



# Oregon

Kate Brown., Governor

Department of Land Conservation and Development

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



May 15, 2015

TO: Land Conservation and Development Commission

FROM: Jim Rue, Director  
Rob Hallyburton, Community Services Division Manager

SUBJECT: **Agenda Item 17, May 20-21, 2015, LCDC Meeting**

## **WOODBURN URBAN GROWTH BOUNDARY REMAND**

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

#### **A. Background**

This item concerns the City of Woodburn's urban growth boundary (UGB) amendment. The submittal was composed of elements included in the city's periodic review work program (establishing need for land) and one element (the UGB location analysis) submitted in the manner provided for a periodic review task. In January 2014, the Oregon Court of Appeals issued an opinion reversing and remanding the Land Conservation and Development Commission (LCDC or commission) decision approving the city's UGB amendment. On July 7, 2014, the Department of Land Conservation and Development (DLCD or department) received the court's appellate judgment, which transferred jurisdiction over the decision back to the commission.

At its July 2014 meeting, the commission directed the department to initiate a mediation assessment. The department did so, and the parties to the case ultimately entered into mediation, which produced a Framework for Mediation Settlement Agreement (Framework), attached as Attachment A.

The City of Woodburn and Marion County are now requesting that the commission remand the UGB amendment, so that the city and county can make a revised submittal (anticipated to be made later this year). Attachment B.

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

This is a hearing on a remand from the Court of Appeals of a prior commission order approving work task 2 of the City of Woodburn's periodic review and an expansion of the city's UGB. Testimony is limited to the parties to the appeal. At the conclusion of the hearing, the commission will deliberate and make a decision whether to re-approve the city's decision, or remand the decision to the city and county for further action.

### **C. Staff Contact Information**

If you have questions about this report please contact Rob Hallyburton, Community Services Division Manager, at 503- 934-0018 or [rob.hallyburton@state.or.us](mailto:rob.hallyburton@state.or.us).

## **II. DISCUSSION**

The commission's approval of the work task 2 of the Woodburn's periodic review and Woodburn UGB amendment has been remanded twice by the Court of Appeals, once in 2011 and again in 2014. Given the two remands, the department recommended that the parties enter into mediation to determine whether a resolution could be reached. As reported above, the parties to the latest appeal reached agreement on a Framework, which, if implemented, will result in an expansion of the UGB.

Accordingly, the department recommends that the commission remand work task 2 of Woodburn's periodic review and UGB amendment submittal in its entirety, to allow the city to reconsider the matter and submit a revised amendment to the department (anticipated later this year). The city and county will hold public hearings on remand, and make a joint submittal to the department.

## **III. DEPARTMENT RECOMMENDATION AND PROPOSED MOTION**

The department recommends that the commission remand the City of Woodburn's periodic review work task 2 and the UGB amendment to the City of Woodburn and Marion County for further action.

***Proposed motion:*** I move the commission remand the City of Woodburn's periodic review work task 2 and UGB amendment for further action and establish a resubmittal date of December 1, 2015.

***Alternative motion:*** I move the commission approve the City of Woodburn's periodic review work task 2 and UGB amendment, and direct the department to prepare draft findings for consideration by the commission.

## **IV. ATTACHMENTS**

- A. Framework for Mediation Settlement Agreement
- B. Letter from City of Woodburn and Marion County requesting remand

**FRAMEWORK FOR  
MEDIATION SETTLEMENT AGREEMENT**

This Framework for Mediation Settlement Agreement (“Agreement”) is made by and between the City of Woodburn (“City”), Marion County (“County”), Oregon Department of Land Conservation and Development (“DLCDC”), 1000 Friends of Oregon, Friends of Marion County, Theodora Schrier, Kathleen Carl, Diane Mikkelson and Marion County Farm Bureau (“Farm Bureau”) (collectively the “Parties”).

**RECITALS**

- A. The Parties entered into mediation on March 30, 2015 to resolve issues and continued litigation related to City’s urban growth boundary (UGB) amendment.
- B. The Parties have successfully reached agreement on a conceptual map of the Woodburn UGB amendment.
- C. The Parties now desire to begin the process of implementing this Agreement and provide a timeline to complete the UGB amendment.

**NOW, THEREFORE**, the parties hereby agree as follows:

**AGREEMENT**

**ARTICLE 1**

**Proposed UGB Amended**

- 1.1 **Amendment to Proposed UGB.** The Parties agree the City’s proposed UGB approved in LCDC order dated March 16, 2011 shall be amended as shown in the attached Exhibit A and generally described as follows:
  - 1.1.1 Addition of a 20 year expansion limitation condition west of Butteville Road NE.
  - 1.1.2 Addition of a 20 year expansion limitation condition northeast of Hwy 99 E.
  - 1.1.3 Not include the approximately 230 acres east of the intersection of Butteville Rd NE and Parr Rd NE and designate the land as Urban Reserve.
  - 1.1.4 Not include the approximately 121 acres of residential land south of Crosby Rd.
  - 1.1.5 Not include the approximately 14 acres of residential land east of Hwy 99E.

**ARTICLE 2**

**Settlement of Litigation and Challenges**

- 2.1 **Challenges and Appeals.** Upon completion of all Procedures identified in Exhibit B of this Agreement, and the expiration of any relevant appeal periods, the Parties agree to not challenge, appeal or bring other action to prevent implementation of the amended UGB.

**ARTICLE 3**  
**Procedures and Timeline**

3.1 **Procedure and Timeline.** The Parties agree to the Procedure and Timeline set forth in the attached Exhibit B.

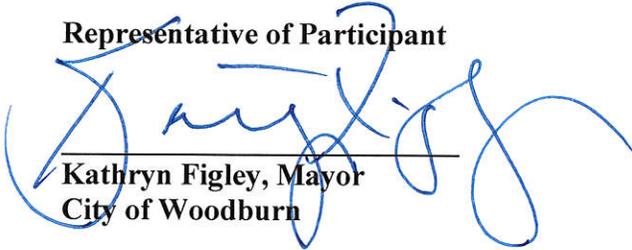
**ARTICLE 4**  
**Status of Mediation**

- 4.1 **Confidentiality.** Mediation confidentiality continues for Procedures 6 and 7 in Exhibit B. The Parties are not subject to confidentiality restrictions with respect to all other Procedures identified in Exhibit B. The Parties agree that this Agreement is not confidential and may be shared.
- 4.2 **Use of Mediators if Necessary.** The Parties agree to engage the assistance of mediators as necessary to implement this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed, by their duly authorized representatives.

Representative of Participant

Date

  
\_\_\_\_\_  
Kathryn Figley, Mayor  
City of Woodburn

4-21-10

Representative of Participant

Date

\_\_\_\_\_  
Janet Carlson, Chair  
Marion County

Representative of Participant

Date

\_\_\_\_\_  
Sam Brentano  
Marion County

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Representative of Participant

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Kathryn Figley, Mayor  
City of Woodburn

Representative of Participant

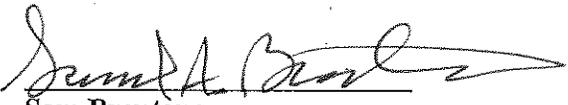
Date

  
\_\_\_\_\_  
Janet Carlson, Chair  
Marion County

\_\_\_\_\_  
4-29-15

Representative of Participant

Date

  
\_\_\_\_\_  
Sam Brentano  
Marion County

\_\_\_\_\_  
4-29-15

**Representative of Participant**

**Date**

  
\_\_\_\_\_  
**Kevin Cameron**  
**Marion County**

4-29-15

**Representative of Participant**

**Date**

\_\_\_\_\_  
**Mary Kyle McCurdy**  
**1000 Friends of Oregon**

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**Representative of Participant**

**Date**

\_\_\_\_\_  
**Carla Mikkelson for**  
**Diane Mikkelson and**  
**Friends of Marion County**

\_\_\_\_\_

**Representative of Participant**

**Date**

\_\_\_\_\_  
**Kathleen Carl for herself and**  
**Theodora Schrier and**  
**Marion County Farm Bureau**

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**Representative of Participant**

**Date**

\_\_\_\_\_  
**Carrie MacLaren**  
**Department of Land Conservation and Development**

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**Representative of Participant**

**Date**

\_\_\_\_\_  
**Kevin Cameron  
Marion County**

\_\_\_\_\_

**Representative of Participant**

**Date**

\_\_\_\_\_  
**Mary Kyle McCurdy  
1000 Friends of Oregon**

\_\_\_\_\_

**Representative of Participant**

**Date**

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**Carla Mikkelson for  
Diane Mikkelson and  
Friends of Marion County**

\_\_\_\_\_

**Representative of Participant**

**Date**

\_\_\_\_\_  
**Kathleen Carl for herself and  
Theodora Schrier and  
Marion County Farm Bureau**

\_\_\_\_\_

**Representative of Participant**

**Date**



4/27/15

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**Carrie MacLaren  
Department of Land Conservation and Development**

**Representative of Participant**

**Date**

\_\_\_\_\_  
Kevin Cameron  
Marion County

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**Representative of Participant**

**Date**

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Darcy Kyle McCurdy  
Hill Friends of Oregon

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**Representative of Participant**

**Date**

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*Carla Mikkelson*  
Carla Mikkelson for  
Lance Mikkelson and  
Peggy M. of Marion County

\_\_\_\_\_  
*5-4-2015*

**Representative of Participant**

**Date**

\_\_\_\_\_  
Kathleen Galt for herself and  
Theodora Schrier and  
Marion County Farm Bureau

\_\_\_\_\_

**Representative of Participant**

**Date**

\_\_\_\_\_  
Lars E. Munchausen  
Department of Land Conservation and Development

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**Representative of Participant**

**Date**

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**Kevin Cameron  
Marion County**

**Representative of Participant**

**Date**

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**Mary Kyle McCurdy  
1000 Friends of Oregon**

**Representative of Participant**

**Date**

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**Carla Mikkelson for  
Diane Mikkelson and  
Friends of Marion County**

**Representative of Participant**

**Date**

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**Kathleen Carl for herself and  
Theodora Schrier and  
Marion County Farm Bureau**

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**Representative of Participant**

**Date**

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**Carrie MacLaren  
Department of Land Conservation and Development**

**Representative of Participant**

**Date**

\_\_\_\_\_  
**Kevin Cameron**  
**Marion County**

\_\_\_\_\_

**Representative of Participant**

**Date**

*Mary Kyle McCurdy*  
\_\_\_\_\_  
**Mary Kyle McCurdy**  
**1000 Friends of Oregon**

*4/30/15*  
\_\_\_\_\_

**Representative of Participant**

**Date**

\_\_\_\_\_  
**Carla Mikkelson for**  
**Diane Mikkelson and**  
**Friends of Marion County**

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**Representative of Participant**

**Date**

\_\_\_\_\_  
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**Theodora Schrier and**  
**Marion County Farm Bureau**

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**Representative of Participant**

**Date**

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**Carrie MacLaren**  
**Department of Land Conservation and Development**

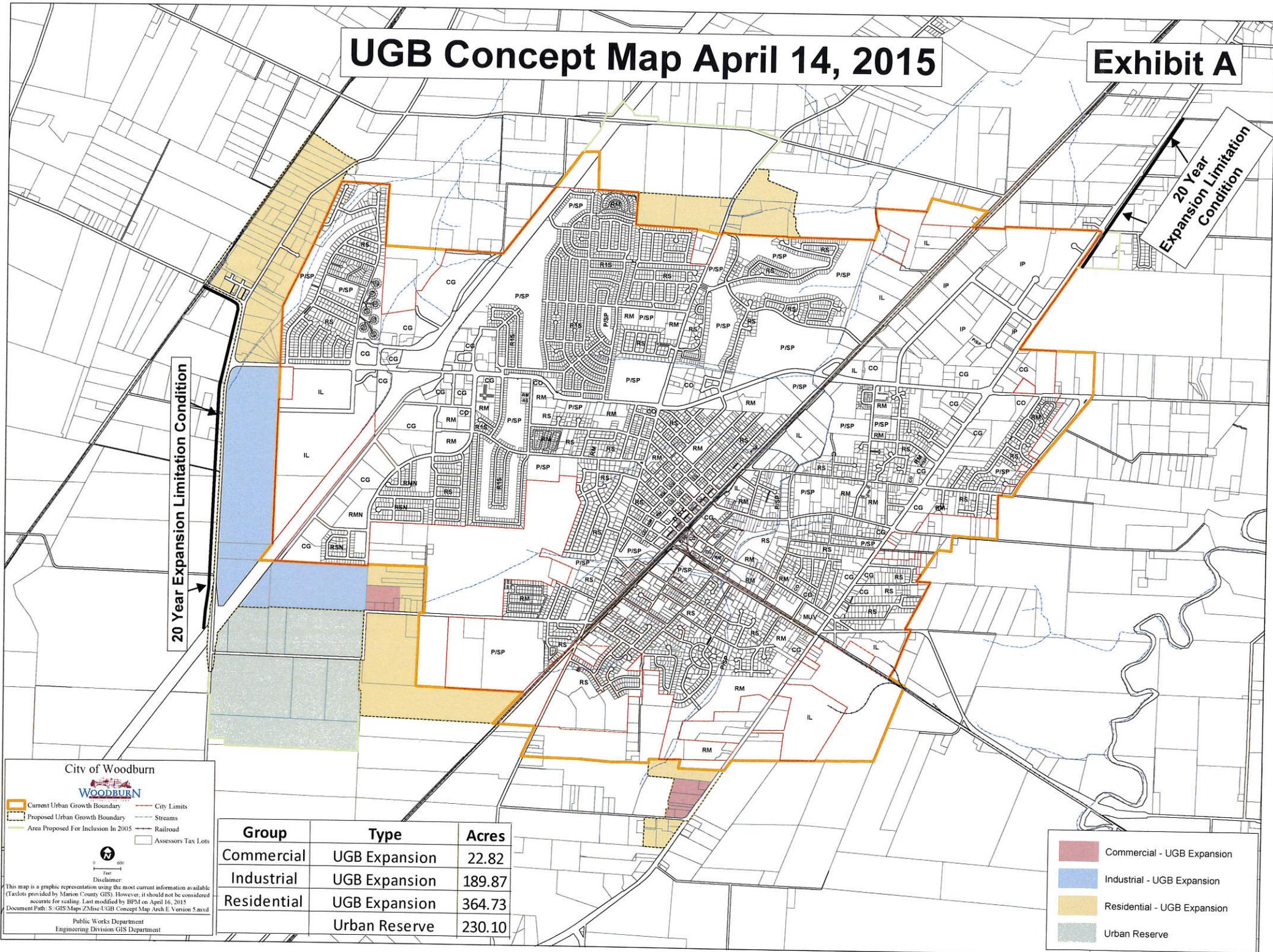
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**Exhibit A**

OVERSIZED MAP TITLED "UGB CONCEPT MAP APRIL 14, 2015"

# UGB Concept Map April 14, 2015

## Exhibit A

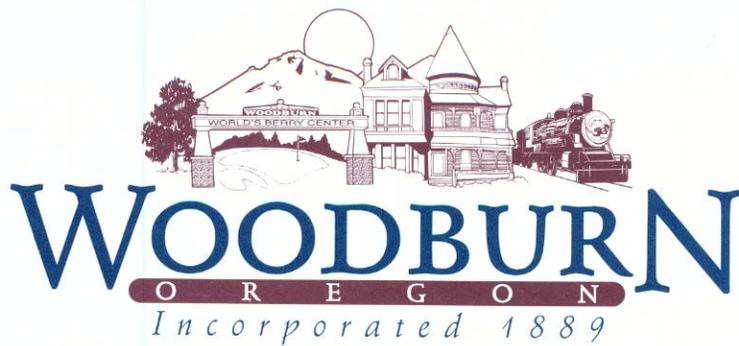


## Exhibit B

### Procedures and Timeline

Action Item	Approximate Timeline
1. Parties sign Agreement	April 14, 2015
2. Parties issue joint media release concerning Agreement	April 14, 2015
3. City Council and County Commission approve Agreement	May 1, 2015
4. City and County petition LCDC for an order remanding UGB for consideration of amendments.	May 1, 2015
5. LCDC issues remand order.	May 20-21, 2015 or later as requested
6. City will confer with the Parties to draft findings to support the UGB amendment and establishment of Urban Reserves as shown in Exhibit A. Included in findings: all technical descriptions and locations of UGB, Urban Reserve designations, and 20-year expansion limitation condition. The findings will be tied to and supported by factual evidence in the record and will demonstrate compliance with applicable goals, statutes, and rules, and the city and county comprehensive plans. As shown in Exhibit A, the UGB goes along the west side of Butteville Road. There will be specific findings related to the Road that will reinforce the 20-year expansion limitation and will limit to the road improvements to those needed by the industrial uses along Butteville Road (including a street profile for this section of Butteville Road).	April 15 to July 1, 2015
7. Parties review and provide comments of City draft findings. DLCD will provide technical assistance as necessary.	August 1, 2015
8. City and County enter into an IGA/Urban Growth Management Agreement that is incorporated into the UGMA and/or Comprehensive Plans acknowledging no UGB expansion west of Butteville Road or northeast of Highway 99E for 20 years as shown in Exhibit A.	August 1, 2015
9. City adopts findings and amends its comprehensive plan consistent with mutually agreed findings.	September 1, 2015
10. County adopts findings and amends its comprehensive plan.	October 1, 2015

11. City and County submit amended UGB and established Urban Reserves to DLCD for review.	October 15, 2015
12. DLCD or LCDC issues an order concerning the UGB amendment and Urban Reserves designation.	At least 30 days after submittal



May 6, 2015

Land Conservation and Development Commission  
635 Capitol St. NE, Suite 150  
Salem 97301-2540

**Re: Woodburn UGB Amendment**

Honorable Land Conservation and Development Commission:

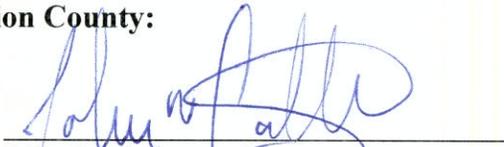
The City of Woodburn and Marion County, petition the Commission for remand of the Woodburn UGB amendment. The purpose of this remand is to implement the Framework for Mediation Settlement Agreement entered into by the City of Woodburn, Marion County, Oregon Department of Land Conservation and Development, 1000 Friends of Oregon, Friends of Marion County, Theodora Schrier, Kathleen Carl, Diane Mikkelsen and Marion County Farm Bureau.

**City of Woodburn:**

By:   
Scott Derickson,  
City Administrator

Date: 5/6/15

**Marion County:**

By:   
John Lattimer,  
Chief Administrative Officer

Date: 05/06/15