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To: Land Conservation and Development Commission

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Subject: **Agenda Item 5, September 25-26, 2025, LCDC Meeting**

Appeal of the Director's Decision to Approve Metro's Urban Growth Boundary Amendment

I. Agenda Item Summary

The director of the Department of Land Conservation and Development (DLCD or department) issued a decision to approve Metro's urban growth boundary (UGB) amendment submittal on April 18, 2025. The department provided notice for the order consistent with the procedures of Oregon Administrative Rule (OAR) 660-025-0150 for Director Action and Appeal of Director Action (Work Task Phase) for Periodic Review.¹ Six parties filed appeals during the 21-day appeal period – one of those appeals was a joint filing by 1000 Friends of Oregon and Tualatin Riverkeepers, who had previously filed separate objections. At the June 26-27, 2025, Land Conservation and Development Commission (LCDC or the commission) meeting, the commission moved to use the authority granted in OAR 660-025-0085(2)(b) to extend the 90-day time limit to review the appeal of DLCD Order 001953 at this commission meeting.

In response to an appeal, the director may prepare and submit a report to the commission. Therefore, the department has prepared and noticed this staff report consistent with the requirements of OAR 660-025-0160(3) and (4), Commission Review of Referrals and Appeals (Work Task Phase).

¹ ORS 197.626 provides, in part:

(1) A local government shall submit for review and the Land Conservation and Development Commission shall review the following final land use decisions in the manner provided for review of a work task under ORS 197.633 and subject to subsection (3) of this section:

(a) An amendment of an urban growth boundary by a metropolitan service district that adds more than 100 acres to the area within its urban growth boundary; ...

This provision requires that the department and commission review the Metro UGB amendment "in the manner of" a periodic review task.

II. Summary of Recommended Action

The department recommends that the commission deny the appeals of the order and approve the UGB amendment submittal, consistent with the Director's Decision in DLCD Order 001953 (See Attachment 8).

III. Background

A. History of Action

Metro assesses the capacity of the UGB at least every six years to determine if the Portland Metro Region has capacity for housing and employment for the next 20 years. On December 5, 2024, Metro Council adopted Ordinance No. 24-1520 to expand the Metro UGB around the city of Sherwood in Washington County for the purpose of providing housing and employment capacity for the next 20 years. Ordinance No. 24-1520 included additional conditions of approval on land added to the UGB. These include that Sherwood must plan for at least 3,120 housing units or 9.2 units per net acre in Sherwood West, while planning for complete communities, affordable housing, and adequate public facilities. Sherwood also must plan industrial areas under Metro Title 4 Industrial area standards, create and preserve two industrial sites of a minimum 50 gross acres each, and protect these sites from certain non-industrial uses. Metro's conditions specify that Sherwood also must inventory fish and wildlife habitat in the expansion area. Finally, Metro included conditions of approval that reinforce comprehensive planning in the UGB expansion area, community engagement and tribal consultation, and specific citywide requirements for the city.

The department received ten letters of objection to the submittal from the following parties:

1. 1000 Friends of Oregon ("Friends")
2. Ron Bunch ("Bunch")
3. Brian Fields ("Fields")
4. Housing Land Advocates ("HLA")
5. Dan Hoyt ("Hoyt")
6. David Marks ("Marks")
7. Jim Marsh ("Marsh")
8. Tualatin Riverkeepers ("Riverkeepers")
9. Verde
10. West of Sherwood Farm Alliance *et al* ("WoSFA")

The objections raised a range of issues with the submitted UGB amendment. However, the director determined that several did not meet the validity requirements provided in OAR 660-025-0140(2)(b) and (c). Under these rules, a valid objection must clearly identify a specific deficiency in the work task, citing the relevant section of the final decision and the statute, goal,

or administrative rule it allegedly violates ((2)(b)). Additionally, it must propose specific revisions that would resolve the identified issue ((2)(c)).

The department reviewed the objections and concluded that the submittal from Metro to add land to the UGB complies with the requirements of the applicable statewide planning goals, statutes, and administrative rules and is supported by substantial evidence in the record. Therefore, the director approved the submittal (DLCD Order 001953) on April 18 2025, and rejected the valid objections. The department received six letters of appeal from seven parties during the 21-day appeal period. This item is before the commission for consideration of those appeals.

IV. Review Criteria and Procedures

A. Jurisdiction

The commission has exclusive jurisdiction to review an appeal of the Director's Decision on a Metro UGB amendments that add more than 100 acres, pursuant to ORS 197.626(1)(a), ORS 197.633(5)(b), OAR 660-024-0080, and OAR 660-025-0175. Metro's submittal adds approximately 1,291 acres to its UGB.

All six appeals were submitted within the 21-day appeal period following issuance of the director's decision in Order 001953 pursuant to OAR 660-025-0150. All submitted appeals met the requirements of OAR 660-025-0150(6) for appeals of a director's decision because they were filed by parties who also filed valid objections to Metro's initial submittal, and they were submitted within the 21-day appeal period. All six appeals also meet the criteria of OAR 660-025-0150(6)(d)(A)-(C), because the appellants participated in the local process, clearly identified alleged deficiencies in the decision, and proposed remedies for those deficiencies.

OAR 660-025-0160(6) requires the commission to hear appeals based on the local record. The written record shall consist of the submittal, timely objections, the director's report, timely exceptions to the director's report including materials described in OAR 660-025-0160(5), the director's response to exceptions and revised report if any, and the appeal if one was filed by an objector. This staff report is based on the record as prescribed by rule. It is publicly available on DLCD's website here: <https://www.oregon.gov/lcd/NN/Pages/Metro-UGB-2024.aspx>.

Following this hearing, the commission must issue an order that does one or more of the following, pursuant to OAR 660-025-0160(7):

“(a) Approves the work task or plan amendment or a portion of the task or plan amendment;

“(b) Remands the work task or plan amendment or a portion of the task or plan amendment to the local government, including, for a work task only, a date for resubmittal;

“(c) Requires specific plan or land use regulation revisions to be completed by a specific date. Where specific revisions are required, the order shall specify that no further review is necessary. These changes are final when adopted by the local government. The failure to adopt the required revisions by the date established in the order shall constitute failure to complete a work task or plan amendment by the specified deadline requiring the director to initiate a hearing before the commission according to the procedures in OAR 660-025-0170(3);

“(d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b); or

“(e) Modifies the schedule for the approved work program in order to accommodate additional work on a remanded work task.”

The last two options, (d) and (e), are irrelevant to consideration of this appeal because they apply to standard periodic review tasks.

B. Standard of Review

OAR 660-025-0160(2) provides the commission’s standard of review:

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

“(b) For procedural issues, 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, 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 its comprehensive plan or land use regulation in the manner provided in ORS 197.829 or to Metro’s interpretation of its regional framework plan or functional plans. For purposes of this subsection, ‘complies’ has the meaning given the term ‘compliance’ in the phrase ‘compliance with the goals’ in ORS 197.747.”²

²ORS 197.747 has been renumbered ORS 197.627 and provides:

“For the purposes of acknowledgment under ORS 197.251, board review under ORS 197.805 to 197.855, review of a proposed regional problem-solving agreement under ORS 197.652 to 197.658 or periodic review under ORS 197.628 to 197.650, ‘compliance with the goals’ means the comprehensive plan and regulations, on the whole, conform with the purposes of the goals and any failure to meet individual goal requirements is technical or minor in nature.”

C. Procedural Requirements

OAR 660-025-0160(6) provides that: "The commission shall hear appeals based on the record. The written record shall consist of the submittal, timely objections, the director's report, timely exceptions to the director's report including materials described in section (5) of this rule, the director's response to exceptions and revised report if any, and the appeal if one was filed." OAR 660-025-0085(5) provides the commission's hearing procedures.³

³ OAR 660-025-0085(5) provides:

"Commission hearings will be conducted using the following procedures:

"(a) The chair will open the hearing and explain the proceedings;

"(b) The director or designee will present an oral report regarding the nature of the matter before the commission, an explanation of the director's decision, if any, and other information to assist the commission in reaching a decision. If another state agency participated in the periodic review under ORS 197.637 or 197.638, the agency may participate in the director's oral report.

"(c) Participation in the hearing is limited to:

"(A) The local government or governments whose decision is under review;

"(B) Persons who filed a valid objection to the local decision in the case of commission hearing on a referral;

"(C) Persons who filed a valid appeal of the director's decision in the case of a commission hearing on an appeal; and

"(D) Other affected local governments.

"(d) Standing to file an appeal of a work task is governed by OAR 660-025-0150.

"(e) Persons or their authorized representative may present oral argument.

"(f) The local government that submitted the task may provide general information from the record on the task submittal and address those issues raised in the department review, objections, or the appeal. A person who submitted objections or an appeal may address only those issues raised in the objections or the appeal submitted by that person. Other affected local governments may address only those issues raised in objections or an appeal.

"(g) As provided in ORS 197.633(3), the commission will confine its review of evidence to the local record.

"(h) The director or commission may take official notice of law defined as:

"(A) The decisional, constitutional and public statutory law of Oregon, the United States and any state, territory or other jurisdiction of the United States.

"(B) Public and private official acts of the legislative, executive and judicial departments of this state, the United States, and any other state, territory or other jurisdiction of the United States.

"(C) Regulations, ordinances and similar legislative enactments issued by or under the authority of the United States or any state, territory or possession of the United States.

"(D) Rules of court of any court of this state or any court of record of the United States or of any state, territory or other jurisdiction of the United States.

"(E) The law of an organization of nations and of foreign nations and public entities in foreign nations.

V. Objections Raised in the Appeals and Department Responses

The six appeal letters raise 47 distinct appeal issues. The director's report attached to Order 001953 (Attachment 8) contains the department's review of the original decision and objections. In the appeal of the director's order approving the submittal (Attachments 2-7), the appellants reiterate many of their previous objections. Therefore, staff relies on the Director's Order 001953 to respond to the appeals, except where appellants raise information supplementing a valid objection. An appellant may present supplemental information related to an item in its original objection that was not previously presented if the appellant satisfies the requirements for submitting a valid appeal contained in OAR 660-025-0150(6)(d). However, the appellant cannot raise arguments related to an appeal the director found to be invalid in the Director's Decision. OAR 660-025-0140(3). The following table summarizes the appeal issues, location of the related objection and validity of the objection/appeal.

Table 1: Summary of Appeal Issues

| # | Appeal Location | Appeal Issue | Related Objection | Validity |
|----|-----------------------|--------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 1A | Attachment 2 at 4-12 | Consideration of reasonable land use measures | Friends/Riverkeepers raised this issue in Objections 1.A, 1.B, 8.A.1, and 8.A.3 and the director's decision addresses this issue on pages 31-40, 70-72, and 73. | valid |
| 1B | Attachment 2 at 12-19 | Consideration of alternative sites | Friends/Riverkeepers raised these issues in Objections 8.A.2, 8.A.3, and 8.B, and the director's decision addresses this issue on pages 72-75. | valid |
| 1C | Attachment 2 at 19-24 | Determination of housing need | Friends/Riverkeepers raised this issue in Objections 1.C.1 and 1.C.2 and the director's decision addresses this issue on pages 40-43. | valid |
| 1D | Attachment 2 at 24-26 | Reduction of carbon pollution and relevance of Climate Smart Communities | Friends/Riverkeepers raised this issue in Objection 1.D and the director's decision addresses this issue on pages 43-44. | valid |
| 2A | Attachment 3 at 3-6 | Metro's and Sherwood's public process | Bunch raised this issue in Objection 2.A and the director's decision addresses this issue on pages 44- | valid |

"(F) An ordinance, comprehensive plan or enactment of any local government in this state, or a right derived therefrom."

| # | Appeal Location | Appeal Issue | Related Objection | Validity |
|----|-----------------------|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | 45. | |
| 2B | Attachment 3 at 6-9 | Concept plan | Bunch raised this issue in Objection 2.B and the director found the objection invalid. The director's decision addresses this issue on pages 45-46. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. |
| 2C | Attachment 3 at 9-10 | Housing needs | Bunch raised this issue in Objection 2.C and the director found the objection invalid. The director's decision addresses this issue on page 46. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. |
| 2D | Attachment 3 at 10-11 | Housing supply | Bunch raised this issue in Objection 2.D and the director found the objection invalid. The director's decision addresses this issue on pages 46-47. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. |
| 2E | Attachment 3 at 11-12 | Jobs/housing balance | Bunch raised this issue in Objection 2.E and the director found the objection invalid. The director's decision addresses this issue on page 47. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. |
| 2F | Attachment 3 at 12-13 | Employment and housing need | Bunch raised this issue in Objection 2.F and the director found the objection invalid. The director's decision addresses this issue on pages 47-48. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the |

| # | Appeal Location | Appeal Issue | Related Objection | Validity |
|----|-----------------------|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. |
| 2G | Attachment 3 at 13 | Failed past UGB expansion efforts | Bunch raised this issue in Objection 2.G and the director found the objection invalid. The director's decision addresses this issue on page 48. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. |
| 2H | Attachment 3 at 13-15 | Growth projections | Bunch raised this issue in Objection 2.H and the director's decision addresses this issue on pages 48-49. | valid |
| 2I | Attachment 3 at 15 | Alternative modes of transit | Bunch raised this issue in Objection 2.I and the director found the objection invalid. The director's decision addresses this issue on page 49. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. |
| 2J | Attachment 3 at 16-17 | Employment land need | Bunch raised this issue in Objection 2.J and the director's decision addresses this issue on pages 49-50. | valid |
| 2K | Attachment 3 at 17-18 | Protection of natural resources | Bunch raised this issue in Objection 2.K and the director's decision addresses this issue on pages 50-51. | valid |
| 2L | Attachment 3 at 18 | Agricultural use compatibility | Bunch raised this issue in Objection 2.L and the director's decision addresses this issue on pages 51-53. | valid |
| 3A | Attachment 4 at 3-4 | Accommodation of needed housing | HLA raised this issue in Objection 4.A and the director's decision addresses this issue on pages 54-56. | valid |
| 3B | Attachment 4 at 5 | Applicability of federal Fair Housing Act | HLA raised this issue in Objection 4.B and the director's decision addresses this issue on pages 56-57. | valid |

| # | Appeal Location | Appeal Issue | Related Objection | Validity |
|----|-----------------------|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4A | Attachment 5 at 4-5 | Concept plan requirement | Marks raised this issue in Objection 6.A and the director's decision addresses this issue on pages 60-63. | valid |
| 4B | Attachment 5 at 5-10 | Outcome-based policymaking | Marks raised this issue in Objection 6.A and the director's decision addresses this issue on pages 60-63. | valid |
| 4C | Attachment 5 at 10-13 | Timing of Goal 14 analysis consideration | Marks raised this issue in Objection 6.B and the director's decision addresses this issue on pages 63-64. | valid |
| 4D | Attachment 5 at 13-16 | Residential and employment land need | Marks raised this issue in Objection 6.C and the director's decision addresses this issue on pages 64-69. | valid |
| 5 | Attachment 6 at 2-5 | Consideration of reasonable measures and alternative locations | Verde raised this issue in Objection 9 and the director's decision addresses this issue on pages 75-76. | valid |
| 6A | Attachment 7 at 11-16 | Goal 14 analysis | WoSFA raised this issue in Objection 10.A and the director's decision addresses this issue on pages 76-77. | valid |
| 6B | Attachment 7 at 16-19 | Consideration of reasonable measures | WoSFA raised this issue in Objection 10.B.1 and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on pages 77-78. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(c). The commission may not consider this appeal item. |
| 6C | Attachment 7 at 19-22 | Accommodation of land needs | WoSFA raised this issue in Objection 10.B.2 and the director's decision addresses this issue on pages 78-79. | valid |
| 6D | Attachment 7 at 22-23 | Protection of agricultural uses | WoSFA raised this issue in Objection 10.B.3 and the director's decision addresses this issue on pages 79-81. | valid |
| 6E | Attachment 7 at 23-26 | Metro locational factors | WoSFA raised this issue in Objection 10.B.4 and the director's decision addresses this issue on pages 81-84. | valid |
| 6F | Attachment 7 at 31-36 | Suitability of Sherwood West | WoSFA raised this issue across several objections- Objection 10.E.2, 10.E.3, and 10.E.5 and the director's | valid |

| # | Appeal Location | Appeal Issue | Related Objection | Validity |
|----|-----------------------|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | decision addresses this issue on pages 88-92. | |
| 6G | Attachment 7 at 36-39 | Suitability of site A5 | WoSFA raised this issue in Objection 10.E.2 and the director's decision addresses this issue on pages 88-92. | valid |
| 6H | Attachment 7 at 40 | Suitability of site A6 | None | This appeal item is not based upon an issue raised in a valid objection. The commission may not consider this appeal item. |
| 6I | Attachment 7 at 40-41 | Accommodation of industrial uses | WoSFA raised this issue in Objection 10.A and the director's decision addresses this issue on page 77. | valid |
| 6J | Attachment 7 at 41-48 | Natural resource constraints | WoSFA raised this issue in Objection 10.E.4 and the director's decision addresses this issue on pages 88-92 | valid |
| 6K | Attachment 7 at 48-50 | Use of high-tech manufacturing lands | WoSFA raised this issue in Objection 10.F and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on pages 92-93. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. |
| 6L | Attachment 7 at 50-60 | Accommodation of need | WoSFA raised this issue in Objection 10.C and the director's decision addresses this issue on pages 40-43, 54-56, and 84-85. | valid |
| 6M | Attachment 7 at 60-69 | Consideration of reasonable measures | WoSFA raised this issue in Objection 10.B.1 and the director found the objection invalid. The director's decision addresses this issue on pages 77-78. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(c). The commission may not consider this appeal item. |
| 6N | Attachment 7 at 69-75 | Racial equity and diversity | WoSFA raised this issue in Objection 10.H and the director's decision addresses this issue on pages 95-96. | valid |
| 6O | Attachment 7 at 75-76 | Compact and efficient | WoSFA raised this issue in Objection 10.G and the director's decision | valid |

| # | Appeal Location | Appeal Issue | Related Objection | Validity |
|----|-----------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | development | addresses this issue on pages 93-95. | |
| 6P | Attachment 7 at 76-78 | Cost of expansion and development | WoSFA raised this issue in Objection 10.B.4 and the director's decision addresses this issue on pages 81-84. | valid |
| 6Q | Attachment 7 at 78-79 | Efficient accommodation | WoSFA raised this issue in Objection 10.B.2 and the director's decision addresses this issue on pages 78-79. | valid |
| 6R | Attachment 7 at 79-80 | Climate change | WoSFA raised this issue in Objection 10.I and the director's decision addresses this issue on page 96. | valid |
| 6S | Attachment 7 at 80-86 | Violation of Ethics | WoSFA raised this issue in Objection 10.J and the director found the objection invalid. The director's decision addresses this issue on pages 96-97. | This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. |

The following analysis summarizes each issue identified in Table 1, followed by the department's response.

First Appeal: 1000 Friends of Oregon *with* Tualatin Riverkeepers

Appellants 1000 Friends of Oregon and Tualatin Riverkeepers ("Friends/Riverkeepers") filed a joint appeal. The appellants submitted three appeal items to the director's decision. The director previously determined all the appellants' objections to be valid.

The department addresses the appeal issues individually below.

Appeal Issue 1.A Consideration of reasonable land use measures

Friends/Riverkeepers' appeal concerns Metro Council's failure to evaluate reasonable measures for accommodating the region's twenty-year housing and employment needs within the existing boundary—despite staff analyses and independent studies showing sufficient capacity. Friends/Riverkeepers raised this issue in Objections 1.A, 1.B, 8.A.1, and 8.A.3.

The appellants raise three sub-issues in their appeal:

1) Sherwood Development Capacity: Metro failed to consider development potential within the existing city of Sherwood and adjacent lands within the Metro UGB;

2) Portland Housing Capacity Analysis: Metro failed to consider the city of Portland's Housing Capacity Analysis which demonstrated that the city has more than enough additional capacity to meet a 20-year housing need for the entire Metro area; and

3) Employment Lands: Metro ignored evidence that the region has more than enough employment land to meet 20-year land needs within the existing Metro UGB.

Friends/Riverkeepers argues these failures violate OAR 660-024-0040, ORS 197A, Goal 14, and Metro Code Sections 3.07.1405–3.07.1465

Department Response:

The director's decision addresses the appeal issues as follows:

Sherwood Development Capacity: See director's decision, pages 70-72. To summarize, this appeal misunderstands the nature of this decision, which is a UGB expansion for the entire Portland Metro region, not the city of Sherwood. While Sherwood may have capacity for additional residential and employment development within the city and existing UGB, so does every other city in the Portland Metro region. That is why Metro determined that more than 98 percent of the region's 20-year land need (175,500 of 178,000 units) can be met within the existing Metro UGB, and that most employment land needs can also be met within the existing Metro UGB. Even after counting Sherwood's capacity, Metro found the region still falls about 2,500 homes short of projected needs over 20 years, plus a scarcity of large industrial sites.

Additionally, Metro is not allowed by state law to calculate individual sub-regional needs and land inventories for parts of the Metro UGB. Metro, as with all cities in Oregon, must apply Goal 14 provisions for UGB expansion to an entire UGB, and may not determine a "sub-regional" need.⁴

Portland Housing Capacity Analysis: See director's decision, pages 32-35. To summarize: Metro is not required to incorporate the assumptions of the city of Portland or any other local government in the Portland Metro area into its buildable lands inventory. The question before the commission is whether Metro's analysis is consistent with state law and sufficiently justified with analysis. The director determined that it met these standards. The director also noted that, where the evidence in the record is conflicting, if a reasonable person could reach the decisions that Metro made in view of all the evidence in the record, the choice between conflicting evidence belongs to Metro.⁵

Employment Lands: See director's decision, pages 35-40. To summarize, despite the appeal's presentation of anecdotal evidence asserting that there is a surplus of commercial and industrial land in the Portland Metro area, Metro has compiled sufficient evidence to justify some expansion of commercially designated land within the UGB expansion area based upon an overall deficit of such land within the Portland region. Regarding the industrial land expansion, while there is a large (3,931 acre) surplus overall of industrially designated land within the

⁴ In a 2005 opinion the Oregon Court of Appeals invalidated LCDC-adopted administrative rules allowing Metro to determine sub-regional UGB needs for portions of the Metro UGB. *City of West Linn v. LCDC*, 200 Or App 269, 113 P3d 935 (2005).

⁵ *Mazeski v. Wasco County*, 28 Or LUBA 178, 184 (1994), *aff'd* 133 Or App 258, 890 P2d 455 (1995).

Portland Metro UGB, there is a shortage of large industrial sites, which justifies the addition of two 50-acre industrial sites as part of this UGB expansion decision.

Based on this analysis, the director recommends that the commission reject this issue raised on appeal.

Appeal Issue 1.B Consideration of alternative sites

Friends/Riverkeepers' objection concerns Metro Council's failure to meaningfully evaluate alternative sites or land-use measures, in violation of Goal 14, OAR 660-024-0060, ORS 197A.350(6)(a)&(b), and Metro Code factors at 3.07.1425, thus omitting required analyses. Friends/ Riverkeepers raised these issues in Objections 8.A.2, 8.A.3, and 8.B.

The appellants raise two sub-issues under this appeal:

1) General failure to consider UGB alternative sites: The appellants' appeal on this issue argues that Metro staff's alternatives analysis, published in Appendices 7 and 7A ten days after the Council's October 8, 2024 work session, was not considered by the Metro Council during that session or at the November 21 and December 5 public hearings and thus the Metro council did not meaningfully consider alternative UGB expansion sites.

As a result, Metro Councilors did not assess other designated urban reserves—such as Sherwood South and Tonquin—nor analyze required factors including efficient accommodation of land needs, orderly and economic provision of public facilities, comparative environmental, energy, economic, and social consequences, or compatibility with adjacent agricultural and forest lands.

2) Failure to consider environmental impacts in Sherwood West: The appellants argue that, as a consequence of failing to seriously consider UGB expansion alternatives, this same omission violated Goal 5 and Metro's Titles 3 and 13 (sections 3.07.340(d)(3)(D)(i) and 3.07.1340(b)), since Sherwood West includes extensive floodplains, wetlands, riparian corridors, vegetated buffers, and high-value habitat conservation areas—with a “medium-high” environmental, social, energy, and economic (ESEE) consequence rating—but Metro did not assess any practicable alternative sites.

Department Response:

The director's decision addresses these appeal issues as follows:

General failure to consider UGB alternative sites: Several of the objections and now the appeals raise variations of this specific issue – arguing that Metro did not comply with the requirements of Goal 14 by essentially “pre-selecting” the Sherwood area for a UGB expansion before doing a comprehensive analysis of all potential UGB expansion areas surrounding the Metro UGB. The director's decision is responsive to this issue on pages 60-64 and 72-73. To summarize, Metro certainly places strong weight on the willingness of local governments within Metro to prepare a concept plan in making its UGB decisions, but as long as Metro shows that it has analyzed other potential expansion areas prior to making its UGB decision and considered all four factors set forth in Goal 14 for a UGB expansion locational analysis, it is allowed to place decisive weight on one of those factors.⁶ Metro has chosen to place such weight on Factor 2, orderly and

⁶ Statewide Planning Goal 14 provides, in part:

economic provision of public facilities and services, as evidenced by the ability of a Metro-area local government to prepare a concept plan describing how that local government will provide needed public facilities and services to the area under consideration for UGB expansion.

Failure to consider environmental impacts in Sherwood West: The director's decision is responsive to this issue on pages 73-75. To summarize, Metro did adequately analyze all potential UGB expansion areas adjacent to the Portland Metro UGB (see above). Metro is allowed by Goal 14 to weigh Factor 2, orderly and economic provision of public facilities and services, over Factor 3, comparative environmental, energy, economic and social consequences. Therefore, Metro is allowed by Goal 14 to choose the Sherwood West area despite some identified significant environmental resources within that area.

Additionally, Metro's record indicates a requirement for Sherwood, in implementing urbanization of this area, to protect identified environmental and natural resources consistent with Metro's standards for such protection. Record at 1195.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 1.C Determination of housing need

Friends/Riverkeepers' appeal argues Metro Council failed to align the UGB expansion with the explicit affordable-housing objectives of Goal 10, Metro's Regional Framework Code Section 1.3, and the Urban Growth Management Functional Plan (Section 3.07.1110). Friends/Riverkeepers raised this issue in Objections 1.C.1 and 1.C.2.

The appellants raise two-sub issues under this appeal:

1) Affordable Housing Mandates: Metro's decision conflicts with Metro's and Oregon's affordable-housing mandates—Goal 10, Metro Code Section 1.3, the Urban Growth Management Functional Plan Section 3.07.1110, and OAR 660-024-0040(4)—because neither Sherwood in its 2019 housing needs analysis, nor Metro in its 2024 Housing Needs Analysis (Appendix 8), used Oregon Housing Needs Analysis (OHNA) figures. Instead, both analyses relied on individual and disparate determinations of housing needs- including estimates for low-income households.

2) Affordable Housing Guarantees: The 1,291-acre UGB extension fails to guarantee a full spectrum of affordable housing—especially for households below median income—and includes

"The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197A.320 or, for the Metropolitan Service District, 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."

no binding zoning, incentives, or allowances for agricultural workforce housing despite documented local demand.

Department Response:

The director's decision addresses these appeal issues as follows:

Affordable Housing Mandates: Metro completed this decision in 2024. Sherwood completed its housing needs analysis in 2019, prior to the issuance of OHNA final projections on January 1, 2025. Neither could have been expected to incorporate those numbers into its analysis. The director's decision is responsive to this issue on pages 40-43.

Additionally, as noted in the department's response to Appeal Issue 1A, Metro is not required to incorporate the assumptions of any other local government in the Portland Metro area, including the City of Sherwood, into its buildable lands inventory. This is also true of its housing needs analysis. The question before the commission is whether Metro's analysis is consistent with state law and sufficiently justified with analysis, and the director determined that it met these standards.

Affordable Housing Guarantees: Metro's conditions of approval in its decision, requiring Sherwood to work to meet housing affordability targets as part of its upcoming housing production strategy and report on the enforcement of affordability conditions in Sherwood, demonstrate Metro's proactive approach to providing a range of housing types in this UGB expansion area. Metro's decision addresses agricultural workforce housing as a subset of general affordable housing needs for lower-income households and individuals. The director's decision is responsive to this issue on pages 42-43.

Additionally, as described in its findings, Metro's 20-year land need analysis focuses on assessing land capacity and forecasting demand for three basic housing structure types that reflect the historic preferences of specific housing categories—such as government-assisted, affordable, manufactured, and farmworker housing—for the regional analysis. Individual cities and counties conduct more detailed local needs assessments and zoning code updates under state law. After establishing the region's deficit of housing structure types required to meet those needs, Metro found that expanding the Urban Growth Boundary to include Sherwood West will provide sufficient buildable land to meet housing needs over the next 20 years. Record at 1190-1191.

As raised by the appellants, the State of Oregon is implementing new standards for Oregon's cities, such as Sherwood, to meet the housing needs of all its households and residents. Each city in Metro has a unique existing situation in terms of housing, both supply and affordability. Metro is primarily addressing the overall supply issue but has also sufficiently included issues of affordability in its decision in terms of housing type and density. Further progress on housing affordability issues in Sherwood will be primarily the responsibility of the city itself as it works to demonstrate compliance with Oregon's rapidly evolving and progressing housing requirements related to housing supply and affordability.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 1.D. Reduction of carbon pollution and relevance of Climate Smart Communities

Friends/Riverkeepers' appeal concerns Metro Council's failure to demonstrate that the UGB expansion will achieve the greenhouse gas reductions mandated by Metro's Climate Smart Communities Strategy or state regulations, thereby violating Metro's Climate Smart Strategy and OAR 664-004-0200⁷. The appellants note that they conducted a rough analysis of vehicle miles traveled (VMT) indicating that new streets built in the UGB expansion area may induce traffic and assert that Metro and Sherwood must plan for more connected, dense, complete communities. Friends/Riverkeepers raised this issue in Objection 1.D.

Department Response:

The director's decision is responsive to this issue on page 44. To summarize: while Metro has met its obligations as provided in OAR 660-044-0020, the director concludes that because it is not an applicable review standard, it would not provide a basis for remand of the submittal.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Second Appeal: Ronald Bunch

Appellant Ronald Bunch ("Bunch") submitted twelve appeal items to the director's decision, including seven objections that the director previously determined to be invalid.

The department addresses the appeal issues individually below.

Appeal Issue 2.A Metro's and Sherwood's public process

Bunch's appeal concerns Metro Council's failure to conduct a broad, phased citizen involvement process, in violation of Goal 1 and Metro's Public Engagement Guide. Metro relied on feedback from a narrow coalition of developers, consultants, special districts and local-agency staff—groups with a direct financial or jurisdictional stake—while the process largely excluded neighborhood associations, affordable-housing advocates, environmental stewards and equity or transit coalitions. Further, Metro's analysis of alternative expansion areas was not released until after public hearings and a preliminary Council vote, denying broader stakeholders a meaningful review

Bunch raised this issue in Objection 2.A.

Department Response:

The director's decision is responsive to this objection on page 45. To summarize: Bunch does not allege a specific violation of the Metro or Sherwood Citizen Involvement Program, which is the only way in this instance to demonstrate a violation of Goal 1.⁸ The Guidelines to the Statewide Planning Goal are not standards that must be satisfied to approve a post-acknowledgment plan amendment, including a UGB amendment, and thus alleged

⁷ The department understands the appeal's rule citation to mean OAR 660-044-0020.

⁸ *Casey Jones Well Drilling, Inc. v. City of Lowell*, 34 Or LUBA 263, 284 (1998).

inconsistency between Metro's adopted UGB amendment and a guideline to Goal 1 is not a basis to reverse or remand the decision.⁹

The director noted in response to related Objection 10.J that Metro's public engagement principles are not a part of Metro's plan or code that is subject to director review. Order 001953 at 96-97.

Several of the objections and now the appeals raise variations of the argument that Metro did not comply with the requirements of Goal 14 by essentially "pre-selecting" the Sherwood area for a UGB expansion before doing a comprehensive analysis of all potential UGB expansion areas surrounding the Metro UGB. The director's decision is responsive to this issue on pages 60-64 and 72-73.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 2.B Concept plan

Bunch's appeal concerns whether the future development patterns in the expansion area, as envisioned in the Sherwood West concept plan, will be compact, cost effective, urban development. Bunch raised this issue in Objection 2.B and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on pages 45-46.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). Accordingly, the commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 2.C Housing needs

The appellant argues that the Sherwood concept plan will not meet the city's or region's housing needs, particularly regarding affordable and middle housing types. Bunch raised this issue in Objection 2.C and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on page 46.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). Accordingly, the commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 2.D Housing supply

The appellant argues that Metro's UGB expansion for primarily low-density, market-rate homes is unjustified—relying on inflated projections, overlooking infill and true affordability drivers, conflicting with Sherwood's housing analysis and Metro Functional Plan mandates—and will fail to deliver the diverse, affordable housing the region needs. Bunch raised this issue in Objection

⁹ *People for Responsible Prosperity v. City of Warrenton*, 52 Or LUBA 181, 187-88 (2006).

2.D and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on pages 46-47.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). Accordingly, the commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 2.E Jobs/housing balance

The appellant argues that Metro's UGB expansion will perpetuate automobile-dependent commuting without fixing Sherwood's job-housing imbalance or reducing travel—because aggregate ratios obscure the true drivers of commutes and affordable, transit-accessible housing policies are absent—rendering Metro's rationale at odds with its Functional Plan. Bunch raised this issue in Objection 2.E, and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on page 47.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). Accordingly, the commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 2.F Employment and housing need

The appellant contends that Metro's UGB expansion is based on unsupported opinion and lacks location-specific, quantifiable evidence—particularly from affordable housing providers and key employers—and therefore fails to meet the substantial-evidence and factual-basis requirements of ORS 197.350(3), Goal 14, OAR 660-24-0040(1), OAR chapter 660, divisions 7 and 8, Goal 9, Goal 2, and Functional Plan Titles 1, 2, and 11. Bunch raised this issue in Objection 2.F and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on pages 47-48.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). Accordingly, the commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 2.G Failed past UGB expansion efforts

The appellant argues that Metro's decision "does not 'build on our region's strong history of planning' and is not 'poised to deliver needed residential and employment land'." Bunch raised this issue in Objection 2.G, and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on page 48.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). Accordingly, the commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 2.H Growth projections

Bunch's appeal concerns Sherwood's failure to adopt a housing needs analysis and using growth projections at odds with Metro's 1.1 percent forecast, in violation of Goal 10's land-inventory and affordability mandates, the Regional Framework Plan's requirement for diverse, affordable housing options, and the Urban Growth Management Functional Plan's call for a full range of housing types, tenures, and price points. The appellant further contends that Metro is required to conform to statutory definitions of needed housing in ORS 197A.018 and 197A.348.

Bunch raised this issue in Objection 2.H.

Department Response:

The director's decision is responsive to this issue on pages 48-49. To summarize: OAR 660-032-0030 designates Metro as the appropriate agency to issue a coordinated population forecast for the entire area within its boundary. Metro's scenario-based analysis of demographic trends and population growth complies with Metro and state planning requirements.

The director noted in response to related Objection 1.C.2 on pages 42-43 of the director's decision that Metro conducted a Buildable Land Inventory (Appendix 2) and Housing Needs Analysis (Appendix 8) in accordance with ORS 197A.350(3), which requires Metro to determine unit and land needs for each needed housing type.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 2.I Alternative modes of transit

The appellant argues that the UGB expansion will not make efficient use of public investment for needed transportation infrastructure and other services. Bunch raised this issue in Objection 2.I and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on page 49.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). Accordingly, the commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 2.J Employment land need

Bunch's appeal concerns Metro's failure to demonstrate that a UGB expansion for employment uses is necessary and is therefore inconsistent with the Metro Regional Framework Plan Principle 1.4.2. Multiple analyses, including Sherwood's 2021 and updated 2023 Economic Opportunities Analyses (EOAs), demonstrate the city already possesses sufficient developable employment land to meet future needs through 2042. Bunch challenges the newer EOA's justification, built on revised methodologies and speculative aspirations—such as targeting high-tech industries and leveraging the federal Chips and Science Act—due to the availability of

thousands of acres of existing development-ready land within the current UGB. Furthermore, Metro's assessment confirms that adequate land exists to support projected employment growth, including for technology-based industries, rendering the expansion inconsistent with established regional planning principles.

Bunch raised this issue in Objection 2.J.

Department Response:

The director's decision is responsive to this issue on page 50. To summarize: Metro Regional Framework Plan Principle 1.4.2. does not apply to the analysis that Metro used to determine regional employment land need in its Urban Growth Report. Rather, this policy addresses the characteristics and distribution of jobs within Metro's boundary by subregion.

Additionally, as noted in the department's response to Appeal Issue 1A, Metro has compiled sufficient evidence to justify some expansion of commercially designated land and the addition of two 50-acre industrial sites as part of this UGB expansion decision.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 2.K Protection of natural resources

Bunch's appeal concerns Metro's failure to safeguard Chicken Creek and adjacent ecological systems, providing no concrete regulatory parameters for floodplains, hazardous slopes, tree groves, or wildlife habitat, nor does it articulate stormwater treatment standards to mitigate the impacts of impervious surfaces or the placement of sewer trunklines within stream corridors. Metro's decision omits any general or specific development criteria to preserve the integrity and functions of natural resources, fails to address funding for a viable greenway trail system, and thereby provides neither a credible protection strategy nor enhancement measures, thereby violating Metro Titles 3 and 13.

Bunch raised this issue in Objection 2.K.

Department Response:

The director's decision is responsive to this issue on page 51. To summarize: Metro addressed environmental and natural resource concerns in Sherwood West in its findings. Metro acknowledges that these environmental resources will limit and shape future urban development of this area and will involve avoiding direct impacts to these regionally significant areas pursuant to Metro's Title 13 standards. It will be the responsibility of Sherwood to implement these provisions as the city adopts comprehensive plan policies to urbanize this area.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 2.L Agricultural use compatibility

Bunch's objection concerns Metro's failure to adopt an agriculture-compatible UGB expansion, minimizing disruption to the farm practices, viticulture and associated agribusiness investments, and labor reliant on these rural enterprises. The urbanization proposed in the Sherwood West Concept Plan is fundamentally incompatible with existing agricultural and forestry operations both within and adjacent to the UGB expansion area, as the scale and intensity of development

would inevitably introduce urban traffic, infrastructure, and land-use conflicts. Bunch contends these would render continued commercial farming unviable, contradicting the area's designation as a gateway to wine country and threatening the economic and cultural character already protected by neighboring jurisdictions.

Bunch raised this issue in Objection 2.L.

Department Response:

The director's decision is responsive to this issue on pages 51-53. To summarize: Metro's analysis of the four Goal 14 factors includes specific findings for the compatibility of the Sherwood West site with nearby agricultural and forest activities on rural farm and forest lands remaining outside the UGB (Factor 4). The appellant and Metro come to different conclusions based upon that analysis, but the appellant does not show that Metro's analysis justifies a different UGB decision.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Third Appeal: Housing Land Advocates

Appellants Housing Land Advocates ("HLA") submitted two appeal items to the director's decision. The director previously determined all the appellant's objections to be valid.

The department addresses the appeal issues individually below.

Appeal Issue 3.A Accommodation of needed housing

HLA's objection concerns Metro's decision to confine denser, more affordable middle housing to the Sherwood West expansion area, offering only unenforceable future affordability targets, and relying on market forces that will not deliver sufficient low-income units, thereby failing to ensure the flexibility of housing location, type, and density that Goal 10 mandates. Further, Metro neglected viable opportunities within the existing UGB, which fails to ensure flexibility of housing location, type, and density, in violation of Goal 10's requirement that "plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density." OAR 660-015-0000(10). "Needed housing" includes housing for households with low incomes, very low incomes, and extremely low incomes. ORS 197A.348(1).

HLA raised this issue in Objection 4.A.

HLA's appeal further contends that the director's decision fails to acknowledge that a subsequent housing production strategy adoption cannot retroactively cure a UGB amendment decision that is noncompliant with Goal 10.

Department Response:

The director's decision is responsive to this objection on pages 54-57. To summarize:

- Metro acknowledges that new market-rate housing alone will not meet low-income needs and that other interventions are required;

- Metro Ordinance 24-1520, Exhibit B imposes affordability targets on Sherwood and mandates annual reporting on compliance and development status for six years;
- Metro completed a Buildable Land Inventory (Appendix 2) and a Housing Needs Analysis (Appendix 8), both consistent with Goal 10 requirements; and
- The inventory includes redevelopment estimates—accessory dwelling units and middle housing conversions—showing 782 middle housing units in Sherwood under the Baseline Scenario.

Additionally, contrary to the appeal's assertion, allowing for a variety of housing types in the Sherwood West urban reserve will result in more housing choice by providing more opportunities for people to live in more areas, not to the exclusion of other areas within the existing UGB. As HLA notes, Sherwood's "future adoption of [a housing production strategy] cannot work retroactively to amend a planning decision" and that a housing production strategy "is not a land use decision subject to land use appeal". HLA appeal at 4. However, Metro's Conditions of Approval are part of the land use decision, Metro Ordinance 24-1520, and the director considers them in assessing compatibility with Statewide Planning Goal 10. The condition to require the city to take actions in its housing production strategy to ensure affordability is consistent with Goal 10, since the housing production strategy is a critical component of Goal 10 implementation.

It is worth reiterating that Metro has an obligation to plan for needed housing, including housing for low-income households, consistent with Goal 10. As Metro states in Exhibit F, Metro has incorporated government assisted housing, affordable housing, manufactured homes, and farmworker housing into the broader housing type categories in its Housing Needs Analysis, consistent with OAR 660-024-0040(8)(b).¹⁰

Based on this analysis, the director recommends that the commission reject this issue raised on appeal.

Appeal Issue 3.B Applicability of federal Fair Housing Act (AFFH)

HLA's objection concerns Metro's failure to comply with Oregon's requirement to "Affirmatively Further Fair Housing" (AFFH) under OAR chapter 660, division 8 and ORS 197A.018 by perpetuating Sherwood's patterns of segregation. Under OAR 660-008-0200(2) and 660-008-0005(4), AFFH mandates meaningful actions to redress disparities in housing access for protected classes—particularly communities of color, low-income residents, individuals with disabilities, and tribal communities—and to replace segregated living patterns with truly integrated, opportunity-rich environments. By confining additional affordable housing options to isolated areas and preempting Sherwood's forthcoming housing production strategy, Metro's decision effectively enacts exclusionary zoning, using income as a proxy for race, ethnicity, and disability. HLA raised this issue in Objection 4.B.

The appellant also asserts that the director erred by evaluating AFFH solely under the federal Fair Housing Act, thereby ignoring an independent state law obligation, and by failing to

¹⁰ OAR 660-024-0040(8)(b) provides:

"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."

demonstrate how the ordinance maximizes benefits and minimizes burdens for protected communities.

Department Response:

The director's decision is responsive to this objection on page 57. To summarize: Metro lacks statutory authority to enforce AFFH in a UGB amendment and HLA did not identify any basis for Metro's AFFH enforcement power over local governments.

Additionally, even if the department has the authority to review the UGB submittal for compliance with AFFH as the appeal proposes, HLA does not provide evidence that Metro's decision impedes AFFH in the city's future housing production strategy. As HLA stated in its objection, Sherwood's housing production strategy must remedy or mitigate fair housing issues identified in its Contextualized Housing Need (HLA Objection at 8). The analysis of fair housing choice includes an evaluation of fair housing issues including "[a]ddressing and disrupting patterns of segregation, and their correlation with concentrated areas of affluence and poverty" (OAR 660-008-0075(1)(c)(F)). This is a key part of the Goal 10 process that implements AFFH. Metro's decision has not impeded the city's ability to do this analysis and respond to any identified fair housing issues in its housing production strategy. HLA has not explained how it would impede the city's ability to take action to affirmatively further fair housing in its upcoming housing production strategy.

While the appeal contends, "Lumping more affordable housing options together and isolating this supply from the rest of the City amounts to segregatory zoning" (HLA appeal at 5), HLA does not adequately explain how the UGB expansion would result in or perpetuate segregated living patterns. The Sherwood West expansion area will provide a mix of housing types including single family, middle housing, and multifamily units. By planning for a variety of housing types, the city will be providing more housing choice and opportunities for affordable housing to develop, not to the exclusion of areas inside the existing city limits. The appeal poses this as an either/or scenario instead of both/and by assuming that the city will not take action to increase housing choice inside the existing UGB in addition to Sherwood West. The city remains obligated to address any identified fair housing issues in its housing production strategy. The UGB expansion does not change or remove this obligation.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Fourth Appeal: David Marks

Appellant David Marks ("Marks") submitted four appeal items to the director's decision. The director previously determined all the appellant's objections to be valid.

The department addresses the appeal issues individually below.

Appeal Issue 4.A Concept plan requirement

Marks' objection argues that DLCD erroneously accepted Metro's use of its concept plan requirement in its UGB expansion decision. Marks raised this issue in Objection 6.A.

The appellant raises three sub-issues in their appeal:

1) Concept Plan as Sole Basis for UGB Expansion. Metro's RFP and Goal 14 prohibit basing a UGB amendment solely on the existence of a concept plan. In *Marks v. LCDC*, 327 Or App 708, 712-713, 536 P3d 995 (2023), the Oregon Court of Appeals held that, although Metro may consider a concept plan, Goal 14 and its implementing statutes and rules require Metro to evaluate all urban reserve lands—such as the Stafford Area.

2) Balancing Goal 14 Boundary Location Factors: The mandatory Goal 14 analysis evaluation requires balancing four boundary location factors: efficient accommodation of identified land needs; orderly and economic provision of public facilities and services; comparative environmental, energy, economic, and social consequences; and compatibility with adjacent agricultural and forest uses.

3) Selection of Sherwood West: Neither Goal 14 nor the administrative rules reference or mandate a concept plan prerequisite, so Metro cannot invoke its concept-plan requirement to sidestep the statutorily prescribed analysis. Its reliance on that requirement in the 2024 UGB expansion decision—and the director's defense thereof—thus violates Goal 14's mandatory process.

Department Response:

The director's decision addresses the appeal issues as follows:

Concept Plan as Sole Basis for UGB Expansion. See director's decision, pages 60-63. To summarize, Metro Code section 3.07.1110 establishes the framework for concept plans prior to UGB expansion. It defines who develops the plan, the sequence (concept plan completion before UGB addition), and how the completion date is set (subsection (a)). Subsections (b) and (c) list outcomes local governments must pursue and required plan components tailored to size, uses, and needs of the expansion area. Subsection (e) provides an exception: if local entities fail to agree on a concept plan by the set date, Metro Council may still add the area to the UGB. Although Metro often states it only expands the UGB into concept-planned areas, these statements reflect policy preference, not a Title 14 code mandate.

Metro's record includes an in-depth analysis of all 27 urban reserve areas, demonstrating compliance with the requirement to evaluate every reserve in a UGB decision.

Balancing Goal 14 Boundary Location Factors: See director's decision, pages 60-63. To summarize, Metro's Functional Plan and OAR 660-024-0060 require Metro to "consider" and "balance" Goal 14 factors but do not prescribe rigid weighting. Metro's methodology—giving decisive weight to concept plans—was upheld by LCDC in 2019. In addition, the Oregon Court of Appeals affirmed use of this type of methodology, confirming that local discretion in weighing factors is lawful. *1000 Friends of Oregon v. Metro (Ryland Homes)*, 174 Or App 406, 409-410, 26 P3d 151 (2001).

Selection of Sherwood West: See director's decision, pages 60-63. To summarize, Metro employed a two-step analytical process:

Step 1: Applied OAR 660-024-0060's Goal 14 boundary location factors to all 27 urban reserve areas.

Step 2: Of those, 20 potentially suitable areas underwent further evaluation under Metro Code location factors.

The Metro Council findings concluded Sherwood West best met these combined factors. The existence of an adopted concept plan influenced two key factors: efficient accommodation of identified land needs and orderly and economic provision of public facilities and services.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 4.B Outcome-based policymaking

Marks' objection argues that DLCD overlooked both Metro's outcome-based methodology and the record supporting it, noting that Metro's decision records and findings demonstrate that the Sherwood West proposal was the sole focus of its UGB expansion because it alone satisfied Metro's outcome-based policy requiring a concept plan. Marks raised this issue in Objection 6.A.

The appellant raises three sub-issues in their appeal:

1) Flawed Methodology. Metro adopted an "outcome-based" UGB expansion policy in 2010 that limits any boundary amendment to urban reserves with a city-adopted concept plan. For 2024, Sherwood West was the only reserve with a timely concept plan, so Metro staff and advisory bodies confined analysis and refinement to Sherwood's plan. The Chief Operating Officer recommended Sherwood West before the regional housing and employment needs analysis was complete, and Metro Council directed the draft ordinance ahead of any Goal 14 factor review.

Since 2010, Metro conditioned boundary amendments on advanced local planning, effectively sidelining any reserve without a completed concept plan (e.g., Stafford). The appeal contends this practice transforms concept-plan status from one among many discretionary factors into an impermeable gate—contrary to Goal 14's mandate to compare and balance all reserves.

2) Metro Council Role: The adopted ordinance's "whereas" clause credits Metro staff—not the Council—with executing the Goal 14 analysis, and there is no record of the Council publicly debating or independently weighing those factors. By delegating the evaluation to staff and pre-committing to Sherwood West, Metro bypassed its own code requirement that the Council itself assess urban reserves for UGB expansions.

3) Erroneous Rationales in Director's Decision: Marks identifies four flaws in the director's decision rejecting Objection 6.A:

- Absence of Metro Code requirement for concept plan. The director conflated Metro Code's permissive language with an actual mandate to require concept plans.
- Absence of concept plan requirement in Goal 14. The director mischaracterized concept-plan completion as merely a "heavily weighted" boundary factor, despite its absence from Goal 14's criteria.
- Absence of concept plan methodology in 2018 decision. The director relied on the 2018 UGB expansion precedent, which did not address concept-plan exclusivity and was not contested on that ground.
- Absence of actual consideration of other areas. The director equated the belated inclusion of a Goal 14 analysis in the record with genuine, contemporaneous scrutiny—ignoring that Council had already resolved to expand Sherwood West.

Department Response:

The director's decision addresses this appeal issue as follows:

Flawed Methodology. See director's decision, pages 60-63, as summarized in Appeal Issue 4A, above.

Additional response is provided on the remaining sub-issues:

Metro Council Role. Although the Council's public hearings did not expressly revisit the Goal 14 analysis or discuss other urban reserves, the record contains no indication that the Metro Council ignored the analysis. In fact, the Metro Council explicitly adopted its staff's Goal 14 analysis in its findings, making it part of the official decision. The absence of additional Council discussion suggests agreement with and acceptance of staff's findings rather than disregard.

Erroneous Rationales in Director's decision. See director's decision, pages 60-63. To summarize:

- Absence of Metro Code requirement for concept plan. In its findings (Exhibit F), Metro explains how it evaluates urban reserve areas with submitted concept plans:

"The expansion area being approved in this ordinance is the Sherwood West urban reserve area. As described in Appendix 7 and 7A, Sherwood West ranked comparatively high under the Goal 14 factors and the Metro Code factors and has the benefit of completed concept planning by a city that is eager to annex, urbanize, and govern the areas. The Sherwood West concept plan describes the city's ability to provide and pay for urban services, expected housing types and number of units, natural resource protection needs and governance issues. Identifying and planning for these issues in advance dramatically increases the likelihood that these urban reserve areas will be able to efficiently accommodate the identified residential land need within a reasonable timeframe and will provide public facilities and services in an orderly and economic manner. Therefore, the Metro Council finds that the Sherwood West urban reserve area will better accommodate the identified land need and more readily provide urban services under the first two locational factors in both Goal 14 and the Metro Code."

Record at 1198

The record does not support the appeal's claim that Metro required the submittal of a concept plan. As described, Metro finds a completed concept plan to be a "benefit" that demonstrates a greater likelihood of successful urbanization outcomes. This is not an indication that Metro would not have considered Sherwood West for inclusion in the UGB, but that when being considered for inclusion in the UGB, Sherwood West would not have scored as highly under the first two locational factors.

- Absence of concept plan requirement in Goal 14. Metro is not required to request or consider concept plans under Goal 14 and nothing in the director's decision stated such. As described above, when considering the relative benefits and costs of expansion into the various urban reserve areas, Metro explains that those areas with concept plans score more highly under two locational factors. Metro's finding - that it equates better outcomes under two locational factors due to the information provided in submitted

concept plans - is supported by its analysis of Goal 14 factors and Metro Code factors in Appendix 7 and 7A.

- Absence of concept plan methodology in 2018 decision. The appeal raises this issue in several locations. See the department's response to Appeal Issue 4.C. To summarize, contrary to the appeal's assertion, LCDC did review and approve Metro's 2018 approach under Goal 14, and the commission's decision in LCDC Order 20-001910 documents this review and approval.
- Absence of Metro Council's actual consideration of other areas. The appeal raises this issue in several locations. See the department's response to Appeal Issue 4.C. To summarize, Metro staff published the Goal 14 Analysis on October 18, 2024, over a month before the November 21 public hearing and six weeks before Metro Council's December 5 decision. The record does not support the appeal's claim that Metro Council was unable to consider this analysis in its decision.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 4.C Timing of Goal 14 analysis consideration

Marks' objection argues that director's decision is based on the erroneous premise that Metro Council employed the Goal 14 boundary-location factors in choosing where to expand the UGB. Marks raised this issue in Objection 6.B.

The appellant raises two sub-issues in their appeal:

1) Goal 14 Analysis- Sequencing:

- Metro Council's deliberations were limited to the Sherwood West concept plan long before the Goal 14 analysis was completed or provided to decision-makers.
- Metro staff alone later applied the Goal 14 factors to all urban reserve lands, but this assessment post-dated the Council's endorsement of Sherwood West and did not inform its preliminary or final determinations.
- Metro only published the analysis after the Council had directed preparation of the expansion ordinance, rendering it a perfunctory addendum instead of foundational to the decision.
- This procedural sequence violates the substantive mandate that Metro "shall evaluate areas designated urban reserve for possible addition to the UGB" under the Goal 14 locational factors at the outset of any expansion decision.

DLCD's characterization of Metro Council's October 3, 2024 meeting as "preliminary" does not excuse the absence of a Goal 14 analysis, nor does it align with the language of Ordinance No. 24-1520. Because adherence to the Goal 14 factors is a substantive prerequisite for UGB amendments, Metro Council's failure to apply them before choosing Sherwood West constitutes reversible error that does not require demonstration of a party's prejudiced rights.

2) 2018 UGB Expansion Precedent: The director mistakenly relied on Metro's 2018 UGB expansion decision as precedent for the 2024 process. Because no party ever raised Goal 14 objections in 2018, neither LCDC nor the Court of Appeals actually addressed whether the methodology satisfied Goal 14, so it cannot be cited by the director to justify skipping or delaying the mandated boundary location factor analysis in 2024.

Department Response:

The director's decision addresses this appeal issue as follows:

Goal 14 Analysis- Sequencing. See director's decision, pages 63-64. To summarize, the appeal's claims of procedural flaws in Metro's handling of its 2024 Goal 14 analysis—that Metro quietly posted it online without public notice, that the Metro Council did not address the analysis during its discussion on November 21, 2024, and that the Council formally heard the matter in October—misrepresents Metro's decision-making process. Metro published its full analysis of all 27 urban reserves under Goal 14 (Appendices 7 and 7A) on October 18, 2024, over a month before the November 21 public hearing and six weeks before the December 5 decision. The October 8 work session provided preliminary direction only; the Metro Council did not make a binding decision and councilors remained free to weigh the record anew. Metro Council formally adopted Ordinance 24-1520 on December 5, 2024, following public testimony and deliberations informed by that analysis.

Although the appeal disputes the director's characterization of Metro Council's October 8 direction to staff as "preliminary", Metro Council's discussion on October 8 could not have been anything more than that. Work sessions do not provide the decision makers the authority to adopt formal decisions.

2018 UGB Expansion Precedent. Contrary to the appeal's assertion, LCDC did review and approve Metro's 2018 approach under Goal 14, finding that, using the same "concept plan" weighting it used in this decision, Metro followed the prioritization rules in OAR 660-024-0060 and ORS 197.298(1), examined each urban reserve area's public facilities and services, and duly balanced all boundary location factors. The final LCDC order, later upheld on appeal, outlines this process. The Commission's order explains the rationale:

"Metro's location alternatives analysis follows the prioritization required in OAR 660-024-0060 and ORS 197.298(1). Specifically, all areas considered for inclusion within the Metro UGB are urban reserve lands, which are identified as the top priority for inclusion within an UGB. Record at 352, 1057. The Preliminary UGB Alternatives Analysis includes consideration of the Goal 14 locational factors, as well as detailed summary reports for each of the 32 identified urban reserve areas. Record at 340-349, 350-991. It is important to reiterate the provisions of OAR 660-024-0060(3), which provides that "[t]he boundary location factors of Goal 14 are not independent criteria." See *also 1000 Friends of Oregon v. Metro*, 174 Or App 406, 409-410, 26 P3d 151 (2001) (requirement that each factor must be addressed does not make the factors independent approval criteria). Metro is charged with consideration of each factor and balancing of the factors in reaching a decision. As part of the detailed summary reports for the urban reserve areas, Metro has provided a complete analysis of public facilities and services needed to serve each area, along with consideration of the boundary location factors of Goal 14 for each area. Therefore, the Commission concludes that Metro's boundary location analysis is consistent with ORS 197.298, Goal 14, and OAR 660-024-0060." – LCDC Order 20-001910.

While the appellant did not raise this issue to the Court of Appeals (and thus the court did not consider the issue), the commission's decision in 2020 provides sufficient precedential value for the director and commission to make a similar decision in this circumstance.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 4.D Residential and employment land need

Marks' objection alleges that Metro conducted a procedurally and substantively flawed determination of twenty-year housing and employment needs. Marks raised this issue in Objection 6.C.

The appellant raises two sub-issues in their appeal:

1) Establishment of Need- Sequencing: Rather than first establishing whether additional land was required to meet regional demand, Metro deferred adoption of its needs analysis until the conclusion of its expansion deliberations, thereby skewing its assessment to Sherwood West - the sole concept plan it received. By confining its projections to the smallest conceivable expansion area, relying exclusively on the lowest-end growth scenario (Scenario 3), and invoking unsupported "latitude" for uncertainty, Metro effectively engineered an outcome-driven calculation that prescribes only 3,100 new housing units—a number so aligned with Sherwood West's capacity that it defies statistical plausibility. Metro's failure to describe a reasoned basis for its scenario selection, to substantively engage with additional data or jurisdictional feedback, and to ground its conclusions in substantial evidence renders its analysis inconsistent with Goal 14's requirement for a transparent, data-driven needs determination.

2) Obligation to Consider All Urban Reserves: Metro's singular focus on Sherwood West violated its obligation under Goal 14 to consider multiple expansion alternatives and to evaluate localized needs within the broader regional context. Despite repeated jurisdictional comments—including those from Portland, Clackamas County, Washington County, Gresham, and Tualatin—highlighting underestimated housing demand and identifiable capacity gaps elsewhere, Metro neither acknowledged nor rebutted these concerns. In effect, Metro's exclusive reliance on a sole concept plan, coupled with its disregard for other viable expansion areas, resulted in a UGB decision that fails to capture the true scale and distribution of the region's housing and employment needs.

Department Response:

The director's decision is responsive to this issue on pages 64-69. To summarize:

Establishment of Need- Sequencing: Metro demonstrated the necessity and timing of UGB expansion through a rigorous population forecasting methodology, selecting a baseline population growth of 15,000 net per year based on 2010–2022 historical averages, peer review, and compliance with OAR 660-032-0030.

- Metro developed three redevelopment scenarios (market recovery, baseline, and market erosion) and applied a pro forma model—supported by ECONorthwest and Johnson Economics memos—to estimate infill capacity, including office-to-residential conversions and accessory dwelling unit/internal conversions.

- Metro reviewed its buildable land and evaluated different housing mixes (one focused on single-family homes and two on middle-housing options). This helped account for uncertainty, reflect changing population trends, and ensure land was developed in the right order before evaluating urban reserves.
- By aligning with ORS 197A.350(5)(b) and statewide rules on housing capacity, Metro validated its scenario selection and data periods (2019–2022), demonstrating that each step in the sequencing process met legal standards.

Additionally, regarding the timing of the housing needs analysis adoption, the director notes that concurrent adoption of the needs analysis and the UGB amendment is lawful, and in fact, required.

Obligation to Consider All Urban Reserves:

- Metro completed a full Goal 14 analysis for all 27 urban reserve areas by October 18, 2024—well before the November public hearing and December Council decision.
- Appendices 7 and 7A, containing detailed location factors analyses, were in the official record throughout deliberations, and the October 8 work session’s preliminary guidance did not constrain Metro Council’s final findings.
- Metro maintained procedural fairness and did not prejudice any participant’s substantial rights, and the Goal 14 factors informed every stage of the Council’s decision under ORS 197.633(3)(b).
- Although multiple reserves scored comparably or higher than Sherwood West under certain factors, Metro provided a reasoned narrative for balancing and selecting that area (see Objection 6A), exercising its discretion consistent with statutes and regional land-need mandates.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Fifth Appeal: Verde

Appellant Verde submitted one appeal item to the director’s decision. The director previously determined the appellant’s objection to be valid.

The department addresses the appeal issue below.

Appeal Issue 5 Consideration of reasonable measures and alternative locations

Verde’s objection concerns Metro Council’s failure to evaluate either alternative boundary locations or non-expansion strategies capable of meeting identified land needs within the existing UGB, in violation of Goal 14 and Metro’s Urban Growth Management Functional Plan. Verde raised this issue in Objection 9.

The appellant’s appeal on this issue contends that during stakeholder and public hearings, Metro neglected to analyze both alternative sites and strategies to accommodate growth on

lands already inside the boundary. Therefore, Metro failed to examine the comparative implications for infrastructure budgets, equitable provision of public services in historically underserved communities, and the environmental, social, and transit-related consequences of suburban expansion. By omitting this required comparative analysis, Metro Council foreclosed a balanced assessment of economic, social, and environmental trade-offs.

Department Response:

The director's decision is responsive to this issue on page 76. To summarize:

- Metro's analysis of the UGB's capacity is adequate, as detailed in the director's response to the 1000 Friends objection 1.A.
- Metro's assessment of alternative expansion locations is thorough, as noted in the director's response to Marks' objection 6.A.
- Metro sufficiently addressed both issues in the record.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Sixth Appeal: West of Sherwood Farm Alliance *et al.*

Appellant West of Sherwood Farm Alliance *et al.* ("WoSFA") identifies 19 deficiencies in the director's decision, including four objections that the director previously determined to be invalid.

The department addresses the appeal issues individually below.

Appeal Issue 6.A Goal 14 analysis

WoSFA's objection concerns Metro's failure to evaluate alternative measures and sites to satisfy identified regional needs, in violation of Metro Code 3.07.1425, ORS 197A.350(6)(a) and (b), Goal 14, and its implementing rule. The decision-making process was procedurally flawed and lacked substantial evidence under OAR 660-025-0160(2). Metro Council deliberations began first with the decision to add Sherwood West; key locational-factors and infill analyses were released only after the vote was effectively cast, and no competing sites or measures were ever formally considered or opened for public comment. Councilor Nolan's remarks at the December 5 meeting underscored that the process was backwards — starting with proposals rather than need assessments — making genuine consideration of alternatives impossible.

WoSFA raised this issue in Objection 10.A .

Department Response:

The director's decision is responsive to this issue on page 77. To summarize: the director addresses Metro's consideration of alternative boundary locations based on applicable criteria in the response to objection 6.A, finding that Metro's analysis considered all 27 urban reserve areas for inclusion within the UGB and made a reasonable decision based on applicable criteria. Several of the objections and now the appeals raise variations of this specific issue — arguing that Metro did not comply with the requirements of Goal 14 by essentially "pre-selecting" the Sherwood area for a UGB expansion before doing a comprehensive analysis of all potential UGB expansion areas surrounding the Metro UGB. The director's decision is responsive to this

issue on pages 60-64 and 72-73, summarized in the department's response to Appeal Issue 1.B.

Additionally, despite the appeal's contention that Councilor Nolan's comments demonstrate a remandable failure of public process on Metro's part, the director notes that Councilor Nolan — the sole Metro Councilor to vote against the UGB amendment — was exercising discretion to dissent on a matter of policy. Expressing one's opinions during decision making on policy matters provides no evidence of a factual deficiency nor procedural error. Rather, it is the prerogative of decision makers to use their discretion when making legislative decisions.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.B Consideration of reasonable measures

WoSFA's objection concerns Metro Council's failure to demonstrate consideration of reasonable measures, as required by ORS 197A.350 and OAR chapter 660, division 24. This appeal takes note of development capacity estimates prepared by the WoSFA and the City of Portland, as well as providing results from the City of Portland's Residential Infill Project Year-One Report. WoSFA raised this issue in Objection 10.B.1 and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on pages 77-78.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2). The commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 6.C Accommodation of land needs in alternative locations

WoSFA's objection concerns Metro Council's failure to conduct a parcel-level Goal 14 assessment of prioritized buildable lands, in violation of Goal 14, its administrative rule, ORS 197A.355, and Metro Code. As a result, the Metro Council failed to identify and compare specific sites for efficient, compatible urbanization. By dismissing entire reserves—such as Boring, Damascus, and Tonquin—as unsuitable, Metro failed to identify and compare specific sites across all 27 reserves that together could satisfy regional housing and employment needs.

WoSFA raised this issue in Objection 10.B.2.

Department Response:

The director's decision is responsive to this issue on pages 78-79. To summarize:.

- There is no legal requirement under OAR 660-024-0060(6), Goal 14, or Metro Code for Metro to divide each of the 27 urban reserves into smaller units for evaluation.
- Conducting a parcel-level analysis would be impractical and complex, since infrastructure extensions depend on contiguous networks—selecting one subarea could oblige inclusion of adjacent subareas.

- OAR 660-024-0060(6) expressly allows grouping multiple parcels with identical priority status for boundary-location analysis. Metro's assessment of entire urban reserve areas therefore complies with both the rule and its statutory mandate.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.D Protection of agricultural uses

WoSFA's objection concerns Metro Council's treatment of all urban reserves as equally "high-scoring" farmland—thereby undermining the code's mandate to protect the most critical commercial agricultural lands and disregarding WoSFA's testimony about the unique productivity of the Sherwood-adjacent parcels, in violation of Metro Code 3.07.1425(c)(7). In doing so, Metro ignored record testimony demonstrating that the Sherwood-adjacent parcels are uniquely productive and essential to the local farm economy, dismissing the very evidence Metro Code demands be weighed when selecting UGB expansion areas.

WoSFA raised this issue in Objection 10.B.3.

Department Response:

The director's decision is responsive to this issue on pages 79-81. To summarize:

Metro states that Metro Code 3.07.1425(c)(7) is obviated by the designation of the 27 urban reserve areas, arguing that "protection of farmland within any of the urban reserves is not, for the purposes of responding to this Metro Code factor, considered important for the continuation of commercial agriculture in the region," thus essentially finding that the designation of these areas as urban reserves makes them all unimportant for the continuation of commercial agriculture in the region.

ORS 197.633(3)(c) requires the director to give deference to a local government interpretation of its own plan, and references standards in ORS 197.829. ORS 197.829(1) provides that the director shall affirm a local government's interpretation of its comprehensive plan and land use regulations, unless the director determines that the local government's interpretation:

- “(a) Is inconsistent with the express language of the comprehensive plan or land use regulation;
- “(b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;
- “(c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation; or
- “(d) Is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements.”

The director determined, looking at these factors, that Metro is afforded deference to its interpretation of Metro Code 3.07.1425(c). Metro met the express language of the provision with its finding that all the urban reserve areas were equally unimportant for commercial agriculture. The director accepts Metro's interpretation of the purpose of Metro Code 3.07.1425(c), and also

agrees with Metro that, with regard to this particular UGB decision, that purpose is consistent with not distinguishing among different urban reserve areas. The director agrees with the underlying policy that these urban reserve areas will eventually be urbanized. Accordingly, they are not important for long-term commercial agriculture in the Portland Metro area. And finally, the director finds that Metro's interpretation is not contrary to any relevant state statute, land use goal, or rule.

The objection's generalized claims about Sherwood West's soil productivity and regional farm-economy reliance are insufficiently specific or corroborated to establish that those parcels are uniquely "most important for the continuation of commercial agriculture." In the absence of compelling evidence, Metro did not err in including Sherwood West in the UGB.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.E Metro locational factors

WoSFA's objection concerns Metro Council's determinations under Metro Code 3.07.1425(c)(3)–(c)(9), contending they fail to properly evaluate environmental, economic, social, agricultural, and habitat impacts, misapply centers-and-corridors criteria, ignore superior alternative sites, and neglect to provide clear urban–rural transitions in violation of both Metro's locational factors and multiple Statewide Planning Goals. WoSFA raised this issue in Objection 10.B.4.

Department Response:

The director's decision is responsive to this issue on pages 81-84. To summarize:.

Metro conducted a detailed evaluation of Sherwood West's suitability for urban development across nine locational factors, including infrastructure costs, environmental consequences, agricultural compatibility, and housing distribution. WoSFA challenged these findings but offered limited evidence, relying mainly on general concerns or data inconsistencies. The director found Metro's assessments, supported by technical studies and policy criteria, comply with both Metro Code and Oregon's Statewide Planning Goals, leading to the conclusion that WoSFA did not demonstrate any substantial flaws that would justify overturning Metro's decision.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.F Suitability of Sherwood West for large lot industrial land

WoSFA's objection concerns Metro Council's inclusion of the North District Mixed Employment area within the UGB. WoSFA argues that the North District Mixed Employment addition is unsupported by Metro's own data: no individual taxlots reach the 50-acre threshold, parcel assemblages in Sites A5, A6, and B6 fall short, and steep slopes, brownfields, transmission easements, and fragmented ownership inhibit any single, contiguous developable site. By asserting a regional need for large-lot industrial parcels despite a two-decade surplus of nearly 4,000 acres and without reconciling Sherwood's parcel-level analysis, Metro failed Goal 2's mandate for a comprehensive, fact-based land-use decision grounded in substantial evidence. WoSFA raised this issue across several objections- Objection 10.E.2, 10.E.3, and 10.E.5.

Department Response:

Several of the objections and now the appeals raise variations of this specific issue - that Sherwood West does not contain parcels suitable for accommodating two 50-acres industrial sites. The director's decision is responsive to this issue on pages 88-92. To summarize, Metro's Urban Growth Report, based on the Oregon Semiconductor Competitiveness Task Force's 2022 findings, identifies a need for four 50–100-acre industrial sites to support semiconductor manufacturing. Although WoSFA argues that the employment area in Sherwood West cannot meet this need due to net developable acreage constraints, neither the Task Force report nor the Urban Growth Report distinguishes between net and gross acreage, and Metro's UGB expansion approval explicitly requires only two sites of at least 50 gross acres each. Title 13 gives cities alternative compliance paths for habitat conservation. Net developable acreage for the sites in question will not be known until Sherwood and Metro update the Title 13 inventory and Sherwood amends its comprehensive plan. Title 13 habitat protections do not come into effect until the area is added to the UGB and Metro's jurisdiction.

Additionally, contrary to the appeal's assertion that Metro failed to consider parcelization in Sherwood West in its Goal 14 analysis - thereby treating it differently from other urban reserve areas - the director finds Metro included parcelization in its analysis of Sherwood West's social, energy, and economic consequences. Record at 374-375.

This report addresses the appeal's assertions of an excess of industrially designated land in the Metro UGB in its response to Appeal Issue 1.A.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.G Suitability of site A5 for industrial land needs

WoSFA's objection concerns Metro Council's failure to demonstrate that Site A5 can accommodate a single, contiguous 50-acre manufacturing use, as the record shows contradictory evidence that significantly reduce the amount of land that could be developed for industrial uses. Sherwood's 75.6-acre Site A5 is physically bisected by a Bonneville Power Administration transmission-line easement and constrained by Title 13 habitat buffers, leaving roughly two 30–35-acre developable fragments rather than the single 50-acre pad required for high-tech manufacturing. Metro's finding that Site A5 meets the 50-acre need is unsupported by substantial, parcel-level evidence—contradicting its own recognition in other urban-reserve analyses that power-line easements fragment sites—and thus fails Goal 2's requirement for a sound factual basis.

WoSFA raised this issue in Objection 10.E.2.

Department Response:

Several of the objections and now the appeals raise variations of this specific issue - that Sherwood West does not contain parcels suitable for accommodating two 50-acres industrial sites. The director's decision is responsive to this issue on pages 88-92, as summarized in the department's response to Appeal Issue 6.F.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.H Suitability of site A.6 for industrial land needs

WoSFA's objection concerns Metro Council's failure to demonstrate that Site A6 provides a contiguous 50-acre site suitable for high-tech manufacturing, as the record shows that significant portions of the site lack any employment designation.

WoSFA failed to raise this issue in its objection.

Department Response:

This is a new appeal issue that was not raised as an objection. This is an appeal of the Director's Decision as provided in ORS 197.633(5)(b) and as such is limited to challenges to the Director's Decision.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.I Accommodation of industrial land need

WoSFA's objection concerns Metro Council's failure to consider alternative measures and sites, therefore the decision lacks substantial evidence regarding the suitability of Sherwood West for accommodating the two 50-acre sites.

WoSFA raised this issue in Objection 10.A.

Department Response:

The director's decision is responsive to this issue on page 77. To summarize, the director addresses Metro's consideration of alternative boundary locations based on applicable criteria in the response to objection 6.A. In summary, the director finds that Metro's analysis considered all 27 urban reserve areas for inclusion within the UGB and made a reasonable decision based on applicable criteria.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.J Natural resource constraints on future industrial development

WoSFA's objection concerns Metro Council's failure to conclude that Metro's Title 13 and Tualatin Basin conservation rules, along with habitat disturbance limits, reduce Site A6's genuinely developable land to roughly 18 acres (or about 25 acres under maximum disturbance assumptions), far below Metro's asserted 50-acre threshold. Further, Metro's Goal 14 Boundary Location analysis improperly treats most environmental constraints as removable, relies on outdated mapping, and lacks the substantial evidence required by Goals 2, 5, and 9.

WoSFA raised this issue in Objection 10.E.4.

Department Response:

Several of the objections and now the appeals raise variations of this specific issue - that Sherwood West does not contain parcels suitable for accommodating two 50-acres industrial sites. The director's decision is responsive to this issue on pages 88-92, as summarized in the department's response to Appeal Issue 6.F.

Additionally, the appeal introduces a new challenge to Metro's method for estimating buildable lands in its Appendix 7 (Goal 14 Boundary Location Factor Analysis)¹¹ without pointing to the statute or rule it allegedly violates. Under OAR 660-025-0140(2), an objector must clearly identify those elements; without that detail the commission cannot consider the argument.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.K Use of high-tech manufacturing sites for other uses

WoSFA argues that Metro Council failed to impose enforceable conditions limiting Sites A5 and A6 to the high-tech manufacturing uses that justified their UGB inclusion, instead allowing a broad range of office, logistics, food processing, and light industrial activities. The appellant contends that Metro lacks the legal authority or mechanisms to enforce any such restrictions, rendering the decision unsupported by substantial evidence and in conflict with Goals 14 and 2 and Metro Code requirements.

WoSFA raised this issue in Objection 10.F, and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on pages 92-93.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(b). The commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 6.L Accommodation of needed housing and relevance of Oregon Housing Needs Analysis

WoSFA's objection concerns Metro Council's failure to align housing supply with quantified affordability needs. Specifically,

- Metro Council omitted legally required affordability analyses and set no targets or strategies for low-income housing types mandated by Goal 10, its administrative rules, and regional plans.
- The Sherwood West Concept Plan relies solely on market-rate single-family homes—which an EcoNorthwest study shows are unaffordable for households earning under 120 percent of Area Median Income (AMI)—and omits apartments, rent-restricted units, manufactured homes, farmworker housing, and other subsidized or nontraditional options.
- By failing to tie its housing mix to documented regional needs (including Sherwood's share for ≤ 60 percent of median family income), the plan violates statutory "needed housing" criteria and related Metro policy mandates.

WoSFA raised this issue in Objection 10.C.

¹¹ Although the appeal discusses Metro's "inventory of buildable lands", the director understands that the appeal objects to the methodology Metro used in Appendix 7, rather than the methodology it used in its Buildable Land Inventory, Appendix 2, which estimated the capacity of the UGB.

Department Response:

Several of the objections and now the appeals raise variations of this specific issue - that Sherwood West will not meet the region's identified housing needs. The director's decision is responsive to this issue on pages 40-43, 54-56, and 85, as summarized in the department's response to Appeal Issues 1.C. and 3.A.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.M Consideration of reasonable land use measures in the current UGB

WoSFA's objection concerns Metro Council's failure to consider substantial evidence in the record showing that the current UGB can accommodate the region's housing needs without expansion, taking note of analyses from several cities in the region. WoSFA raised this issue in Objection 10.B.1 and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on page 77-78.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2)(c). The commission may not consider this appeal item. OAR 660-025-0140(3).

Appeal Issue 6.N Racial Equity and Diversity, Equity, and Inclusion

WoSFA's objection concerns Metro Council's approval of a UGB expansion in affluent, minimally diverse Sherwood, arguing it shifts costs onto less affluent communities and prioritizes high-tech industrial development. They contend the decision undermines Metro's equity, inclusion, affordability, and diversity goals, and note it drew criticism by Metro's Committee on Racial Equity (CORE). By relying on taxpayer dollars from less affluent areas to underwrite growth in a high-cost, low-diversity community, the decision undermines commitments to distribute benefits and burdens equitably. Justifying industrial land for a homogeneous high-tech industry misaligns with broader community equity objectives.

WoSFA raised this issue in Objection 10.H.

Department Response:

The director's decision is responsive to this issue on pages 95-96. To summarize: the objector has not shown any meaningful connection between the generalized Metro Regional Framework Plan policy and the proposed UGB expansion in Sherwood. The director noted in responses to related objections that nearly all projected housing and employment growth needed to meet 20-year land needs for the entire Metro region will occur within the existing Metro UGB.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.O Compact and efficient development patterns

WoSFA's objection concerns Metro Council's failure to prioritize compact, efficient urban growth, infill, and redevelopment to support transit, reduce sprawl, and curb greenhouse gas

emissions. Instead of directing infrastructure investments and incentives toward underutilized land within existing boundaries, Metro failed to follow statewide goals for orderly urbanization and its Regional Framework Plan's policies on dense, transit-oriented communities, infill-focused development and efficient land use. WoSFA raised this issue in Objection 10.G.

Department Response:

The director's decision is responsive to this issue on pages 93-95. To summarize: Metro's pro forma buildable-land inventory projects that identified redevelopment sites can yield 48,400 of the 175,500 new dwelling units the region needs by 2044. From 2013 to 2022, the region added 93,000 homes—more than half through redevelopment—with multi-unit buildings making up 56 percent of new construction and substantial gains in “middle housing” types, while single-detached houses, though 52 percent of the existing stock, accounted for only 30 percent of recent builds. Development in Metro's centers, corridors, and main streets achieved an average density of 48 units per acre—versus 10 units per acre outside those areas and 16 region-wide—outperforming statewide averages. The director found that growth between 2013 and 2022 not only met but significantly exceeded the minimum density and housing-mix standards set by OAR 660-007-0030 and OAR 660-007-0035, evidencing the success of programs like Climate Smart Communities and robust statutory compliance backed by nearly 10,000 pages of record.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.P Cost of expansion and development

WoSFA's objection concerns Metro's failure to consider cost-effective alternatives with existing infrastructure before committing \$334 million to Sherwood's UGB expansion, in violation of Goal 11, Goal 14, and Metro Code 3.07.1425(c)(2), and placing undue financial burden on taxpayers. WoSFA raised this issue in Objection 10.B.4.

Department Response:

The director's decision is responsive to this issue on pages 81-84. To summarize, Metro analyzed the relative costs to provide public facilities and services for each of the 27 urban reserve areas, as part of its Factor 2 analysis in Appendix 7. Metro's extensive review led to the conclusion that urban development in Sherwood West supports an orderly, economic provision of public facilities. Because the objector offered no specific cost comparisons or contextual data, the director rejected the sub-objection.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.Q Efficient accommodation of needs

WoSFA's objection concerns Metro Council's determination that a 1,291-acre expansion of the UGB is the most land-efficient mechanism for securing 575 net acres for jobs and housing, despite contradictory evidence in the record. Further, Metro's own density analysis shows only a 155 acres need for 3,100 homes (at 20 units/acre), not the 340 acres Metro claims, undermining the requirement for “efficient accommodation of identified land needs.” With over 7,900 net buildable acres in other urban reserves and a 3,931-acre industrial surplus inside the current UGB—which Metro never combined or evaluated—the 1,291-acre expansion is unsupported by substantial evidence.

WoSFA raised this issue in Objection 10.B.2.

Department Response:

The director's decision is responsive to this issue on pages 78-79.

Additionally, WoSFA's reference to Metro's "density analysis" misunderstands why Metro used a 20 unit/acre development assumption for estimating infrastructure and service costs in the 27 urban reserve areas. The consultant's analysis provides the following explanation of the assumptions used in the study:

"All buildable land will be developed as residential, at a rate of 20 dwelling units per residential acre (as provided by Metro). Mackenzie has reviewed the capacity needs for this level of residential development versus non-specific commercial, industrial, and institutional development and their typical lot or area coverage. In general, environmental constraints have equal impact across all development types, with the expectation that residential may have higher potential on greater slopes. For water, sanitary sewer, and stormwater utility service needs, the assumption of residential development provides sufficient comparison for comparison to other uses." (Record at 801)

Based on this explanation, it is evident that the 20 units per acre assumption was used, not because the anticipated level of residential development was 20 units per acre, but because applying that level of density across the region to buildable lands in all 27 urban reserve areas provides a reasonable proxy for the intensity of development of all types of uses, including non-specific commercial, industrial, and institutional development. Thus, the Goal 14 – Utility Analysis conducted by Mackenzie allows an "apples to apples" comparison of the costs to serve lands in all 27 urban reserve areas. (Record at 797)

In conclusion, Metro's use of the 20 unit/acre development assumption in Metro's Goal 14 – Utility Analysis was developed to estimate comparative infrastructure costs between urban reserve areas. It should not be confused with the specific needs identified in the Urban Growth Report, which are commercial lands, large-lot industrial lands, and residential lands to accommodate 3,120 housing units or an average density of 9.2 units per net acre. (Record at 15)

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.R Climate change

WoSFA's objection concerns Metro Council's approval of housing at the edge of the UGB—distant from job centers and poorly served by transit—contradicting its own Regional Framework Plan and Climate Smart Strategy by driving up vehicle miles traveled, relying on a jobs-housing balance theory discredited by WoSFA's data, and violating state and regional emissions-reduction mandates. Metro's Climate Smart Strategy and regional goals to minimize greenhouse gas emissions do not support placing new housing and jobs on the far edge of the region where transit is limited, forcing long car commutes.

WoSFA raised this issue in Objection 10.I.

Department Response:

The director's decision is responsive to this issue on page 96. To summarize: the director addresses Metro's consideration of climate change based on applicable criteria in the response to objections 1.D and 10.G, finding that Metro considered the potential VMT from the Sherwood West urban reserve as part of its Goal 14 locational analysis. The director also found that although WoSFA argued its own census-based evidence undermines Metro's decision, the objector failed to address Metro's conflicting data or explain why relying on it was unreasonable—making its challenge insufficient under the standard set by *Mazeski*, 28 Or LUBA at 184.

Based on this analysis, the director recommends that the commission reject this appeal issue.

Appeal Issue 6.S Violation of Ethics, Statewide Planning Goal 1, and Metro's Public Engagement Principles

WoSFA's objection concerns Metro Council's violation of its own public engagement and ethics guidelines by endorsing and approving the UGB expansion without authentic, equitable citizen participation, thereby undermining the transparency, equity, and impartiality obligations of Goal 1, Metro's Public Engagement Guide, and Code of Ethics.

WoSFA raised this issue in Objection 10.J, and the director found the objection invalid under OAR 660-025-0140(2). The director's decision addresses this issue on pages 96-97.

Department Response:

This appeal item is based upon an objection the director found to be invalid because it did not satisfy the provisions of OAR 660-025-0140(2). Accordingly, the commission may not consider this appeal item. OAR 660-025-0140(3).

VI. Department Recommendation and Draft Motions

A. Recommendation

For the reasons described in this report, the department recommends that the commission deny the appeal and uphold the director's approval of Metro's UGB amendment submittal, in Order 001953.

B. Motions

Recommended Motion: "I move the commission uphold the director's approval of Metro's UGB Amendment submittal, in Order 001953, based on the findings and conclusions in the director's report."

Additional Approval Items Motion: "I move the commission uphold the director's approval of Metro's UGB Amendment submittal, in Order 001953, with the following amendments:
_____ based upon _____."

Remand Motion: "I move the commission reverse the director's decision (Order 001953) and remand Metro's UGB Amendment submittal based upon _____."

VII. Attachments

A. The Appeal Record, available as electronic staff report attachments are viewable online at:
<https://www.oregon.gov/lcd/NN/Pages/Metro-UGB-2024.aspx>

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Certificate Of Service

I certify that on September 2, 2025, I served the attached “**Report to the Land Conservation and Development Commission on Appeal of Department of Land Conservation and Development Order 001953 (DIRECTOR’S DECISION ON METRO URBAN GROWTH BOUNDARY AMENDMENT)**” by emailing a copy thereof addressed as follows:

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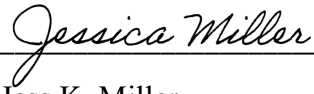
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