structure, size, or composition by age;
- (c) Changes in economic factors impacting demand for single family versus multiple family units; and
- (d) Changes in price ranges and rent levels relative to income levels.

(2) The considerations listed in section (1) of this rule refer to county-level data within the UGB and data on the specific jurisdiction.

**660-007-0033**

**Consideration of Other Housing Types**

Each local government shall consider the needs for manufactured housing and government assisted housing within the Portland Metropolitan UGB in arriving at an allocation of housing types.

**660-007-0035**

**Minimum Residential Density Allocation for New Construction**

The following standards shall apply to those jurisdictions which provide the opportunity for at least 50 percent of new residential units to be attached single family housing or multiple family housing:

(1) The Cities of Cornelius, Durham, Fairview, Happy Valley and Sherwood must provide for an overall density of six or more dwelling units per net buildable acre. These are relatively small cities with some growth potential (i.e. with a regionally coordinated population projection of less than 8,000 persons for the active planning area).

(2) Clackamas and Washington Counties, and the cities of Forest Grove, Gladstone, Milwaukie, Oregon City, Troutdale, Tualatin, West Linn and Wilsonville must provide for an overall density of eight or more dwelling units per net buildable acre.

(3) Multnomah County and the cities of Portland, Gresham, Beaverton, Hillsboro, Lake Oswego and Tigard must provide for an overall density of ten or more dwelling units per net buildable acre. These are larger urbanized jurisdictions with regionally coordinated population projections of 50,000 or more for their active planning areas, which encompass or are near major employment centers, and which are situated along regional transportation corridors.

(4) Regional housing density and mix standards as stated in OAR 660-007-0030 and sections (1), (2), and (3) of this rule do not apply to small developed cities which had less than 50 acres of buildable land in 1977 as determined by criteria used in Metro's UGB Findings. These cities include King City, Rivergrove, Maywood Park, Johnson City and Wood Village.

**660-007-0037**

**Alternate Minimum Residential Density Allocation for New Construction**

The density standards in OAR 660-007-0035 shall not apply to a jurisdiction which justifies an alternative new construction mix under the provisions of OAR 660-007-0030. The following standards shall apply to these jurisdictions:

(1) The jurisdiction must provide for the average density of detached single family housing to be equal to or greater than the density of detached single family housing provided for in the plan at the time of original LCDC acknowledgment.

(2) The jurisdiction must provide for the average density of multiple family housing to be equal to or greater than the density of multiple family housing provided for in the plan at the time of original LCDC acknowledgment.

(3) A jurisdiction which justifies an alternative new construction mix must also evaluate whether the factors in OAR 660-007-0030 support increases in the density of either detached single family or multiple family housing or both. If the evaluation supports increases in density, then necessary amendments to residential plan and zone designations must be made.

#### **660-007-0045**

##### **Computation of Buildable Lands**

(1) The local buildable lands inventory must document the amount of buildable land in each residential plan designation.

(2) The Buildable Land Inventory (BLI): The mix and density standards of OAR 660-007-0030, 660-007-0035 and 660-007-0037 apply to land in a buildable land inventory required by OAR 660-007-0010, as modified herein. Except as provided below, the buildable land inventory at each jurisdiction's choice shall either be based on land in a residential plan/zone designation within the jurisdiction at the time of periodic review or based on the jurisdiction BLI at the time of acknowledgment as updated. Each jurisdiction must include in its computations all plan and/or zone changes involving residential land which that jurisdiction made since acknowledgment. A jurisdiction need not include plan and/or zone changes made by another jurisdiction before annexation to a city. The adjustment of the BLI at the time of acknowledgment shall:

(a) Include changes in zoning ordinances or zoning designations on residential planned land if allowed densities are changed;

(b) Include changes in planning or zoning designations either to or from residential use. A city shall include changes to annexed or incorporated land if the city changed type or density or the plan/zone designation after annexation or incorporation;

(c) The county and one or more cities affected by annexations or incorporations may consolidate buildable land inventories. A single calculation of mix and density may be prepared. Jurisdictions which consolidate their buildable lands inventories shall conduct their periodic review simultaneously;

(d) A new density standard shall be calculated when annexation, incorporation or consolidation results in mixing two or more density standards (OAR 660-007-0035). The calculation shall be made as follows:

(A)(i)  $\text{BLI Acres} \times 6 \text{ Units/Acre} = \text{Num. of Units}$ ;

(ii)  $\text{BLI Acres} \times 8 \text{ Units/Acre} = \text{Num. of Units}$ ;

(iii)  $\text{BLI Acres} \times 10 \text{ Units/Acre} = \text{Num. of Units}$ ;

(iv)  $\text{Total Acres (TA)} - \text{Total Units (TU)}$ .

(B)  $\text{Total units divided by Total Acres} = \text{New Density Standard}$ ;

(C) Example:

(i) Cities A and B have 100 acres and a 6-unit-per-acre standard:  $(100 \times 6 = 600 \text{ units})$ ; City B has 300 acres and a 10-unit-per-acre standard:  $(300 \times 10 = 3000 \text{ units})$ ; County has 200 acres and an 8-unit-per-acre standard:  $(200 \times 08 = 1600 \text{ units})$ ; Total acres = 600 — Total Units = 5200.

(ii)  $5200 \text{ units divided by } 600 \text{ acres} = 8.66 \text{ units per acre standard}$ .

(3) Mix and Density Calculation: The housing units allowed by the plan/zone designations at periodic review, except as modified by section (2) of this rule, shall be used to calculate the mix and density. The number of units allowed by the plan/zone designations at the time of development shall be used for developed residential land.

#### **660-007-0050**

##### **Regional Coordination**

(1) At each periodic review of the Metro UGB, Metro shall review the findings for the UGB. They shall determine whether the buildable land within the UGB satisfies housing needs by type and density for the region's long-range population and housing projections.

(2) Metro shall ensure that needed housing is provided for on a regional basis through coordinated comprehensive plans.

#### **660-007-0060**

##### **Applicability**

(1) The new construction mix and minimum residential density standards of OAR 660-007-0030 through 660-007-0037 shall be applicable at each periodic review. During each periodic review local government shall prepare findings regarding the cumulative effects of all plan and zone changes affecting residential use. The jurisdiction's buildable lands inventory (updated pursuant to OAR 660-007-0045) shall be a supporting document to the local jurisdiction's periodic review order.

(2) For plan and land use regulation amendments which are subject to OAR 660, Division 18, the local jurisdiction shall either:

(a) Demonstrate through findings that the mix and density standards in this Division are met by the amendment; or

(b) Make a commitment through the findings associated with the amendment that the jurisdiction will comply with provisions of this Division for mix or density through subsequent plan amendments.

## **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

### **DIVISION 9 ECONOMIC DEVELOPMENT**

#### **660-009-0000**

##### **Intent and Purpose**

The intent of the Land Conservation and Development Commission is to provide an adequate land supply for economic development and employment growth in Oregon. The intent of this division is to link planning for an adequate land supply to infrastructure planning, community involvement and coordination among local governments and the state. The purpose of this division is to implement Goal 9, Economy of the State (OAR 660-015-0000(9)), and ORS 197.712(2)(a) to (d). This division responds to legislative direction to assure that comprehensive plans and land use regulations are updated to provide adequate opportunities for a variety of economic activities throughout the state (ORS 197.712(1)) and to assure that comprehensive plans are based on information about state and national economic trends (ORS 197.717(2)).

#### **660-009-0005**

##### **Definitions**

For purposes of this division, the definitions in ORS chapter 197 and the statewide planning goals apply, unless the context requires otherwise. In addition, the following definitions apply:

- (1) "Developed Land" means non-vacant land that is likely to be redeveloped during the planning period.
- (2) "Development Constraints" means factors that temporarily or permanently limit or prevent the use of land for economic development. Development constraints include, but are not limited to, wetlands, environmentally sensitive areas such as habitat, environmental contamination, slope, topography, cultural and archeological resources, infrastructure deficiencies, parcel fragmentation, or natural hazard areas.
- (3) "Industrial Use" means employment activities generating income from the production, handling or distribution of goods. Industrial uses include, but are not limited to: manufacturing; assembly; fabrication; processing; storage; logistics; warehousing; importation; distribution and transshipment; and research and development. Industrial uses may have unique land, infrastructure, energy, and transportation requirements. Industrial uses may have external impacts on surrounding uses and may cluster in traditional or new industrial areas where they are segregated from other non-industrial activities.
- (4) "Locational Factors" means market factors that affect where a particular type of industrial or other employment use will locate. Locational factors include, but are not limited to, proximity to raw materials, supplies, labor, services, markets, or educational

institutions; access to transportation and freight facilities such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes; and workforce factors (e.g., skill level, education, age distribution).

(5) "Metropolitan Planning Organization (MPO)" means an organization designated by the Governor to coordinate transportation planning on urban land of the state including such designations made subsequent to the adoption of this division. The Longview-Kelso-Rainier MPO is not considered an MPO for the purposes of this division. Cities with less than 2,500 population are not considered part of an MPO for purposes of this division.

(6) "Other Employment Use" means all non-industrial employment activities including the widest range of retail, wholesale, service, non-profit, business headquarters, administrative and governmental employment activities that are accommodated in retail, office and flexible building types. Other employment uses also include employment activities of an entity or organization that serves the medical, educational, social service, recreation and security needs of the community typically in large buildings or multi-building campuses.

(7) "Planning Area" means the area within an existing or proposed urban growth boundary. Cities and counties with urban growth management agreements must address the urban land governed by their respective plans as specified in the urban growth management agreement for the affected area.

(8) "Prime Industrial Land" means land suited for traded-sector industries as well as other industrial uses providing support to traded-sector industries. Prime industrial lands possess site characteristics that are difficult or impossible to replicate in the planning area or region. Prime industrial lands have necessary access to transportation and freight infrastructure, including, but not limited to, rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes. Traded-sector has the meaning provided in ORS 285B.280.

(9) "Serviceable" means the city or county has determined that public facilities and transportation facilities, as defined by OAR chapter 660, division 011 and division 012, currently have adequate capacity for development planned in the service area where the site is located or can be upgraded to have adequate capacity within the 20-year planning period.

(10) "Short-term Supply of Land" means suitable land that is ready for construction within one year of an application for a building permit or request for service extension. Engineering feasibility is sufficient to qualify land for the short-term supply of land. Funding availability is not required. "Competitive Short-term Supply" means the short-term supply of land provides a range of site sizes and locations to accommodate the market needs of a variety of industrial and other employment uses.

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

(12) "Suitable" means serviceable land designated for industrial or other employment use that provides, or can be expected to provide the appropriate site characteristics for the proposed use.

(13) "Total Land Supply" means the supply of land estimated to be adequate to accommodate industrial and other employment uses for a 20-year planning period. Total land supply includes the short-term supply of land as well as the remaining supply of lands considered suitable and serviceable for the industrial or other employment uses identified in a comprehensive plan. Total land supply includes both vacant and developed land.

(14) "Vacant Land" means a lot or parcel:

(a) Equal to or larger than one half-acre not currently containing permanent buildings or improvements; or

(b) Equal to or larger than five acres where less than one half-acre is occupied by permanent buildings or improvements.

#### **660-009-0015**

##### **Economic Opportunities Analysis**

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; and

(C) For cities and counties within a Metropolitan Planning Organization, the inventory must also include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land.

(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.
- (5) Cities and counties are strongly encouraged to assess community economic development potential through a visioning or some other public input based process in conjunction with state agencies. Cities and counties are strongly encouraged to use the assessment of community economic development potential to form the community economic development objectives pursuant to OAR 660-009-0020(1)(a).

Chapter 197 — Comprehensive Land Use Planning Coordination

2011 EDITION

URBAN GROWTH BOUNDARIES AND NEEDED HOUSING WITHIN  
BOUNDARIES

**197.295 Definitions for ORS 197.295 to 197.314 and 197.475 to 197.490.** As used in ORS 197.295 to 197.314 and 197.475 to 197.490:

(1) “Buildable lands” means lands in urban and urbanizable areas that are suitable, available and necessary for residential uses. “Buildable lands” includes both vacant land and developed land likely to be redeveloped.

(2) “Manufactured dwelling park” has the meaning given that term in ORS 446.003.

(3) “Government assisted housing” means housing that is financed in whole or part by either a federal or state housing agency or a housing authority as defined in ORS 456.005, or housing that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided by either a federal or state housing agency or a local housing authority.

(4) “Manufactured homes” has the meaning given that term in ORS 446.003.

(5) “Mobile home park” has the meaning given that term in ORS 446.003.

(6) “Periodic review” means the process and procedures as set forth in ORS 197.628 to 197.651.

(7) “Urban growth boundary” means an urban growth boundary included or referenced in a comprehensive plan.

**197.296 Factors to establish sufficiency of buildable lands within urban growth boundary; analysis and determination of residential housing patterns.** (1)(a)

The provisions of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, a local government shall demonstrate that its comprehensive plan or regional plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate

estimated housing needs for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the periodic or legislative review.

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable lands" includes:

(A) Vacant lands planned or zoned for residential use;

(B) Partially vacant lands planned or zoned for residential use;

(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

(D) Lands that may be used for residential infill or redevelopment.

(b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:

(A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and

(C) The presence of a single family dwelling or other structure on a lot or parcel.

(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity and need pursuant to subsection (3) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last periodic review or five years, whichever is greater. The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) Demographic and population trends;

(D) Economic trends and cycles; and

(E) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide

more accurate and reliable data related to housing capacity and need. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or more of the following actions to accommodate the additional housing need:

(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary;

(b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures; or

(c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

(7) Using the analysis conducted under subsection (3)(b) of this section, the local government shall determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 20 years. If that density is greater than the actual density of development determined under subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall adopt measures that demonstrably increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next 20 years.

(8)(a) A local government outside a metropolitan service district that takes any actions under subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to 197.314.

(b) The local government shall determine the density and mix of housing types anticipated as a result of actions taken under subsections (6) and (7) of this section and monitor and record the actual density and mix of housing types achieved. The local government shall compare actual and anticipated density and mix. The local government shall submit its comparison to the commission at the next periodic review or at the next legislative review of its urban growth boundary, whichever comes first.

(9) In establishing that actions and measures adopted under subsections (6) or (7) of this section demonstrably increase the likelihood of higher density residential development, the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section and is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section. Actions or measures, or both, may include but are not limited to:

- (a) Increases in the permitted density on existing residential land;
- (b) Financial incentives for higher density housing;
- (c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
- (d) Removal or easing of approval standards or procedures;
- (e) Minimum density ranges;
- (f) Redevelopment and infill strategies;
- (g) Authorization of housing types not previously allowed by the plan or regulations;
- (h) Adoption of an average residential density standard; and
- (i) Rezoning or redesignation of nonresidential land.

**197.298 Priority of land to be included within urban growth boundary.** (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.

(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.

**197.299 Metropolitan service district analysis of buildable land supply; schedule for accommodating needed housing; need for land for school; extension of schedule.** (1) A metropolitan service district organized under ORS chapter 268 shall complete the inventory, determination and analysis required under ORS 197.296 (3) not later than five years after completion of the previous inventory, determination and analysis.

(2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS 197.296 (3) within one year of completing the analysis.

(b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) necessary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two years of completing the analysis.

(c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land within the urban growth boundary to accommodate the estimated housing needs for 20 years from the time the actions are completed. The metropolitan service district shall consider and adopt new measures that the governing body deems appropriate under ORS 197.296 (6)(b).

(3) The Land Conservation and Development Commission may grant an extension to the time limits of subsection (2) of this section if the Director of the Department of Land Conservation and Development determines that the metropolitan service district has provided good cause for failing to meet the time limits.

(4)(a) The metropolitan service district shall establish a process to expand the urban growth boundary to accommodate a need for land for a public school that cannot reasonably be accommodated within the existing urban growth boundary. The metropolitan service district shall design the process to:

(A) Accommodate a need that must be accommodated between periodic analyses of urban growth boundary capacity required by subsection (1) of this section; and

(B) Provide for a final decision on a proposal to expand the urban growth boundary within four months after submission of a complete application by a large school district as defined in ORS 195.110.

(b) At the request of a large school district, the metropolitan service district shall assist the large school district to identify school sites required by the school facility

planning process described in ORS 195.110. A need for a public school is a specific type of identified land need under ORS 197.298 (3).

## Chapter 195 — Local Government Planning Coordination

### 2011 EDITION

#### LOCAL GOVERNMENT PLANNING COORDINATION

**195.025 Regional coordination of planning activities; alternatives.** (1) In addition to the responsibilities stated in ORS 197.175, each county, through its governing body, shall be responsible for coordinating all planning activities affecting land uses within the county, including planning activities of the county, cities, special districts and state agencies, to assure an integrated comprehensive plan for the entire area of the county. In addition to being subject to the provisions of ORS chapters 195, 196 and 197 with respect to city or special district boundary changes, as defined by ORS 197.175 (1), the governing body of the Metropolitan Service District shall be considered the county review, advisory and coordinative body for Multnomah, Clackamas and Washington Counties for the areas within that district.

(2) For the purposes of carrying out ORS chapters 195, 196 and 197, counties may voluntarily join together with adjacent counties as authorized in ORS 190.003 to 190.620.

(3) Whenever counties and cities representing 51 percent of the population in their area petition the Land Conservation and Development Commission for an election in their area to form a regional planning agency to exercise the authority of the counties under subsection (1) of this section in the area, the commission shall review the petition. If it finds that the area described in the petition forms a reasonable planning unit, it shall call an election in the area on a date specified in ORS 203.085, to form a regional planning agency. The election shall be conducted in the manner provided in ORS chapter 255. The county clerk shall be considered the elections officer and the commission shall be considered the district elections authority. The agency shall be considered established if the majority of votes favor the establishment.

(4) If a voluntary association of local governments adopts a resolution ratified by each participating county and a majority of the participating cities therein which authorizes the association to perform the review, advisory and coordination functions assigned to the counties under subsection (1) of this section, the association may perform such duties.

**195.034 Alternate population forecast.** (1) If the coordinating body under ORS 195.025 (1) has adopted, within 10 years before a city initiates an evaluation or amendment of the city's urban growth boundary, a population forecast as required by ORS 195.036 that no longer provides a 20-year forecast for an urban area, a city may propose a revised 20-year forecast for its urban area by extending the coordinating body's current urban area forecast to a 20-year period using the same growth trend for the urban area assumed in the coordinating body's current adopted forecast.

(2) If the coordinating body has not adopted a forecast as required by ORS 195.036 or if the current forecast was adopted more than 10 years before the city initiates

an evaluation or amendment of the city's urban growth boundary, a city may propose a 20-year forecast for its urban area by:

(a) Basing the proposed forecast on the population forecast prepared by the Office of Economic Analysis for the county for a 20-year period that commences when the city initiates the evaluation or amendment of the city's urban growth boundary; and

(b) Assuming that the urban area's share for the forecasted county population determined in paragraph (a) of this subsection will be the same as the urban area's current share of the county population based on the most recent certified population estimates from Portland State University and the most recent data for the urban area published by the United States Census Bureau.

(3)(a) If the coordinating body does not take action on the city's proposed forecast for the urban area under subsection (1) or (2) of this section within six months after the city's written request for adoption of the forecast, the city may adopt the extended forecast if:

(A) The city provides notice to the other local governments in the county; and

(B) The city includes the adopted forecast in the comprehensive plan, or a document included in the plan by reference, in compliance with the applicable requirements of ORS 197.610 to 197.651.

(b) If the extended forecast is adopted under paragraph (a) of this subsection consistent with the requirements of subsection (1) or (2) of this section:

(A) The forecast is deemed to satisfy the requirements of a statewide land use planning goal relating to urbanization to establish a coordinated 20-year population forecast for the urban area; and

(B) The city may rely on the population forecast as an appropriate basis upon which the city and county may conduct the evaluation or amendment of the city's urban growth boundary.

(4) The process for establishing a population forecast provided in this section is in addition to and not in lieu of a process established by goal and rule of the Land Conservation and Development Commission.

**Note:** 195.034 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 195 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**195.036 Area population forecast; coordination.** The coordinating body under ORS 195.025 (1) shall establish and maintain a population forecast for the entire area within its boundary for use in maintaining and updating comprehensive plans, and shall coordinate the forecast with the local governments within its boundary.

***Attachment B***

***Department Responses to Objections***

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## **Department Responses to Objections**

This attachment contains the department's analysis of objections to Metro's capacity ordinance and UGB amendment submittals, with recommendations on whether the commission should sustain or deny the objection. In some cases, the objection is related to an issue addressed in the department's analysis in Chapter V of the director's report, and in other cases the issues are addressed only here.

This attachment addresses those objections found to be valid under OAR 660-025-0140(2), and those that were not. See Section IV.B of the director's report for a description of requirements for valid objections. The full text of all objections is available at [Oregon Department of Land Conservation and Development Metro Capacity Ordinance 2011](#).

### **A. City of Cornelius**

The city of Cornelius submitted a letter objecting to the UGB amendment on November 29, 2011 containing two objections. The objector's proposed remedy is for the commission to remand the decision to Metro with direction to add 266 acres of land at the south and east edge of Cornelius.

#### **1. Objection 1-1. Citizen involvement.**

**a. Objection.** Objector Cornelius asserts that Metro failed to comply with Goal 1, Citizen Involvement, because it disregarded local analysis and plans. Cornelius, November 29, 2011 at 1.

**b. Department Analysis and Recommendation.** The department recommends that the commission deny this objection. Goal 1 sets forth what must be contained in a local government's citizen involvement program. Metro's citizen involvement program is acknowledged for compliance with Goal 1. Goal 1 is violated in the context of a legislative comprehensive plan amendment only if the local government does not follow its citizen involvement program. Objector Cornelius has not identified a violation of Goal 1.

#### **2. Objection 1-2. Coordination and adequate factual basis.**

**a. Objection.** Objector Cornelius contends that Metro's UGB decision violates Goal 2 because it was not coordinated with local comprehensive plans and was not based upon factual information. The objector disagrees with policy decisions made by Metro regarding growth rates and density requirements, and with population and employment forecasts employed. Cornelius, November 29, 2011 at 2.

**b. Department Analysis and Recommendation.** The department recommends the commission deny this objection. Goal 2 provides "[e]ach plan and related implementation measure shall be coordinated with the plans of affected governmental units."<sup>1</sup> As used in Goal 2, a regional framework plan is "coordinated" once "the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and

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

accommodated as much as possible.” ORS 197.015(5). Metro must coordinate the UGB with affected local governments. The record describes the efforts Metro undertook in order to coordinate with the local governments within its boundary. Ord. 11-1264B, Exhibit D at 1-3. The general accusations made by objector Cornelius are not convincing in light of the level of interaction described in the record. The record indicates that Metro solicited and considered the input of local governments to a considerable extent. To the extent that the objection contends that Metro failed to coordinate because it did not adopt a higher housing or employment opportunities need as Cornelius advocated for, the department recommends that the commission find that Metro made findings regarding need that are responsive to objector’s concerns as required by Goal 2.

Regarding whether the UGB decision had an adequate factual basis as required by Goal 2, the city’s letter of objection does not demonstrate errors or omissions in the information Metro relied on, only that the objector disagrees with it.

The department recommends that, based on other analysis of the submittal, the commission remand the submittal for Metro to undertake the locational analysis required by Goal 14 and OAR chapter 660, division 24. (See Section V.D of the director’s report.) In light of the recommended remand, Metro will have the opportunity to further consider the Cornelius-area proposals when considering the locational factors of Goal 14.

### **3. Objection 1-3. Goals 5-13.**

**a. Objection.** The objection letter raises several issues alleging insufficient consideration of a number of goals, including Goals 5-13. These allegations come under the heading, “Goal 2 Land Use Planning,” but the objections are apparently separate from the Goal 2 objections addressed in the previous subsection of this report. Cornelius, November 29, 2011 at 2.

**b. Department Analysis and Recommendation.** Regarding Goals 5-8 and 11-13, Metro addressed them in the UGB ordinance. Ord. 11-1264B, Exhibit D at 28-32. Objector Cornelius did not demonstrate that the submittal does not comply with any provision of these goals. The subject of these goals (e.g., natural resources for Goal 5, public facilities and services for Goal 11) gets considered through application of the Goal 14 location factors and provisions of OAR chapter 660, division 24, not through direct application of the goals. The department recommends the commission deny this portion of the objection.

Objector Cornelius quotes the purpose of the rule implementing Goal 9 – “The intent of the Land Conservation and Development Commission is to provide an adequate land supply for economic development and employment growth in Oregon” – in generally objecting “Cornelius has clearly shown such a local community need and expressed it.” Metro generally does not have a responsibility under division 9. Regarding Goal 9, see Section V.C, “Applicability of Goal 9 to Metro’s employment land need analysis.”

As noted in the department’s response to objection 3-3 in subsection C.3, Metro has not completed an employment land inventory as required by OAR 660-024-0050(1). The department’s response to objection 5-2 in subsection E.2 provides an analysis regarding the land need determination. Without a valid inventory, the department cannot conclude there is

substantial evidence for a UGB amendment. The department recommends remand for additional analysis and findings.

### **B. City of Forest Grove**

The city of Forest Grove submitted a letter with one objection to the UGB amendment on November 29, 2011. Objector Forest Grove expressed disappointment that the Metro Council did not discuss the merits of a particular 115-acre parcel within the Purdin Road area for large-lot industrial UGB expansion. The department understands the objection to raise coordination concerns under Goal 2 as well as concerns regarding the application of Goal 14, locational factors 3 and 4. However, the letter does not propose a specific revision that would resolve the objection as required by OAR 660-025-0140(2). In that respect, this objection is not valid. However, because the department is recommending a remand in order for Metro to address the locational factors under Goal 14, and in light of the aspect of the Goal 2 coordination obligation that requires Metro to make findings responding to affected governmental units' legitimate concerns, Metro will have the opportunity to address objector's concerns regarding the Purdin Road area.

### **C. City of Hillsboro**

The city of Hillsboro submitted a letter of objection to Metro's capacity ordinance submittal on February 13, 2011 and another letter objecting to the UGB amendment on November 23, 2011. The two letters contain substantially the same objections, but the arguments are explained more fully in the November letter. Consequently, the two letters get treated together here. The objections relate to the amount of industrial land needed for the planning period and the suitability of land included in the UGB.

The department construes that the proposed remedy in the November letter replaces that from the February letter. The proposed remedy is for the commission to *approve* the addition of the 330 acres in North Hillsboro that Metro did include, and direct Metro to add the remaining 340 acres of the 670-acre UGB expansion in North Hillsboro requested by Hillsboro to the UGB for additional large industrial sites in the next five-year review of the Metro UGB to be completed in 2014. Hillsboro, November 23, 2011 at 2, 5.

#### **1. Objection 3-1. Substantial evidence.**

**a. Objection.** Objector Hillsboro contends that the record contains substantial evidence supporting a determination of industrial land need of 200-800 acres or 200-1,500 acres, and that the evidence establishes a need for more employment land than Metro added to the UGB. The city contends Metro's decision capacity ordinance does not completely satisfy Goal 14, Need Factor 2. Hillsboro, November 23, 2011 at 1. The objection further contends that Metro ignored testimony that supported a greater need for industrial land.

**b. Department analysis and recommendation.** The department recommends the commission deny this objection. The objection does not explain how Metro's decision violates Goal 14, Need Factor 2, but merely asserts that the actual need is not completely satisfied. The objector points to evidence in the record that it contends could have justified more industrial land than Metro ultimately included. UGB Ord., Exhibit D at 9. Assuming for purposes of discussion

that this is the case, the objection does not establish that Metro did not comply with Goal 14 Need Factor 2. The record contains evidence that the amount of employment land Metro added to the UGB is within a justified range. Cap. Ord., Exhibit P at 2. Objector Hillsboro simply maintains that Metro should have selected a different point in that range without establishing that Metro's UGB decision is unsupported. Metro is required to explain how the decision that it made complies with the applicable criteria, but objector Hillsboro does not establish that Metro has a statutory, goal, or rule based requirement that its legislative decision explain the reasons for eliminating other potential options, so it is reasonable that the findings and conclusions in Ordinance 11-1264B do not address all competing testimony.

**2. Objection 3-2. Best available information.**

**a. Objection.** Objector Hillsboro asserts that the capacity ordinance does not satisfy the requirements of OAR 660-024-0040(1) because the findings and conclusions regarding the 20-year land need estimates are not "based on the best available information and methodologies." Objector Hillsboro contends this results in a significant under-estimation of the large-lot industrial site need. Hillsboro, November 23, 2011 at 3.

**b. Department Analysis and Recommendation.** The department recommends that the commission deny this objection. The full text of OAR 660-024-0040(1) is:

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.

This is not a criterion that must be satisfied, and the department recommends that the commission not interpret it as one.

**3. Objection 3-3. Inventory and suitability of industrial sites.**

**a. Objection.** Objector Hillsboro asserts that Metro did not consider site suitability, as required by Goal 14 location factors, or conduct an inventory of suitable industrial land in conformity with the requirements of OAR 660-024-0050(1). Hillsboro, November 23, 2011 at 3.

**b. Department Analysis and Recommendation.** Objector Hillsboro contends that Metro has not complied with the requirements of OAR 660-024-0050(1), which requires local governments (including Metro) to conduct an employment land inventory that meets the requirements of an Economic Opportunities Analysis (EOA) in OAR chapter 660, division 9. 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.

OAR 660-009-0015 specifies the requirements of an EOA to meet the requirements of Goal 9. An EOA must include four elements: (1) review of national, state, regional, county and local

trends; (2) identification of required site types; (3) inventory of industrial and other employment lands; and (4) assessment of community economic development potential. These requirements would not apply to Metro except that OAR 660-024-0050(1) states:

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. . . .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.

This provision applies to a “local government,” which includes Metro, as contrasted to Goal 9 and its administrative rules, which apply only to “cities and counties.” Metro is not required to complete an EOA for the region, but it must complete the third step—the inventory.

The administrative rule provisions for an inventory of employment land are in OAR 660-009-0015(3), which 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.

- (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; and
  - (C) For cities and counties within a Metropolitan Planning Organization, the inventory must also the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land.
- (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.

Metro has not defined and analyzed site characteristics for the vacant and developed lands within the planning area designated for industrial or other employment use as required by paragraph (3)(a)(A). OAR 660-009-0005(11) defines “site characteristics” to mean the attributes of a site necessary for a particular industrial or other employment use to operate. Site characteristics include a variety of considerations related to the site, the area, and infrastructure availability.

Metro’s employment inventory method and results are described in the UGR. Cap. Ord. Rec. at 4071-4078, 4101-4104. The method describes removing buildable and non-vacant tax lots from a zoning map inventory, then sorting the remaining lots into tiers based on development readiness.

This is valuable work, but does not meet the requirement to develop a list of site types with site criteria as the rule requires.

Metro considered site suitability in its analysis of lands for employment uses. The department finds that Goal 14 does not provide specific requirements that Metro failed to address, and Hillsboro had failed to demonstrate that the capacity and UGB ordinances inadequately demonstrate compliance with the goal. Nonetheless, the employment land-related portions of the capacity ordinance require additional analysis, specifically to conduct a detailed inventory that identifies the vacant and developed lands within the planning area designated for industrial or other employment use.

The department recommends that the commission remand the submittal in order for Metro to complete this analysis. Objector Hillsboro requests that the commission approve the industrial areas Metro added to the UGB, but for the reasons described above and in the department's response to other objections, the need for these expansions has not been adequately demonstrated.

#### **D. City of Sherwood.**

This objector submitted a letter containing one objection to the UGB amendment on November 28, 2011. This objection regards the location and suitability of industrial land.

**a. Objection.** Objector Sherwood asserts that Metro failed to correctly analyze the suitability and thereby the location of expansion land, failed to correctly apply Goal 14 need factor 2, failed to apply OAR 660-009-0015 as required, wrongly decided the amount of land to be added to the UGB, and failed to provide substantial evidence including the failure to evaluate relevance and importance of conflicting evidence. The objector's remedy is to remand the decision to Metro to include a more realistic land need.

**b. Department Analysis and Recommendation.** Objector Sherwood's objections are the same as objections 5-2, 8-5 and 3-3. See Section V.C of the director's report regarding the inter-operability of Goal 9 and Metro's obligation to consider and accommodate as much as possible the policies of its member local governments. See the department's response to objection 5-2 in subsection E.2 regarding substantial evidence. See the department's response to objection 3-3 in subsection C.3 regarding the inventory of employment lands. For those objections and this one, the department recommends remand for additional analysis and findings.

#### **E. 1000 Friends of Oregon et al.**

The department received a letter on February 22, 2011 from 1000 Friends of Oregon objecting to the capacity ordinance. The department then received a letter objecting to the UGB amendment on November 29, 2011 from 1000 Friends of Oregon and Save Helvetia representing themselves and Linda Peters, Cherry Amabisca, and Robert Bailey. These objectors are collectively referred to hereafter as "1000 Friends." The objections in November letter expressly incorporate the objections in the February letter by reference, so they are considered together here.

**1. Objection 5-1. Residential Capacity of the Existing UGB.**

**a. Objection.** Objector 1000 Friends contends Metro’s conclusion that the existing UGB lacks capacity for 15,400-26,600 dwelling units, and its decision to add land that would provide for at least 15,896 additional dwelling units, lacks substantial evidence and is without legal basis, in violation of Goal 14 and Goal 2. 1,000 Friends believes that Metro must demonstrate that these new areas are more likely, less expensive, more efficient, and more economical per dwelling unit to develop than inside the UGB. 1000 Friends, November 29, 2011 at 2-7.

1,000 Friends contends that Goal 14, factor 2 requires Metro to show that providing public facilities and services to a newly expanded area will not leave the local government unable to provide services to land already inside the UGB. The objection states that Metro has not demonstrated how adding these 1,987 acres will not have a detrimental impact on achieving the zoned capacity of land already in the UGB and that Metro has not met its Goal 14 burden to show that additional residential capacity cannot be met on land already inside the UGB.

*Detailed Objections:*

- Metro has not demonstrated any policy changes needed inside the UGB that cannot be achieved during the 20-year planning period, or that are more likely to be achieved on lands added to the UGB.
- Metro has not demonstrated with substantial evidence why market conditions are a barrier to realizing zoned capacity inside the UGB, while not a barrier to new lands added to the UGB.
- Metro has not demonstrated how substantial areas added to the UGB and needing infrastructure will receive the financial investments to be “efficient” and “economic” compared to realizing the capacity inside the UGB, as required by Goal 14.

The objector’s proposed remedy is for the commission to reverse Metro’s decision to expand the UGB for additional residential capacity, or remand to Metro with directions to do so based on a reassessment of UGB’s residential capacity.

**b. Department Analysis and Recommendation.** See Section V.B, “The Quantity of Land Required for Needed Housing,” for the department’s analysis of Metro’s UGB submittal regarding compliance with the requirements of Goals 10 and 14 for residential land. The analysis and recommendation there address most of 1000 Friends’ first objection. The department recommends that the commission remand the housing and residential lands needs portions of Metro’s UGB submittal to either (1) demonstrate that the findings and conclusions contained in its housing needs analysis and residential land needs analysis are supported by substantial evidence, based on the population forecast of 625,183, or (2) develop the required findings and conclusions and reconsider whether or how much land needs to be added to the UGB.

The department addresses components of 1000 Friends’ objection here that are not addressed in Section V.B.

Part of 1,000 Friends objection rests on the assertion that it is at least as efficient to serve areas inside the UGB compared to expansion areas. The objection summarizes the assertion by stating, “Metro has not met its burden under Goal 14 to demonstrate that these new areas are more likely,

less expensive, more efficient, and more economical per dwelling unit to develop than inside the UGB - and within the same 20 years.” 1000 Friends, November 29, 2011 at 2.

Metro must address the Goal 14 need factors to establish a land need. After this need is established, Metro must demonstrate that the need cannot be reasonably accommodated on land already inside the UGB. If Metro demonstrates through its analysis that it cannot accommodate both of those needs inside, then it must determine where to expand the UGB consistent with ORS 197.298 and the Goal 14 location factors. 1000 Friends asserts that Metro has *not* demonstrated that the existing UGB cannot accommodate forecasted need for housing, an assertion with which the department agrees (see Section V.B of the director’s report), but the department’s findings are not based on a conclusion that land inside the UGB can be served with infrastructure more efficiently than expansion areas.

Consideration of infrastructure is required by Goal 14 Location Factor 2. Goal 14 does not require Metro to apply this factor in a manner that compares land already inside the UGB with potential expansion areas, but rather only among the lands analyzed for expansion. The location factors are used only for comparing alternative expansion areas. The department recommends that the commission deny this basis for the objection.

Additionally, objector 1000 Friends disagree with Metro’s contention that UGB expansion areas can be served with infrastructure any more efficiently than land already in the UGB and, “If ‘*market conditions*’ are a hindrance to realizing the zoned capacity inside the UGB, then they will also hinder realizing urban zoning on lands added to the UGB.” (emphasis in original) 1000 Friends, November 29, 2011 at 3. However, Metro need only establish an adequate factual basis to conclude that public facilities and services can reasonably be provided to the UGB expansion area over the planning period, without leaving the area already included within the UGB with inadequate facilities and services. In this case, for the cities of Beaverton, Hillsboro, and Tigard, which are adjacent to the proposed expansion areas, Metro must show that they’ve coordinated and analyzed the service providers have the capacity to serve the expansion areas that are proposed alongside their existing urban area that is already inside Metro’s UGB. Metro has done this. UGB Ord. Exhibit D. at 12, 17, 21.

The department finds that Metro’s assessment that there is no basis for assuming that infrastructure funds in the South Hillsboro, South Cooper Mountain or Roy Rogers West areas could be diverted to re-development of land inside the UGB is supported by substantial evidence. UGB Ord., Exhibit D at 8. The department recommends that the commission deny this basis for the objection.

## **2. Objection 5-2. Large-lot industrial land need.**

**a. Objection.** Objector 1000 Friends asserts that Metro has not justified a need for additional “large lots” for industrial use because (1) the need calculation is not based on a projection of a future need for large lots, (2) the need calculation is not consistent with the historical absorption of large lots, (3) Metro underestimates the large-lot inventory in the existing UGB, and (4) Metro might be improperly accounting for large industrial users that are sited on larger parcels than they are currently using. Objector 1000 Friends asserts that this violates Goals 2, 9, and 14.

The proposed remedy is for the commission to reverse Metro's UGB expansion of 310 acres for large-lot industrial sites, or remand the submittal with directions for Metro to do so. 1000 Friends, November 28, 2011 at 7-10. The objection incorporates the objections made by 1000 Friends of Oregon to the capacity ordinance in its February 17, 2011.

**b. Department Analysis and Recommendation.** See also Section V.C of the director's report ("Applicability of Goal 9 to Metro's employment land need analysis") and the department's response to objection 3-3 in subsection C.3 of this attachment.

Goal 14 requires that UGB amendments be based on a demonstrated need to accommodate, among other things, employment opportunities. As explained in Section V.C of the director's report, how Metro goes about demonstrating that it is providing an adequate supply of land for employment opportunities is largely undefined in statute and administrative rules. The decision must contain findings supported by evidence to explain the policy choices. The findings must have an adequate factual basis and must be reasonable. This means that there must be reasons or findings that create a logical path from fact through analysis to findings. Local decision-makers can choose which evidence to believe, so long as the evidence they rely on is "substantial evidence." Local governments must identify what substantial evidence they relied on to determine the future employment land supply.

Regarding objector 1000 Friends' contention that the large-lot need calculation is not based on a projection of future need, and that the need calculation is not consistent with the historical absorption of large lots, Metro has completed considerable analysis of forecasted demand for large lots for employment uses (not just industrial), based on the types of users and buildings likely to seek to locate in the region. Cap. Ord. Rec. at 4270-4292. It is correlated to the employment projection and analysis of current large employers. Ibid. The department finds no goal or statutory provision that requires Metro to base its analysis on a projection of past development or an assumption that past assumption rates will continue into the future. Instead, it is Metro's responsibility to accommodate employment opportunities. The regulatory structure provides Metro latitude in how it does that, and the data, findings and conclusions regarding the need for large-lot employment sites are documented. The department recommends that the commission deny this part of the objection.

Objector 1000 Friends makes a three-part argument that Metro underestimated the large-lot inventory in the existing UGB. The objector lists a number of reasons the existing inventory is too conservative. In light of the department's finding that Metro must complete an inventory of employment land in conformity with OAR 660-009-0015, we do not address the merits of these allegations (see subsection C.3 of this attachment regarding the inventory). Objector 1000 Friends cites the fact that "a Regional Industrial Lands Inventory is being conducted by Metro, the Port of Portland, Portland Business Alliance, Business Oregon, Metro, and NAIOP" as evidence that Metro underestimated the current supply of large employment sites. The objector does not cite to where this incomplete report is in the record, and the department cannot find that it is; it is reasonable that Metro would not rely on an incomplete report that is not in the record. The third part of this sub-assignment contends that all of the large employers expected to relocate to the Portland region during the planning period can be accommodated in the existing

UGB; the department does not find in the record that Metro’s analysis is limited to recruited employers, but includes all potential large-lot demand. (“[Large-lot need] is not based upon a strategy to attract new industries to the region. Cap Ord Rec 4089; 4118; 4270; 4273-4274; 4285-4292. Cap. Ord. Rec. at 4270-4292; UGB Ord.”) UGB Ord., Exhibit D at 9. The department recommends the commission remand the employment land inventory as explained in subsection C.3 of this attachment and deny the remainder of this objection.

The final part of this objection relates to accounting for economic opportunities related to employers that have sited on “larger parcels than they are currently using.” Objector 1000 Friends contends that possible “double-counting” of employment land need may have occurred because to the extent that large parcel users hold land for future business expansion opportunities, Metro has not established what portion of its identified employment need can be accommodated by such future business expansion during the planning period. The department has recommended that the commission remand the submittal to Metro to complete an inventory of employment land in conformity with OAR 660-009-0015. Such an inventory will facilitate an analysis of the concerns raised in this objection and provide a evidentiary basis to clarify whether and to what extent some of Metro’s identified employment need may be accommodated by future business expansion on such lands. The department recommends that the commission include this in the remand to allow Metro to address this objection based on its employment land inventory.

### **3. Objection 5-3. Status of Urban Reserves.**

**a. Objection.** Objector 1000 Friends contends that, since the commission’s decision approving Metro’s urban reserves was not complete (no signed order), it is not clear Metro could rely on the reserves in analyzing alternative locations for the UGB amendment, and should have applied ORS 197.298 as though there were no urban reserves. The proposed remedy is for the commission to remand the UGB amendment with directions to Metro to evaluate alternative expansion areas as though urban reserves do not exist. 1000 Friends, November 28, 2011 at 10-11.

**b. Department Analysis and Recommendation.** See subsection V.D.1 of the director’s report concerning compliance with ORS 197.298. The commission approved the urban reserves by voice vote in August 2011. Metro proceeded with consideration of the UGB expecting that the commission decision on reserves would be complete prior to the time Metro would act on the UGB. At the time of this report, the order implementing the commission’s decision on urban and rural reserves has not been issued by the department. While the department may agree with objector that it is not clear that Metro could rely on urban reserves that may be the subject of a future judicial review; the objector does not establish that Metro is prohibited as a matter of law from choosing to do so. Having not been presented an argument why the submittal does not comply with applicable law, the department cannot recommend under ORS 197.633(3)(c) that the commission sustain this objection.

### **4. Objection 5-4. Consideration of all first-priority land.**

**a. Objection.** Objector 1000 Friends contends that Metro, in its consideration of which land to add to the UGB, improperly narrowed its analysis to a portion of the urban reserves. That is, according to 1000 Friends, Metro should have applied ORS 197.298 and the Goal 14 location

factors to all of the land within urban reserves (assuming the reserves are valid; see objection 5-3), rather than only a portion of the area. The proposed remedy is for the commission to remand the submittal to Metro for application of ORS 197.298 and Goal 14 location factors to the entirety of the urban reserves. 1000 Friends, November 28, 2011 at 11-12.

**b. Department Analysis and Recommendation.** The department recommends the commission sustain this objection in part and remand the UGB decision for additional findings demonstrating that the decision on selection of areas considered for inclusion in the UGB complies with OAR 660-024-0060 and the Goal 14 location factors. See subsection V.E.2 of the director's report for an explanation of the department's analysis of Metro's findings regarding the method employed for selecting study areas for possible UGB expansion. The objection states that Metro was obligated to apply ORS 197.298 and the Goal 14 location factors to the entire 28,256 acres. The objection letter also quotes a letter submitted to Metro by the department stating that the Goal 14 factors should be applied to the whole area.

Objector 1000 Friends' contention that ORS 197.298 applies stems from the Court of Appeals' opinion in a case regarding the McMinnville UGB. Objector 1000 Friends contends that Metro must consider lower-priority lands under ORS 197.298 (3).<sup>2</sup> That section of statute, however, is permissive; since Metro considered only lands in the highest priority under ORS 197.298 (1)—urban reserves—the UGB location analysis did not need to address ORS 197.298 (3).

Regarding the Goal 14 location factors, objector 1000 Friends states that Metro was required to apply the factors to the entire area within urban reserves. The objector bases this on its reading of the McMinnville Court of Appeals opinion. However, the commission adopted administrative rules specific to UGB amendments (OAR chapter 660, division 24) after McMinnville amended its UGB. Those rules applied at the time Metro amended its boundary. The relevant rule is OAR 660-024-0060(1), which states:

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.

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<sup>2</sup> (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.

\* \* \*

(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.

As stated in the director's report, the department does not find evidence that Metro's narrowing of the acreage under consideration was based on whether the land was "suitable to accommodate the need." To the extent the findings explain on what basis the selection occurred, it appears urban reserve lands that were removed from consideration prior to application of the Goal 14 location factors may have been eliminated for reasons other than because Metro made a determination that they were unsuitable.

The objection quotes a September 23, 2011 letter from department to Metro suggesting that Metro was required to apply Goal 14 location factors to the entirety of the urban reserves (UGB Rec. at 883). The objection edited our letter, which actually asked Metro to either explain better how the narrowing of lands under consideration was decided *or* apply the factors to the whole area. Our comment letter was not accurate in that it did not address that the factors must be applied to all *suitable* land.

Nevertheless, the department does not find evidence that Metro employed proper considerations when selecting which lands to consider for locating UGB expansions.

#### **5. Objection 5-5. South Hillsboro Area – Industrial Use .**

**a. Objection.** Objector 1000 Friends contends that in evaluating the South Hillsboro area, Metro considered it only for residential development, not for large-lot industrial need. The objection goes on to state that, because Metro concluded it needed additional capacity for large-lot industrial beyond the current UGB, it must evaluate the South Hillsboro area for all UGB expansion needs. The proposed remedy is for the commission to remand the decision with directions to Metro to evaluate the South Hillsboro area for all UGB expansion needs, consistent with Goal 14, ORS 197.298, and Metro's code. 1000 Friends, November 28, 2011 at 12-14.

**b. Department Analysis and Recommendation.** 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. 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. 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.

Metro's capacity determination to add approximately 2,000 acres to the UGB to meet needs that Metro's efficiency measures were unable to accommodate are all from the region's designated urban reserves, the highest priority of land under ORS 197.298; therefore we find the Metro has appropriately applied ORS 197.298. The department's analysis will focus on the locational

analysis requirements of Goal 14 alone. See also Section V.D, “Boundary Location,” in the director’s report.

The location of the UGB and changes to the boundary must be determined by evaluating alternative boundary locations consistent with consideration of the Goal 14 location factors. Metro analyzed 9,800 acres as potential for inclusion in the UGB. UGB Ord. Exhibit D at 2. (A map of the analysis areas is included as Attachment C of the director’s report.) The alternatives analysis began with an evaluation of the 9,800 acres, utilizing the Goal 14 location factors and other factors from the Metro Code. The department has found that this selection of the original analysis areas was in error (see subsection V.D.2 of the director’s report concerning the use of local factors). Additionally, Metro applied location factors not found in Goal 14 in a manner that prevents the department from finding that the UGB decision complies with the goal (see subsection V.D.3 of the director’s report).

Regarding whether Metro considered the South Hillsboro area for industrial use, each analysis area description includes a summary that provides basic quantitative information for each area, descriptive information about site characteristics, development patterns, physical attributes, environmental features and the feasibility of providing urban services. UGB Rec. at 477-494, 598-607. This analysis for South Hillsboro does not expressly consider potential future uses of the land. The summary table of the area (UGB Rec. at 598) provides values for “vacant buildable acreage” and “estimated dwelling unit capacity,” but nothing in the space for “estimate employment acres.” However, in its findings regarding the selection of the North Hillsboro area as an industrial expansion area, a comparison with the South Hillsboro area was made. UGB Ord., Exhibit D at 27.

In conclusion, the department finds that Metro’s analysis of alternative UGB expansion areas was not completed in compliance with Goal 14 and the location factors. We do find evidence that Metro considered South Hillsboro for large-lot industrial use. The department recommends that the commission deny this objection.

**6. Objection 5-6. South Hillsboro Area – Substantial Evidence.**

**a. Objection.** Objector 1000 Friends contends Metro’s findings for some Goal 14 location factors are not supported by the underlying record. The specific allegations are that Metro did not (1) compare the cost effectiveness of developing alternative UGB expansion areas with the cost of accommodating the same number of housing units and jobs by meeting the zoned capacity inside the UGB, and (2) compare expansion to refill inside the UGB as a whole or even within Hillsboro. The objection asserts that Metro’s decision to expand the UGB into the South Hillsboro area does not satisfy the requirements of Goal 14, Location Factor 2, and Metro Code Factor 2.

The proposed remedy is for the commission to remand Metro’s decision with directions to determine whether the South Hillsboro area complies with Goal 14 and related statutes and the Metro Code, or remove the South Hillsboro area from the UGB expansion. 1000 Friends, November 28, 2011 at 14-17.

**b. Department Analysis and Recommendation.** Goal 14 requires application of the boundary location factors within the highest available priority of lands, in this case urban reserves. This analysis is to determine which land is best suited for expansion to meet the identified need. Metro's role is to first demonstrate the need through appropriate analysis of the current UGB. Once a land need is established that Metro determines cannot be reasonably accommodated within the current UGB, the locational analysis comes into play, comparing candidate areas for potential inclusion in the UGB. Goal 14 does not require Metro to complete a locational analysis on land *already inside the UGB*, or a comparison of potential expansion areas with land already inside the boundary. See the department's response to objection 5-1 in subsection E.1 of this attachment. The department recommends that the commission deny this objection.

### **7. Objection 5-7. North Hillsboro Area.**

**a. Objection.** Objector 1000 Friends asserts that Metro's findings supporting expanding the UGB into the North Hillsboro area do not meet the requirements of Goal 14, ORS 197.298, and the Metro Code because (1) industrial site characteristics used for the alternatives analysis have not been identified, (2) Metro's analysis of Goal 14 and the Metro Code is based on a different geographical area than the North Hillsboro area, and (3) Metro's findings are insufficient to determine whether designation of the area satisfies a Metro Code provision regarding equitable and efficient distribution of housing and employment.

The objector's proposed remedy is for the commission to remand the decision to Metro with direction to examine whether expansion of the UGB in the North Hillsboro area meets the legal requirements, to make additional findings, or remove the area from the UGB. 1000 Friends, November 28, 2011 at 17-19.

**b. Department Analysis and Recommendation.** The department has, on other grounds, recommended that the commission remand the UGB with instructions for Metro to apply the Goal 14 and Metro Code location factors in a manner consistent with Goal 14. See subsection V.D.3 of the director's report.

Regarding the first point in this objection, local governments may remove land from consideration for specific land needs (e.g., high-density residential, industrial) based on the suitability of the land for that use. The findings that the objection quote, however, are from the comparison of areas for the purposes of applying the location factors. Metro did not eliminate the alternative areas from consideration, but rather weighed and balanced them considering proximity to a freeway interchange. Metro explained the bases on which it selected one area over another. The department recommends the commission deny this part of the objection.

Goal 14 requires that a local government apply the location factors to "study areas" and compare alternatives based on this analysis; the department finds that it is not necessary to reconsider the alternatives analysis if only a part of the study area ultimately gets included in the UGB, unless the change is such that the analysis of the whole study area no longer provides substantial evidence upon which Metro could make a decision regarding the portion of the study area. The department recommends the commission deny this part of the objection.

The department found that Metro inappropriately considered the Metro Code location factors by considering them concurrently with the Goal 14 location factors. See subsection V.D.3 of the director's report. Because the department found that the local factors were applied fundamentally in error, we do not decide here whether Metro's findings concerning this particular factor, as objected to by 1000 Friends, are sufficient.

#### **F. Coalition for a Prosperous Region**

This objector submitted letters with a single objection to the capacity ordinance on February 23, 2011 and April 4, 2011. The substance of the letters was the same. Coalition for a Prosperous Region (hereafter, "CPR") is represented by Dana L. Krawczuk of Ball Janik, LLP.

**a. Objection.** Objector CPR contends that the capacity ordinance is ambiguous regarding the need for large-lot industrial land; the UGR projects 200 to 1,500 acres needed for large-lot employment use and there is nothing to support that the capacity ordinance has accommodated a portion of this need so that only 310 acres should be added to the UGB. The proposed remedy is for the commission's approval of the capacity ordinance and revise Sections 13 and 18 by adding specific language. In the alternative, if the commission does not have the authority to revise the capacity ordinance, the remedy is to request that the approval order explicitly direct Metro to consider the full range of 200 to 1,500 acres needed for large lot industrial uses, and their site characteristics, in the 2011 UGB review. CPR, April 4, 2011 at 2-4.

**b. Department Analysis and Recommendation.** See the department's response to objection 3-3 in section C.3 of this attachment. There, the department concludes that Metro did not complete an inventory of employment in the manner required by OAR 660-024-0050(1). The department is recommending remand on that basis. If the commission directs Metro to complete an employment land inventory as recommended, objector CPR's concerns regarding whether the existing UGB will accommodate large-lot industrial need may be addressed.

#### **G. South Hillsboro Partners.**

South Hillsboro Partners, represented by Jeff Bachrach of Bachrach.Law, P.C., submitted letters on February 23, 2011 and November 28, 2011. The February letter included four objections to the capacity ordinance, relating to the timing of UGB decisions and the amount of residential capacity that needs to be added. The November letter supports the actions of Metro in adopting UGB ordinances. In light of the party's support for the eventual actions taken by Metro, the department declines to address the former objections.

#### **H. Westside Economic Alliance.**

Westside Economic Alliance (hereafter, "WEA"), submitted a letter containing five objections to the capacity ordinance, addressed below as objections 8-1 to 8-5, on February 21, 2011.

##### **1. Objection 8-1. Assumed decline in manufacturing employment.**

**a. Objection.** Objector WEA asserts that the UGR and capacity ordinance are in error for assuming a decline in manufacturing employment during the next 20 years, with a gradual shift

to health care jobs, finance and professional services. The proposed remedy is to address and correct the deficiencies and omissions noted in the objection. WEA, February 21, 2011 at 2.

**b. Department Analysis and Recommendation.** The department recommends the commission deny this objection. Metro did not significantly change the assumptions that informed the analysis of employment land need between the adoption of the capacity ordinance, when this objection was made, and the decision on the UGB. However, objector WEA does not explain how the assumption of declining manufacturing employment affected the analysis of employment land need in a manner that is inconsistent with a statute, goal or administrative rule.

**2. Objection 8-2. Need for large-lot industrial sites.**

**a. Objection.** Objector WEA contends that Metro's recommendation for 310 acres to be designated for large-lot development is unrealistically low and will unreasonably limit economic growth opportunities for the region. The remedy goes unstated, but is presumably to remand the decision to Metro with instructions to address and correct this deficiency. WEA, February 21, 2011 at 3.

**b. Department Analysis and Recommendation.** This objection does not raise an issue of compliance with an applicable statute, goal or administrative rule adequately to allow the department to respond. The department recommends the commission deny this objection.

**3. Objection 8-3. Capacity of existing UGB.**

**a. Objection.** Objector WEA asserts that Metro relies on inconsistent and inflated inventories of developable land inside the UGB to meet the region's need for housing and employment. The proposed remedy goes unstated, but is presumably to remand the decision with instructions to Metro to employ a different set of assumptions in its analysis of the current UGB capacity to accommodate employment. WEA, February 21, 2011 at 3-4.

**b. Department Analysis and Recommendation.** See Section V.B of the director's report concerning the department's analysis of residential land needs. The department cannot conclude that the analysis provided by Metro establishes the 20-year housing need. Regarding employment land, see the department's response to objection 3-3 in subsection C.3 of this attachment. The department concludes there that Metro must complete an inventory of employment lands within the existing UGB that addresses site suitability. The department's recommendations that the commission remand the UGB for further analysis provided in those sections adequately address this objection from WEA.

**4. Objection 8-4. Location of employment growth.**

**a. Objection.** Objector WEA asserts that Metro assumes future employment growth will be concentrated near existing urban centers and infrastructure services to limit needs for future UGB expansions. The proposed remedy goes unstated, but is presumably to remand the decision with instructions to Metro to employ a different set of assumptions in its analysis of where in the region employment growth will occur. WEA, February 21, 2011 at 4.

**b. Department Analysis and Recommendation.** Metro’s method is based on certain assumptions about local governments’ ability to achieve design capacity. Cap. Ord. Rec. at 4040-4088. The objector disputes the assumptions as being unrealistic. The department does not find that Metro has assumed industrial employment will become concentrated in centers and corridors. The findings and conclusions in the capacity ordinance (Cap. Ord., Exhibit P) address “employment” in centers and corridors, but this is not specified as industrial employment, and when employment use is defined, it is described as “commercial” (for example, Cap. Ord., Exhibit P at 4). The department recommends that the commission deny this objection.

**5. Objection 8-5. Applicability of Goal 9.**

**a. Objection.** Objector WEA questions whether Goal 9 should apply to Metro and asserts that Metro directly influences Goal 9 compliance obligations imposed on local jurisdictions. The objector does not propose a remedy. WEA, February 21, 2011 at 5.

**b. Department Analysis and Recommendation.** The department recommends the commission deny this objection. The objection does not identify a provision in a goal, rule, or statute that Metro’s UGB decision violates. See Section V.C of the director’s report regarding the applicability of Goal 9 to Metro’s UGB decision.

**I. Elizabeth Graser-Lindsey.**

This objector submitted a letter containing eight objections to the capacity ordinance dated February 19, 2011. She sent another letter, dated March 24, 2011, containing another objection.

**1. Objection 9-1.**

**a. Objection.** Objector Graser-Lindsey asserts that Metro has violated Goals 3, 4, and 14 concerning the land along Beaver Creek Road near Oregon City. She states that the 2002 and 2004 UGB expansions included resource lands that were justified to meet the need for industrial land and now are being proposed to be used for residential land. The proposed remedy is to remove the land from the UGB if it is no longer needed as industrial land. Graser-Lindsey, February 19, 2011 at 1.

**b. Department Analysis and Recommendation.** The department recommends that the commission deny this objection. The factual basis and analysis for the map amendment may be found at Cap. Ord. Rec. 4114-4116; 4304-4319; 6897-6898; 8160-8162; and 8202-8210. Goal 14 requires a 20-year forward estimation of land needed within the UGB, and Goal 2 requires an adequate factual basis for the determination. Metro amended the map because the UGR showed a surplus of general employment land and a deficit of residential land. Goal 14 requires Metro to accommodate land need within the existing UGB prior to expanding the boundary. The land is not required to be removed from the UGB if Metro continues to show a need. Goals 3 and 4 do not contain provisions for consideration during analysis of UGB amendments or planning for land inside UGBs.

**2. Objection 9-2.**

**a. Objection.** Objector Graser-Lindsey asserts that Metro has violated Metro Ordinance 02-296B, Metro Ordinance 04-1040B and LCDC Partial Approval and Remand Order 03-

WKTASK-1524. She also states that in 2004 Metro Ordinance 04-1040B was adopted for the sole purpose of selecting the additional industrial land as required by LCDC's remand and now Metro intends to violate the LCDC remand and its own ordinances which committed 308 acres of land in the Beaver Creek Road Concept Plan area to Title 4 industrial use. The proposed remedy is not specifically stated, although it appears to be the same as objection 9-1—to remove the land from the UGB if it is no longer needed as industrial land.

**b. Department Analysis and Recommendation.** The department recommends that the commission deny this objection. This objection is essentially the same as objection 9-1, above, and the department's response is essentially the same as well. Metro's previous actions to include the land in the UGB for industrial use do not bind Metro to forever retain that designation. Metro's decision to amend the Title 4 map to change the designation of certain properties does not violate a former LCDC order; Metro has made findings why it needed the residential capacity. Ibid.

### **3. Objection 9-3. Goal 2 factual base**

**a. Objection.** Objector contends that Metro violated Goal 2 (adequate factual basis) by revising its Title 4 Employment and Industrial Areas Map to remove a portion of the Beaver Creek Plan area and re-designating the portion as residential land. Graser-Lindsey, February 19, 2011 at 4.

**b. Department Analysis and Recommendation.** The department recommends the commission deny this objection. Ordinance. No. 10-1244B, section 4, Exhibit D, amended the Title 4 map as objector contends. Rec. 5; 24 (map). Metro made the map change in part to comply with Goal 14: the UGR determined that the region had more employment capacity than needed and less residential capacity than needed. The factual basis and analysis for the map amendment may be found at Rec. 4114-4116; 4304-4319; 6897-6898; 8160-8162; and 8202-8210.

### **4. Objection 9-4. Goal 2 coordination**

**a. Objection.** Objector Graser-Lindsey asserts that the Metro did not coordinate properly with Oregon City, in violation of Goal 2. The objection alleges that the city didn't know that Graser-Lindsey, February 19, 2011 at 5.

**b. Department Analysis and Recommendation.** The department recommends that the commission deny this objection. Metro supplied a letter from Oregon City dated September 27, 2010 that stated:

On September 1, 2010, the City Commission for Oregon City reviewed the 2010 Growth Management Assessment (GMA) and would like to submit the following information into the record. The Commission supports the proposed amendment to the Title 4 Map designation within the Beaver Creek Road Concept Plan area to reflect the Concept Plan land uses for the study area. The map amendment will result in a reduction of the current industrial/employment designation on the 2040 map to be consistent with the proposed employment lands as depicted on the Beaver Creek Road Concept Plan.

This letter was not in Metro’s original submittal, but it was in the record. Metro is permitted to supplement the submittal as set forth in OAR 660-025-0130.

**5. Objection 9-5. Goal 1**

**a. Objection.** Objector Graser-Lindsey asserts that Metro and Oregon City did not provide proper notice of hearings where the status of the Beavercreek Road area was being considered, and that this violated Goal 1, citizen involvement, Goal 2, and the Metro Code. Graser-Lindsey, February 19, 2011 at 7-10.

**b. Department Analysis and Recommendation.** The department recommends that the commission deny this objection. Objector Graser-Lindsay relates her efforts to learn that Metro was considering a designation change for the Beavercreek Concept Plan that was brought into the UGB in 2002 and 2004 and designated as a Title 4 Industrial Area as part of Metro Ordinance No. 10-124. On review of a procedural issue, the commission reviews whether Metro “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.” ORS 197.633(3)(c). To establish a violation of Goal 1, an objection must show that the local government failed to adhere to the provisions in its acknowledged citizens involvement program. Objector specifies Metro Code 3.09.30 as providing an explanation of how notice requirements are to be effectively met, *i.e.*, as the applicable local procedure. The department understands the provisions of Metro Code 3.09 to apply to local government boundary changes. It is unclear the application of that provision to the circumstances objector describes. Additionally, the objection demonstrates that, in response to her inquiry, objector was provided notice of the meeting. In that circumstance, objector has difficulty establishing that the substantial prejudice aspect of ORS 197.633(3)(c) is met.

**6. Objection 9-6. Large-lot industrial need.**

**a. Objection.** Objector Graser-Lindsey asserts that the Metro Ordinance 10-1244 explains that the Metro region is in need of more large-lot industrial lands to accommodate the demand identified in the 2009 UGR for large sites and that the Beavercreek Road Concept Plan area includes significant amounts of large-lot industrial land. She also states that it is a violation of land use law for Metro to re-designate large-lot industrial land to residential land when it needs just such land and it violates the law to neglect to count the land it has expressly put aside for that purpose making more UGB expansions necessary. Graser-Lindsey, February 19, 2011 at 11-12.

**b. Department Analysis and Recommendation.** The department recommends that the commission deny this objection. Goal 14 requires an estimation of land needed within the UGB. There is no requirement to maintain former conclusions regarding need in light of new data and evidence. Metro found a greater need for residential land than for employment land. The objector has not established that the land in the Beavercreek Road area satisfies Metro’s need for large-lot industrial sites.

### **7. Objection 9-7. Metro Code violation**

**a. Objection.** Ms. Graser- Lindsey asserts that Metro has violated Metro code 3.07.450 G, Correction, concerning the land along Beavercreek Road near Oregon City. More specifically, that Metro cannot justify the re-designation of a portion of the Beavercreek Road Plan area from large-lot industrial land to residential land as a “correction” under Metro Code. Graser-Lindsey, February 19, 2011 at 12-16. Graser-Lindsey, February 19, 2011 at 7-10.

**b. Department Analysis and Recommendation.** The department recommends the commission deny this objection. The relevant provision of Metro Code state:

The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan. Metro Urban Growth Management Functional Plan, Section 3.07.450 G. Ordinance Attachment 3. Rec. 8451

The factual basis and analysis for the map amendment may be found at Cap. Ord. Rec. at 4114-4116; 4304-4319; 6897-6898; 8160-8162; and 8202-8210. Metro Code 3.07.450 allows Metro Council to amend the Employment and Industrial Areas map to be updated or corrected in order to achieve the new policies and assumptions for the Goal 14 requirement of the current 20-year land needed within the UGB. Metro was correcting for an undersupply of residential land in the UGB.

### **8. Objection 9-8.**

**a. Objection.** Objector Graser-Lindsey objects to Metro’s lack of point-specific population and employment forecasts. Graser-Lindsey, March 24, 2011 at 1.

**b. Department Analysis and Recommendation.** The department recommends the commission deny this objection. Metro adopted point-specific forecasts later in the UGB amendment process. UGB Ord. at 2.

### **J. Melissa Jacobsen**

This objector submitted a letter on April 10, 2011. The letter objects to land north of Council Creek near Cornelius being included in an urban reserve. The letter does not address the capacity ordinance or UGB ordinance decisions. Consequently, it does not identify relevant issues or suggest relevant solutions for consideration in this proceeding. The objection is not valid.

### **K. Christine Kosinski**

This objector submitted a letter containing one objection to the capacity ordinance on February 17, 2011.

**a. Objection.** Objector Kosinski objected to the capacity ordinance because she did not receive notice of the public hearings in spite of being involved in the Beavercreek Road Concept Plan process. The proposed remedy is for the commission to remand Ordinance No. 10-1244 so the amendment to the growth concept designation of the Beavercreek Road Concept Plan area from industrial to residential to allow for citizen involvement.

**b. Department Analysis and Recommendation.** Metro describes its public involvement program and supporting materials in the record in the findings. Cap. Ord. Rec. at 89. The record indicates that Ms. Kosinski participated in the proceedings leading to adoption of Ordinance No. 10-1244B. The department recommends that the commission deny this objection.

**L. David Myers**

This objector submitted a letter on November 28, 2011 objecting to expansion of the UGB west of Aloha for residential use.

**a. Objection.** Objector Myers contends that adding land to the UGB west of Aloha will add significant traffic on a system that already has serious problems. The proposed remedy is not stated, but it apparently is to remove this area from the UGB.

**b. Department Analysis and Recommendation.** The department recommends the commission deny this objection. Traffic and other infrastructure considerations are one of several location factors in Goal 14 that Metro must consider when deciding where to expand the UGB. Metro considered these factors (and others; see subsection V.D.3 of the director's report) in making the UGB decision. UGB Ord. at 11-16. No individual factor is determinative, as they must be weighed and balanced to arrive at a decision. Objector Myers has not demonstrated that Metro failed to appropriately consider the Goal 14 location factors.

**M. Jim Standring**

This objector submitted a letter on November 28, 2011, objecting to the UGB decision, specifically that Metro erred in not including his tract north of Highway 26 and west of Helvetia Road, and certain adjacent land, in the UGB. The objector is represented by Mark Greenfield. The department understands the objection to state two grounds for objection: (1) Metro erroneously applied the locational factors of Goal 14, OAR 660-024-0060, and Metro Code 3.07.1425(C) in not adding the Shute Road Interchange Analysis Area 8B (Area 8B) to the UGB; and (2) Metro failed to add enough land to meet its identified need for large lot industrial land. The proposed remedy is for the commission to remand the UGB decision to Metro with direction to add the Area 8B to meet the legal requirements.

**1. Objection 13-1.**

**a. Objection.** Objector Standring asserts that Metro's findings for not expanding the UGB into the Area 8B do not demonstrate compliance with the requirements of Goal 14, OAR 660-024-0060, and the Metro Code. This objection raises both legal interpretation and adequacy of the findings concerns regarding Metro's application of the location analysis requirements in Goal 14, OAR 660-024-0060, and the Metro Code. We consider the adequacy of the findings aspects of the objection below.

**b. Department Analysis and Recommendation.** The department understands the primary basis of the objection to be that Metro included a portion of Hillsboro North Analysis Area 8A in the UGB when the record included evidence that the cost of providing public facilities and services to Area 8A is significantly greater per net buildable acre than the cost of

providing such services to Area 8B. Objector argues “[s]electing a UGB expansion area for which the costs per net developable acre of providing services are substantially higher than for other available sites is not consistent with Goal 14’s boundary locational factors, OAR 660-024-0060(3)-(8), and Metro Code 3.07.1425(C).” Objector is correct that the cited provisions require Metro to undertake an 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. However, to the extent that objector asserts that that comparative analysis is determinative, the department finds that contention unsupported by the law. OAR 660-024-0060(3) provides:

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.

In adopting that rule, the commission was capturing judicial interpretations. For example, in *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 17, 38 P3d 956 (2002), the Court of Appeals addressed arguments concerning Metro’s application of the public facilities and services factor under the prior version of Goal 14:

For example, with respect to Goal 14, factor 3, petitioners appear to believe that a local government amending its UGB must find that public facilities and services can and will be economically provided to the area to be included in the UGB before the amendment can be approved. As LUBA explained, however, MC 3.01.020(b)(3) and Goal 14, factor 3, do not stand alone but represent one of several factors to be considered and balanced when amending a UGB. In other words, whether or not the planning jurisdiction amending its UGB finds conclusively that needed public facilities and services can be provided in an orderly and economic fashion does not alone determine whether the amendment should be allowed. The Metro Code provision implementing Goal 14, factor 3, represents a consideration that must be balanced against the other factors. No single factor is of such importance as to be determinative in an UGB amendment proceeding, nor are the individual factors necessarily thresholds that must be met.

The department recommends that the commission reject the aspect of the objection that contends that Metro erred as a matter of law in selecting a UGB expansion area for which the costs per net developable acre of providing services are substantially higher than for other available sites. Such considerations are relevant and required, but they are not determinative. The department does not understand objector Standing to contend that Metro did not engage in a consideration of the factors, but that Metro’s findings are inadequate, a contention we turn to next.

## **2. Objection 13-2.**

**a. Objection.** Objector Standing asserts that Metro inadequately considered the facts when applying the Goal 14 location factors, and that proper consideration would have resulted in the conclusion that the 70-acre tract owned by the objector would have been selected for inclusion in the UGB instead of another tract that was. The objection contends that Metro gave inadequate attention to OAR 660-024-0060(8), which addresses consideration of provision of public facilities and services when applying the location factors.

**b. Department Analysis and Recommendation.** The department recommends the commission deny this objection. As discussed above, the Goal 14 location factors are not criteria that Metro must independently satisfy, but are instead factors that must be considered, weighed, and balanced in consideration of alternative areas for inclusion in the UGB. The objection does not allege that Metro failed to carry out this consideration and balancing, but rather that the objector disagrees with the conclusions.

A premise of the objection is that Metro erred in not considering the suitability of Area 8B in isolation instead of including it in the 717-acre Goveland Road study area. Objector argues “A proper analysis should have compared Area 8A as approved with Area 8B as suggested.” Objector Standing contends this violated the intent of OAR 660-024-0060(6) and (8). Objector contends that since Metro should have, but did not consider Area 8B on its own merits, that obligation falls to the commission to do. Objector misunderstands the commission’s role. Perhaps the department or the commission might reach a different conclusion than Metro were it to undertake the required considering and balancing of the locational factors regarding Area 8B and Area 8A. But that is not the errand before us. On review, the department and commission review what Metro submitted, not what Metro could have submitted. The department’s evidentiary review is confined to the local record, and the inquiry is whether there is substantial evidence in the record as a whole to support Metro’s decision. ORS 197.633(3).

For reasons related to other objections, the department recommends the commission remand the UGB decision because Metro has not demonstrated that the decision, as a whole, complies with the Goal 14 location factors. See subsection V.D.3 of the director’s report. Because the remand is to apply the locational factors analysis to all urban reserve areas, Metro is afforded the opportunity to consider and address the concerns raised by objector in the that remand proceeding to the extent it deems appropriate. If Metro reconsiders the configuration of comparative study areas or its conclusions under the Goal 14 location factors on remand, Metro may consider the objections raised regarding Area 8B.

### **3. Objection 13-3.**

**a. Objection.** Objector Standing asserts that Metro failed to add enough land to meet its identified need for large-lot industrial land. Objector argues that because the UGR identified a need for 200 to 800 acres for additional capacity for industries that need large parcels, even with the addition of Area 8A, a deficit of over 200 acres that are suitable for large lot industrial development remains and that the appropriate place to sate that need is Area 8B.

**b. Department Analysis and Recommendation.** See the department’s response to objection 3-3 in section C.3 of this attachment. There, the department concludes that Metro did not complete an inventory of employment in the manner required by OAR 660-024-0050(1). The department is recommending remand on that basis.

# UGB Alternatives Analysis Areas

	UGB analysis areas		Reserve study area
	Urban reserve areas		Urban centers
	Rural reserve areas		Urban growth boundaries
	Undesignated areas		

Attachment 1 to Staff Report Ord. No. 11-1264 A

**Attachment C to Director's Report**



