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CC: Metro

Thursday, January 9, 2025

RE: Objections to Metro's Ordinance No. 24-1520

Founded in 1974, 1000 Friends of Oregon is a statewide mission-based 501(c)(3) nonprofit organization. Our mission is to work with Oregonians to enhance our quality of life by building livable urban and rural communities, protecting family farms and forests, and conserving natural areas. We realize our mission by partnering with Oregonians on major land conservation and development decisions ranging from urban growth boundary expansions, land readiness efforts, comprehensive plan updates, development applications, and more. These decisions can lead to positive or negative experiences for present and future generations, shaping the kind of communities, economies, environments, and choices afforded to Oregonians. That is why researching, engaging, and organizing to shape these decisions to offer the most positive experiences for as many Oregonians as possible is of paramount importance.

Overview of Oregon's Urban Growth Boundaries

Our statewide land use planning program calls for the best-available data and science to manage our urban growth boundaries in recognition of their importance to ensure resiliency of our natural resource lands, foster connected, compact, and vibrant centers and corridors, and guide development away from harm's way. Processes, if done correctly, adapt and accommodate for changes in employment and population growth and can anticipate and mitigate the harms that occur when farms, forests, and/or watersheds are developed into and/or are paved over. We see the flexibility and the adaptive nature of our urban growth boundaries in data collected by the lead state agency. "From 2016 through 2023, cities filed 42 comprehensive plan amendments to adjust their UGBs. Of those, only two plan amendments were not approved, resulting in 40 successful UGB adjustments. This data suggests that major change is not necessary. Almost overwhelmingly, the current process delivers timely, non-controversial results."¹

¹ Department of Land Conservation and Development. Last updated July 14, 2023.
https://www.oregon.gov/lcd/UP/Documents/UGB_Amendments_2016-2023.pdf



Our statewide land use planning program requires local governments and metropolitan service districts to prioritize data and science in these decisions. In the rare instances where all or certain parts of an UGB expansion decision are not legally justified, Oregonians have the right to raise questions, concerns, and objections for course-correction.

Overview on Metro's 1,291-acre Urban Growth Boundary Expansion

The Metro Council consists of a president, elected regionwide, and six councilors who are elected by each district every four years. Amongst growing responsibilities such as managing affordable housing bond measures, parks and nature bond measures, and supportive services, Metro Council holds the responsibility of managing the UGB. Every six years, the Metro Council must determine whether or not the existing UGB is sufficient to meet projected population and employment growth or declines over a 20-year timeframe. "Metro Council can consider expanding the greater Portland region's urban growth boundary **if there is a regional need for land to accommodate the next 20 years of jobs and housing growth**. However, the region has learned that adding more land alone is not enough. UGB expansions only produce jobs or housing when a city can provide infrastructure like pipes, roads, sidewalks, parks, and schools."²

However, before making a final determination on whether or not there was regional need, Metro Council called for submissions from local governments interested in expanding their UGB. One city responded with interest: the City of Sherwood. On March 5, 2024, the City of Sherwood adopted Resolution 2024-0013, stating that the City of Sherwood would submit a UGB expansion application for 1,291-acres to Metro "during the 2024 expansion cycle for the entirety of Sherwood West as described in the Concept Plan."³ Subsequently, in July 2024, Metro issued its draft Urban Growth Report with proposed methodologies to gauge regional inventory on employment and housing capacity within the existing UGB as well as forecast current and future housing and employment demand. On August 26 2024, Metro COO Marissa Madrigal recommended approving the City of Sherwood's application with direction for Council to create conditions to advance regional (and statewide) goals, particularly with respect to housing. On December 5, 2024, Metro Council adopted No. Ordinance 24-1520 and its appendices to approve the City of Sherwood's UGB expansion application for 1,291 acres.

To help us protect and enhance the quality of life for all Oregonians, especially historically and currently excluded Oregonians, living in the greater Portland area, 1000 Friends of Oregon

² Metro. Metro Website, Landing Page on the 2040 Growth Management. Last accessed January 8, 2025. <https://www.oregonmetro.gov/public-projects/2024-growth-management-decision/expansion-proposal>

³ City of Sherwood. Resolution 2024-0013 and accompanying documents including the Sherwood West Concept Plan. Last accessed January 8, 2025. <https://www.oregonmetro.gov/sites/default/files/2024/05/09/Sherwood-West-Expansion-Proposal-Part-2.pdf>



(Friends) respectfully objects to Metro's regional government submittal of Ordinance No. 24-1520, an amendment to the Metro regional UGB that adds approximately 1,291 acres of land to the UGB in the Sherwood West planning area. As we describe below, Metro's sequence of events renders the decision defective, ignores critical information from its largest local jurisdiction that significantly alters the regional inventory, and disregards multiple regional and statewide laws that DLCD has dedicated countless hours, staff time, and taxpayer resources to provide technical assistance, planning grant capacity, and knowledge exchange for local and regional jurisdictions to comply.

Our objections include the following: Procedural Review, Demonstrated Participation, and Alleged Deficiencies and Specific Revisions.

I. Procedural Review

Under ORS 197.626, "a local government shall submit for review and the Land Conservation and Development Commission shall review the following final land use decisions: (b) [a]n amendment of an urban growth boundary by a city with a population of 2,500 or more within its urban growth boundary that adds more than 50 acres to the area within the urban growth boundary [...]." Additionally, under OAR 660-025-0040(2), "[...] the commission has exclusive jurisdiction for review of the following final decisions for compliance with the statewide planning goals."

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

- (a) Be in writing and filed with the department's Salem office no later than 21 days from the date the local government sent the notice;
- (b) Clearly identify an alleged deficiency in the work task or adopted comprehensive plan amendment sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated;
- (c) Suggest specific revisions that would resolve the objection; and
- (d) Demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision.

Regarding (a), the notice provided to Friends by Metro staff indicated that the notice of decision was submitted to the Department of Land Conservation and Development (DLCD) on December 19, 2024, making the deadline for submittal of this letter January 9, 2025.

Regarding (b), this letter identifies the alleged deficiencies and rule violations in the adopted amendments.



Regarding (c), we suggest that the appropriate action is for the DLCD director to remand the plan amendments as provided in OAR 660-025-0150(1)(b) for the reasons stated in this letter.

Regarding (d), Friends participated orally and in writing at Metro proceedings spanning from September 29, 2024 to the final decision December 5, 2025. We elaborate below in Section II.

II. 1000 Friends of Oregon's Demonstrated Participation in Metro's UGB Expansion Process

Beginning in September 29, 2024, 1000 Friends of Oregon participated in Metro's UGB expansion process with multiple staff throughout the process, raising ideas, questions, and possible solutions for Metro Council. Friends staff, Brett Morgan and Samuel Diaz, participated as invited stakeholders in the Metro urban growth stakeholder roundtable meetings that occurred monthly. Friends staff, Brett Morgan and Mary Kyle McCurdy, also participated as appointed representatives of Metro's Technical Advisory Committee and Transportation Policy Alternatives Committee. Friends staff Samuel Diaz submitted written and oral testimony to Metro Council and staff in response to the draft 2024 Urban Growth Report, Metro COO Marissa Madrigal's August 2024 recommendation on the UGB expansion, and the UGB expansion's decision outlined in Ordinance 24-1520.

III. Alleged Deficiencies and Specific Revisions

Throughout the UGB expansion process, several members of Metro Council acknowledged political pressures to expand the UGB before the completion of staff analyses, local review, and public comment; one member lamenting that there were not more UGB expansion applications. However, the August 2024 Urban Growth Report revealed that Metro "likely has room to accommodate most, if not all, of the region's existing and future housing needs within the existing UGB for the next 20 years."⁴ And, the same report also documented a surplus of available industrial land, totalling over 3,191 acres surplus. Moreover, staff analysis stressed the need to focus on housing production strategies inside the existing UGB, underscoring the higher likelihood of meeting the region's housing needs. Staff recognized that "adding more land alone is not enough. UGB expansions only produce jobs or housing when a city can provide infrastructure like pipes, roads, sidewalks, parks, and schools."⁵

⁴ Metro. Urban Growth Report Executive Summary at page 4. August 2024.

<https://www.oregonmetro.gov/sites/default/files/2024/11/01/2024-UGR-EXEC-summary-FINAL.pdf>

⁵ Metro. Metro Website, Landing Page on the 2040 Growth Management. Last accessed January 8, 2025. <https://www.oregonmetro.gov/public-projects/2024-growth-management-decision/expansion-proposal>



Instead of prioritizing the legal requirements and the best available data provided to Metro at multiple junctures of the process, political pressure primarily drove the decision for UGB expansion. Exhibit B includes several “conditions” that read as aspirations or that replicate actions already proposed by the City of Sherwood’s Sherwood West Concept Plan. This Exhibit B was also created in response primarily to political pressures; the City of Sherwood Mayor and staff testified at multiple hearings against the notion of any conditions imposed by Metro Council. And, a vote by the Metro Policy Advisory Committee taken during the September 24, 2024 meeting in which DLCD Deputy Director Kiristin Greene participated as a nonvoting member, passed an amendment intended to pressure Metro Council to adopt the UGB expansion without any conditions.⁶

As a result of political pressures as the primary driver of this UGB expansion, the UGB expansion and appendices before you fail to comply, let alone refer to multiple, critical statewide and regional requirements necessary for all of us to succeed in addressing our housing needs, rebuilding and building a prosperous and inclusive economy, and taking action on reducing carbon pollution.

The following deficiencies and specific revisions are as follows:

- A. Metro fails to demonstrate how the UGB expansion complies with the land need thresholds outlined in OAR 660-024-0040, ORS 197A, Land Use Planning Goal 14, and Metro Code Sections 3.07.1405 - 3.07.1465 [residential needs and capacity].

As Metro, itself, acknowledges: “Metro Council can consider expanding the greater Portland region’s urban growth boundary **if there is a regional need for land to accommodate the next 20 years of jobs and housing growth.**”⁷ Under Goal 14, “prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the [existing] UGB.”

Therefore, the main and initial question before the Metro Council is whether there is sufficient capacity within the existing UGB to accommodate current and future housing needs. The answer, based on Metro’s own data as well as a significant update from the

⁶ Metro. Metro Policy Advisory Committee agenda, meeting materials, and meeting recording. September 25, 2024.

<https://oregonmetro.legistar.com/View.ashx?M=A&ID=1229275&GUID=F6FD3D73-AA7B-4FAF-AEB3-705582FB1637>

<https://oregonmetro.legistar.com/View.ashx?M=E1&ID=1229275&GUID=F6FD3D73-AA7B-4FAF-AEB3-705582FB1637>

https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=888

⁷ Metro. Metro Website, Landing Page on the 2040 Growth Management. Last accessed January 8, 2025. <https://www.oregonmetro.gov/public-projects/2024-growth-management-decision/expansion-proposal>



City of Portland, is a resounding yes. Metro failed to demonstrate that the estimated needs cannot reasonably be accommodated on land inside the existing UGB.

In its August 2024 Urban Growth Report, Metro staff reflect that “while there is a housing crisis nationally and in our region, it is not clear that shortage is caused by sheer lack of space for housing to be built on.”⁸ The 2024 Urban Growth Report goes on to state that “analysis of the Urban Growth Report reveal[s] that there is likely room to accommodate most, if not all, of the region’s existing and future housing needs inside the existing UGB for the next 20 years.”⁹ In the August 2024 Urban Growth Report, staff’s initial assessment of future housing needs details:

Table 2: Recommended Metro region current and future housing need assumptions (2024-2044)

7-county MSA baseline household growth (2024-2044)	203,530
Future household growth in Metro UGB (70% to 72% Metro UGB capture)	142,500 to 146,500
Add 5% vacancy rate (to convert future households to homes)	7,100 to 7,400
Subtotal of UGB future housing needs (number of homes)	149,600 to 153,900
Add current housing needs (underproduction, houselessness, 2 nd and vacation rentals)	26,953
Total current and future UGB housing need (2024-2044, rounded)	176,500 to 180,800

Metro’s COO’s August 2024 recommendation notes that staff recommend that Metro Council plan for 176,500 to 180,800 additional homes in the Metro UGB to meet current and future needs.

In the same month that Metro finalized its 2024 Urban Growth Report, the City of Portland added new information that unequivocally confirms that there is sufficient land within the existing UGB to accommodate current and future housing needs over a 20-year timeframe. On August 28, 2024, Portland City Council unanimously adopted an updated housing production strategy, developing tangible actions over a 6-year timeframe in line with Governor Tina Kotek’s Executive Order goals to produce 36,000

⁸ Metro. Urban Growth Report Executive Summary at page 4. August 2024.
<https://www.oregonmetro.gov/sites/default/files/2024/11/01/2024-UGR-EXEC-summary-FINAL.pdf>

⁹ Metro. Urban Growth Report Executive Summary at page 4. August 2024.
<https://www.oregonmetro.gov/sites/default/files/2024/11/01/2024-UGR-EXEC-summary-FINAL.pdf>



housing units annually and in line with the Oregon Housing Needs Analysis requirements. The City of Portland reflected upon its work, stating: “the housing needs analysis estimated a demand for an additional 120,560 dwelling units by 2045. The Buildable Land Inventory (BLI) found that current plans and zoning provide an estimated development capacity of 236,977 units. At a basic level, Portland has more than enough development capacity to meet future demand. However, the needs analysis goes further to address specific housing needs such as affordability, accessibility, and larger households.”¹⁰ Ahead of the UGB expansion decision at Metro, the City of Portland and several commenters shared the updated findings from the City of Portland’s Resolution with Metro through formal advisory committees; the housing production strategy was also submitted in writing to Metro Council.

However, Metro Council failed to adopt, incorporate, and reassess the capacity for the 20-year land needs for the region with the updated housing production strategy in accordance with several requirements, including those outlined in Land Use Planning Goal 14, ORS 197A, and Metro Code Sections 3.07.1405 - 3.07.1465. Given the significant capacity to develop and redevelop within the City of Portland’s boundaries alone, the redevelopment potential rate assumption in Metro’s Urban Growth Report should have increased and, therefore, would have confirmed the Urban Growth Report’s nod that there is enough land inside the existing UGB to accommodate the region’s current and future housing needs over the 20-year period. In which case, Metro Council should have determined that the threshold required for Metro to meet in order to expand has not been met.

This error is significant as Metro’s COO recommendation stated: “Staff recommend that the Metro Council base their decision on a finding that there is capacity inside the UGB for 175,500 additional homes.” This appears to serve as a crux for giving “latitude” for Metro to expand its UGB. However, given the City of Portland’s updated Housing Production Strategy’s figures, there is no reasonable basis for Metro to determine that there is not sufficient capacity to accommodate current and future housing needs within the existing UGB.

We urge DLCD to help the region make the best, informed decision and set the correct course for addressing our housing crisis by undoing the suppression of the critical information and hard work completed by the City of Portland. We urge DLCD to support the Metro Council to make a data-driven decision to help the greater Portland area recover and rebuild after some tumultuous years.

¹⁰ City of Portland, Resolution 37673, August 28, 2024.
<https://www.portland.gov/council/documents/resolution/adopted/37673>



To correct these errors, Friends requests DLCD remand Ordinance No. 24-1520 back to Metro for Metro to accept the City of Portland's updated housing production strategy into the Urban Growth Report's buildable land inventory at which time Metro staff must reassess the region's land needs for current and future housing over a 20-year time period in accordance with OAR 660-024-0040(4). DLCD's support is consistent with Metro's assessment in its August 2024 Urban Growth Report that the region must "focus on housing production strategies inside the existing UGB, underscoring the higher likelihood of meeting the housing needs."¹¹

- B. Metro fails to demonstrate how the UGB expansion complies with the land need requirements outlined in OAR 660-024-0040, Land Use Planning Goal 14, ORS 197A, and Metro Code Sections 3.07.1405 - 3.07.1465 [employment needs and capacity].

As Metro, itself, acknowledges: "Metro Council can consider expanding the greater Portland region's urban growth boundary **if there is a regional need for land to accommodate the next 20 years of jobs and housing growth.**"¹² Under Goal 14, "prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the [existing] UGB."

The main question before the Metro Council is whether there is sufficient capacity within the existing UGB to accommodate current and future employment needs. The answer, based on Metro's own data and private sector reports is a resounding yes. Metro Council has not met the threshold to determine that the employment needs cannot be reasonably accommodated inside the existing UGB.

The August 2024 Urban Growth Report depicts two gap analyses for employment (demand and capacity side-by-side):

¹¹ Metro. Urban Growth Report Executive Summary at page 4. August 2024.
<https://www.oregonmetro.gov/sites/default/files/2024/11/01/2024-UGR-EXEC-summary-FINAL.pdf>

¹² Metro. Metro Website, Landing Page on the 2040 Growth Management. Last accessed January 8, 2025.
<https://www.oregonmetro.gov/public-projects/2024-growth-management-decision/expansion-proposal>



Commercial land gap analysis results

Commercial lands support all other non-industrial employment uses like offices, retail, and medical. To some extent, commercial demand also gets met on industrial lands, for example through retail uses on industrially zoned lands. However, this analysis has not estimated that potential crossover. The binary classification of employment capacity as industrial or commercial may have the effect of overstating the deficit for commercial land. A similar issue may be present for mixed use zones since the pro forma model often “chooses” residential redevelopment over commercial redevelopment. In reality, demand for commercial space would lead to more redevelopment for that use, potentially in combination with residential uses above.

Table 20: commercial land capacity gap for Metro UGB 2024-2044

	Capacity (acres)	Demand (acres)	Surplus or deficit (acres)
Low growth forecast	514	-300	+814
Baseline growth forecast	514	800	-286
High growth forecast	514	2,300	-1,786

Employment lands gap analysis results

Industrial land gap analysis results

Industrial lands support uses like industrial, flex/business parks, and warehousing. This analysis found that, in aggregate, there is a surplus of industrial lands inside the UGB for meeting expected industrial employment growth. This is true even under the high growth forecast.

Table 19: Industrial land capacity gap for Metro UGB 2024-2044

	Capacity (acres)	Demand (acres)	Surplus or deficit (acres)
Low growth forecast	5,331	-1,500	+6,831
Baseline growth forecast	5,331	1,400	+3,931
High growth forecast	5,331	5,200	+131

As Metro Council adopted the baseline growth forecast, staff analysis demonstrates a surplus of over 3,500 acres for employment uses. Additionally, the greater Portland area reports a 24% region-wide vacancy rate in our commercial buildings, not including shadow space (where a building is leased on paper, but employees are not using the building regularly). Colliers International shares a forecast for continued, downward demand for the future of commercial leases, noting that this is the 17th consecutive quarter of increasing vacancy rate in the greater metro region and that a significant

amount of leases are coming up for renewal/expiration. The greater Portland area currently offers significant employment capacity in addition to Metro's over 3,000 surplus acreage via existing buildings, notching a 33% vacancy rate in Portland's Central City alone.¹³

And, to assess the greater Portland area's industrial lands capacity and demand, Friends looks to Colliers International who, every quarter, reports a region-wide performance. Currently, Colliers International 7.5% vacancy rate (over 15 million square feet of industrial space in the greater market¹⁴). Over 1.03 million industrial square feet has been added to the current supply with 16% of it only pre-leased. The City of Sherwood, itself, celebrated a brand new industrial park on over 35 acres now available for lease.¹⁵



Sherwood Commerce Center, Opened 2024, Leasing Available in all Three Buildings

Notwithstanding the documented +3500 acres surplus of employment land inside the existing UGB, Metro's No. 24-1520 and Sherwood West Concept Plan propose approximately 135 acres of hospitality/retail use without Metro demonstrating these uses cannot be accommodated within the existing UGB.

With respect to the industrial lands surplus, Metro staff appear to note that the categories between commercial and industrial lands are interchangeable. "Consistent with observed development trends, assume a small portion (about 150 acres) of the region's industrial land surplus is available for commercial employment uses, thereby addressing any

¹³ Colliers International. Portland Metro Office Market Report Q3 2024.

<https://www.colliers.com/en/research/portland/2024-q3-portland-metro-office-market-report>

¹⁴ Colliers International. Portland Metro Industrial Market Q3 2024.

<https://www.colliers.com/en/research/portland/2024-q3-portland-metro-industrial-market-report>

¹⁵ Sherwood Commerce Center, 2024.

<https://www.loopnet.com/Listing/21600-SW-Oregon-St-Sherwood-OR/26881071/>



remaining commercial capacity gap.”¹⁶ Using that logic consistently, Metro has effectively determined that there is a 3,500 acre-surplus of employment lands and, therefore, does not meet the threshold to expand the UGB.

To correct this errors, Friends requests DLCD remand Ordinance No. 24-1520 back to Metro for Metro to reassess the Urban Growth Report’s buildable land inventory at which time Metro staff must reassess the region’s land needs for current and future employment over a 20-year time period in accordance with OAR 660-024-0040(4), ORS 197A, and Metro Code Sections 3.07.1405 - 3.07.1465. With respect to the large industrial lots, Metro notes the need to focus on brownfield redevelopment, site aggregation, land readiness funding and financing tools to bring land to Tier I, and more.

We acknowledge that while adding undeveloped land outside the UGB far from existing services and infrastructure is neither justified nor helpful for short-term economic growth needs, we understand that the Metro Council may want to secure or designate industrial lands for industrial uses in a shorter time frame, particularly for the semiconductor industry. The Metro COO notes “high tech manufacturing has become a major focus of incentive programs from the federal government designed to increase domestic production of critical technologies...a lack of available sites would be a limiting factor in our region’s ability to take advantage of historic incentives to support economic development.”¹⁷ There is questionable evidence demonstrating that there is still outstanding demand to compete for historic incentives (several CHIPS and Science Act applications have been successful ranging from Intel to Micron) as well as lack of available sites (Hillsboro and Wilsonville have large sites inside the existing UGB zoned for industrial uses).

As a show of good faith to Metro Council and COO’s stated goals, Friends requests that DLCD remand Ordinance No. 24-1520 back to Metro and include an option for Metro to determine if there is an appropriate and justified designation of lands for industrial uses for the large sites under OAR 660-009-0025 and consistent with Metro Code Sections 3.07.1405 - 3.07.1465. Notably, OAR 660-009-0025 requires that:

“Plans for cities and counties within a Metropolitan Planning Organization or cities and counties that adopt policies relating to the short-term supply of land must designate suitable land to respond to economic development opportunities as they arise. Cities and counties may maintain the short-term supply of land according to the strategies adopted

¹⁶ Metro. Urban Growth Report at page 61. August 2024.

<https://www.oregonmetro.gov/sites/default/files/2024/11/01/2024-UGR-summary-FINAL.pdf>

¹⁷ Metro. COO Recommendation on the UGB Management Decision at page 7. August 2024.

<https://www.oregonmetro.gov/sites/default/files/2024/08/26/2024-UGM-COO-staff-recommendation.pdf>



pursuant to OAR 660-009-0020 (Industrial and Other Employment Development Policies)(2).”

(a)

Except as provided for in subsections (b) and (c), cities and counties subject to this section must provide at least 25 percent of the total land supply within the urban growth boundary designated for industrial and other employment uses as short-term supply.

- C. Metro Council’s No. 24-1520 and Exhibit B fail to meet Statewide Land Use Planning Goal 10’s housing goals and requirements, OAR 660-015-0000(10), Metro’s Regional Framework Code Section 1.3, and Metro’s Urban Growth Management Functional Plan in Section 3.07.1110.

Metro Council and the City of Sherwood underscore the need to focus on delivering affordable housing, yet the UGB Expansion and Exhibit B fail to connect the UGB expansion with the housing need requirements set forth in State Land Use Planning Goal 10 and several sections of Metro Code.

Statewide Planning Goal 10 OAR 660-015-0000(10)

To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and 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.

. . . .

Needed Housing Units -- means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing units" also includes government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, "needed housing units" also includes (but is not limited to) attached and detached single-family housing, multiple-family housing, and manufactured homes, whether occupied by owners or renters.

GUIDELINES A. PLANNING 1. In addition to inventories of buildable lands, housing elements of a comprehensive plan should, at a minimum, include: (1) a comparison of the distribution of the existing population by income with the distribution of available housing units by cost;



Metro Regional Framework Plan:

1.3 Housing Choices and Opportunities

It is the policy of the Metro Council to:

1.3.1. Provide housing choices in the region, including single family, multi-family, ownership and rental housing, and housing offered by the private, public and nonprofit sectors, paying special attention to those households with fewest housing choices.

1.3.2. As part of the effort to provide housing choices, encourage local governments to ensure that their land use regulations: a. Allow a diverse range of housing types; b. Make housing choices available to households of all income levels; and c. Allow affordable housing, particularly in Centers and Corridors and other areas well-served with public services and frequent transit service.

1.3.3. Reduce the percentage of the region's households that are cost-burdened, meaning those households paying more than 50 percent of their incomes on housing and transportation.

From the Metro Urban Growth Management Functional Plan:

3.07.1110 Planning for Areas Designated Urban Reserve

(a) The county responsible for land use planning for an urban reserve and any city likely to provide governance or an urban service for the area, shall, in conjunction with Metro and appropriate service districts, develop a concept plan for the urban reserve prior to its addition to the UGB pursuant to sections . . .

(b) A local government, in creating a concept plan to comply with this section, shall consider actions necessary to achieve the following outcomes:

(1) If the plan proposes a mix of residential and employment uses:

(C) A range of housing of different types, tenure and prices addressing the housing needs in the prospective UGB expansion area in the context of the housing needs of the governing city, the county, and the region if data on regional housing needs are available, in order to help create economically and socially vital and complete neighborhoods and cities and avoiding the concentration of poverty and the isolation of families and people of modest means;

ORS 197A.018 Definition of "needed housing."



(1) As used in ORS chapter 197A, and except as provided in subsection (2) of this section:

(a) “Needed housing” means housing by affordability level, as described in ORS 184.453 (4), type, characteristics and location that is necessary to accommodate the city’s allocated housing need over the 20-year planning period in effect when the city’s housing capacity is determined.

(b) “Needed housing” includes the following housing types:

- (A) Detached single-family housing, middle housing types as described in ORS 197A.420 and multifamily housing that is owned or rented;
- (B) Government assisted housing;
- (C) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.493;
- (D) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions;
- (E) Housing for agricultural workers;
- (F) Housing for individuals with a variety of disabilities, related to mobility or communications that require accessibility features;
- (G) Housing for older persons, as defined in ORS 659A.421;
- (H) Housing for college or university students, if relevant to the region; and
- (I) Single room occupancies as defined in ORS 197A.430.

ORS 197A.348 Definition of “needed housing.”

(1) As used in ORS 197A.350 and this section, “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:

- (a) Attached and detached single-family housing, middle housing types as described in ORS 197A.420 and multiple family housing for both owner and renter occupancy;
- (b) Government assisted housing;
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.493;



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

(e) Agriculture workforce housing; and

(f) Single room occupancies as defined in ORS 197A.430.

ORS 197A.350 Determination of housing capacity and accommodation of needed housing by Metro.

(2)(a) Metro shall demonstrate that its regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years:

. . . .

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

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

(b) Conduct an analysis of existing and projected housing need by type and density range, in accordance with all factors under ORS 197A.348 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

There is no question that Oregon is suffering from a housing affordability crisis. Oregon's land use system includes requirements for all local governments to plan and allow the housing Oregonians need and address this crisis. But, there are conflicting statements of housing needs between the State of Oregon, Metro, and the City of Sherwood. Metro's Ordinance No. 24-1520 includes a provision, stating that "the 2024 Urban Growth Report estimates that approximately 60 percent of the region's new renter households and 33 percent of new owner households will have incomes below \$60,000 and, depending on household size, households in this income bracket are classified by the U.S. Department of Housing and Urban Development as low income or very low income."¹⁸ In contrast, the City of Sherwood's 2019 ECONorthwest analysis states that "about 18% of Sherwood's new households will be low income, earning 50% or less of Washington County's median income."¹⁹

¹⁸ Metro. Ordinance No 24-1520. December 5, 2024.

<https://www.oregonmetro.gov/sites/default/files/2024/11/05/Ordinance-24-1520.pdf>

¹⁹ ECONorthwest, prepared for the City of Sherwood. Sherwood Housing Needs Analysis 2019 to 2039 at page 30. February 2019.

https://cityofsherwood-my.sharepoint.com/personal/rutledge_sherwoodoregon_gov/_layouts/15/onedrive



Meanwhile, DLCD's leadership in creating a collaborative, transparent, and data-driven approach to further defining housing needs in Goals 10 and 14 offer us more clarity into the deficiency in Sherwood's housing needs analysis prepared by ECONorthwest.

Metro's No. 24-1520 includes ECONorthwest's housing needs analysis prepared for the City of Sherwood dating February 2019. Table 4 from the report below:

Table 4. Estimate of needed new dwelling units by income level, Sherwood, 2019-2039

Commonly Financially Attainable Housing Products					
Market Segment by Income Portland MSA MFI: \$69,400	Income Range	Number of New Households in Sherwood	Percent of Households in Sherwood (currently)	Owner-occupied	Renter-occupied
High (120% or more of MFI)	\$83,280 or more	725	42%	All housing types; higher	All housing types; higher
Upper Middle (80%-120% of MFI)	\$55,520 to \$83,280	467	27%	All housing types; lower	All housing types; lower
Lower Middle (50%-80% of MFI)	\$34,700 to \$55,520	232	13%	Single-family attached;	Single-family attached;
Lower (30%-50% of less of MFI)	\$20,820 to \$34,700	117	7%	Manufactured in parks	Apartments; manufactured
Very Low (Less than 30% of MFI)	Less than \$20,820	188	11%	None	Apartments; new and used

Source: ECONorthwest
MFI is Median Family Income

↑
Primarily New Housing
Primarily Used Housing
↓

Oregon cities must use numbers provided through the OHNA process to determine land needs for housing needs under OAR 660-024-0040(4).

OHNA provides accurate, up-to-date housing needs based on income level. Table of OHNA's Methodology for Sherwood below.²⁰ Friends made repeated requests in writing and orally for Metro Council, Metro staff, and Sherwood staff to incorporate the draft findings from the parallel OHNA process into the UGB expansion analysis and decision. As indicated in Metro's No. 24-1520 and Exhibit B, Friends' requests were ignored.

²⁰ Department of Administrative Services. *Oregon Housing Needs Analysis Draft Methodology*. September 2024.

<https://www.oregon.gov/ohcs/about-us/Documents/RHNA%20and%20OHNA/OHNA-Draft-Methodology-Report.pdf>

and *Oregon Housing Needs Analysis Final Methodology*. December 2024.

<https://www.oregon.gov/das/oea/Documents/OHNA-Methodology-Report-2024.pdf>



Oregon Housing Needs Analysis Methodology

Metro UGBs	Results	Total	0-30% AMI	31-60% AMI	61-80% AMI	81-120% AMI	>120% AMI
Milwaukie	1 year	109	14	17	12	22	44
	20 year	2,164	265	338	235	442	885
Molalla UGB	1 year	65	14	12	7	11	21
	20 year	1,152	198	197	126	214	418
Multnomah UA	1 year	55	10	10	6	10	18
	20 year	982	155	165	107	194	362
North Plains UGB	1 year	39	7	7	4	7	14
	20 year	724	108	119	79	139	278
Oregon City	1 year	274	37	44	30	54	108
	20 year	5,358	691	853	587	1,066	2,160
Portland	1 year	2,851	334	431	302	620	1,164
	20 year	57,019	6,678	8,615	6,032	12,408	23,287
Rivergrove	1 year	3	1	1	0	1	0
	20 year	44	12	9	4	10	9
Sandy UGB	1 year	86	18	15	9	15	28
	20 year	1,523	259	259	166	286	553
Sherwood	1 year	144	33	28	16	24	42
	20 year	2,427	450	437	271	441	828

Overall, Metro's No. 24-1520's 1,291-acre expansion appears to raise a basic question on whether or not metropolitan service districts and local jurisdictions must align their UGB expansion decisions and their local HNA and HPS with OHNA requirements. State law, and our statewide housing crisis, requires the answer to this question to be yes.

To correct this error, we request DLCD remand No. 24-1520 back to Metro Council with directives for Metro Council to incorporate the updated numbers finalized through the OHNA process for regional totals and for the City of Sherwood to update its Housing Needs Analysis and Housing Production Strategy.

In addition to the conflicting definitions between the State of Oregon, Metro, and the City of Sherwood, Metro's UGB expansion into Sherwood does not deliver the housing needs for current and future residents under OAR 660-024-0040(4) and Metro Codes. Neither Metro's Exhibit B to Ordinance No 24-1520 nor the City of Sherwood's supporting documents include enforceable conditions for the city to help address OHNA's housing requirements, particularly the region's housing needs for Oregonians earning under the area median income. The City of Sherwood, itself, acknowledges that housing prices within Sherwood are higher than average and that "sales price data suggest that, overall,



owner-occupied housing being produced in Sherwood was more expensive because it is larger housing built in other cities in the southwestern Portland area.”²¹ It is important to note that this larger, more expensive housing is built in part due to the City of Sherwood’s preferences for certain housing over others outlined in its zoning code. “In addition, Sherwood is at the edge of the Metro UGB, making transportation costs higher for households in Sherwood, compared to households who live in more central parts of the region.”²²

Since Sherwood is at the edge of the Metro UGB, Friends urged Metro Council to include a condition to zone, incentive, and/or allow agricultural housing. Nearby affordable housing providers report waitlists and multiple calls from agricultural employers and workers for available affordable housing. And despite the Sherwood West Concept Plan’s call for its use of approximately 135 acres for hospitality/retail use presented as “The Gates to Wine Country”, Friends cannot find anywhere in Metro’s No. 24-1520, Exhibit-B, or Sherwood’s 2019 Housing Needs Analysis prepared by ECONorthwest that documents the agricultural housing needs of current or future residents or how the 1,291-acre expansion accommodates these housing needs.

To correct this deficiency, we request DLCD remand No. 24-1520 back to Metro Council with directives for Metro Council to incorporate the updated numbers finalized through the OHNA process for regional totals for agricultural housing needs and for the City of Sherwood to update its Housing Needs Analysis and Housing Production Strategy with specific agricultural housing needs and strategies to meet these needs.

- D. Metro and the City of Sherwood fail to demonstrate how the 1,291-acre UGB expansion reduces carbon pollution required by the regionally adopted Climate Smart Communities Strategy and state legislation.

We are not aware of an analysis done by Metro or City of Sherwood staff to determine if this expansion proposal demonstrates how the 1,291-acre UGB expansion reduces carbon pollution required by Metro’s Climate Smart Strategy, the state’s greenhouse gas emission reduction targets, or the goals outlined in the Climate Friendly Equitable

²¹ ECONorthwest, prepared for the City of Sherwood. Sherwood Housing Needs Analysis 2019 to 2039 at page 26. February 2019.

https://cityofsherwood-my.sharepoint.com/personal/rutledgee_sherwoodoregon_gov/_layouts/15/onedrive.aspx?id=%2Fpersonal%2Frutledgee%5Fsherwoodoregon%5Fgov%2FDocuments%2FCORE%20Material%20for%20July%20Presentation%2FF%20Sherwood%20HNA%202019%2D2039%2Epdf&parent=%2Fpersonal%2Frutledgee%5Fsherwoodoregon%5Fgov%2FDocuments%2FCORE%20Material%20for%20July%20Presentation&ga=1

²² *Id.*



Communities rulemaking.²³²⁴ To fill this gap, 1000 Friends of Oregon used Shift to analyze the anticipated greenhouse gas emissions from increased Vehicles Miles Travelled (VMT) that would occur on road extensions and new roads built because of the UGB expansion.

Currently, Washington County has approximately 425 lane miles of class 2 and 3 facilities inducing 1.6 billion VMT per year. By replicating the current transportation system designed in Sherwood and the supporting documents provided by the City of Sherwood, we can reasonably approximate road extensions and new roads to total about 26 - 34 miles. Using Shift, we can see that this UGB expansion proposal - assuming the conservative 26 miles - would induce an additional 59 to 89 million VMT per year. Under today's conditions, the annual emissions from this increase would be .4 MMTCO_{2e} to .9 MMTCO_{2e}. This carbon pollution increase translates to approximately 8,100 more passenger cars or light trucks on the road or 4 million gallons of gas each year.²⁵

These estimates represent a conservative figure when comparing Sherwood data from BestPlaces, a locally-based comprehensive database. Currently, the breakdown for how residents in Sherwood get to work: 80.1% drive in their own car alone, 7.6% carpool with others, 6.5% work from home, and 2.4% take mass transit. Metro's No 24-1520 or Exhibit B does not include reference to Climate Smart Communities, carbon reduction goals.²⁶ During the Metro Policy Advisory Committee's September 25, 2024 meeting discussing whether or not to approve the UGB expansion and in which DLCD's Deputy Director Kirstin Greene participated in, a board member of TriMet Thomas Kim reflected that "that he cannot vote yes on...because Sherwood's proposal is mostly single-family housing and duplexes and not the dense housing that TriMet usually supports."²⁷ Board

²³ The Climate Smart Strategy, adopted by Metro Council in 2014, fulfills a 2009 mandate by the Oregon Legislature, requiring Metro to develop and implement a strategy to reduce the region's per capita greenhouse gas emissions from cars and light trucks at least 20 percent by 2035. House Bill 2001 (2009) Oregon Senate Bill 1059 (2010).
<https://www.oregonmetro.gov/climate-smart-strategy#:~:text=The%20Climate%20Smart%20Strategy%20fulfills,least%2020%20percent%20by%202035>.

²⁴ The greenhouse gas reduction target for the Portland Metropolitan area is 20% reduction by 2035 and 35% reduction by 2045, with annual targets. Annual greenhouse gas emission reduction targets for the Portland Metropolitan Area are found in OAR 664-004-0020.
https://oregon.public.law/rules/oar_660-044-0020

²⁵ Shift. Calculated using Sherwood West urban expansion plan. September 25, 2024. <https://shift.rmi.org/>

²⁶ BestPlaces. <https://www.bestplaces.net/transportation/city/oregon/sherwood>

²⁷ Metro. Metro Policy Advisory Committee agenda, meeting materials, and meeting recording. September 25, 2024.
<https://oregonmetro.legistar.com/View.ashx?M=A&ID=1229275&GUID=F6FD3D73-AA7B-4FAF-AEB3-705582FB1637>



member Kim explained that TriMet “already receives numerous critical feedback from suburban cities like Sherwood requesting more services - nothing wrong with that - but the very reason why TriMet cannot serve in these areas is because it becomes more costly and difficult to serve these areas that are not as dense.” Planning and zoning decisions are foundational decisions for whether or not Oregonians are able to get where they need and want to go without driving for every single trip.

Metro’s Ordinance No. 24-1520 fails to provide transportation choices for future residents of this area by failing to plan for more connected, dense, and complete communities. It is reasonable to conclude the UGB expansion encourages, and arguably requires, an automobile-dependent lifestyle, for residents to enjoy Sherwood and the surrounding region. This not only limits the opportunities of residents who call Sherwood home, but also limits the ages, abilities, and income levels of who is able to live in Sherwood by effectively requiring car ownership upon residency.

This also threatens the ability of Metro and the City of Sherwood to meet carbon pollution reduction targets outlined in Metro’s Climate Smart Strategy and OAR 664-004-0200. Maybe more importantly for everyday Oregonians, effective carbon pollution reduction strategies bring co-benefits: more compact, walkable, and rollable centers and corridors guide conservation and development investments in ways that create more livable, affordable, and vibrant communities for residents and visitors alike. This UGB expansion would continue to bring added costs to the daily lives of residents, ranging from costs to build and maintain the roads, lighting, sewer and water pipes, and emergency services.

To correct this error, Friends requests DLCD remand Ordinance No. 24-1520 back to Metro to analyze the carbon pollution increase resulting from the current UGB expansion and concept plans submitted by the City of Sherwood. Metro and the City of Sherwood can choose to either pause the UGB expansion or develop an UGB expansion with conditions to reduce VMT consistent with Metro’s Climate Smart Communities and OAR 664-004-0200.

<https://oregonmetro.legistar.com/View.ashx?M=E1&ID=1229275&GUID=F6FD3D73-AA7B-4FAF-AEB3-705582FB1637>
https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=888



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We greatly appreciate DLCD's attention to our objections as you review Metro's No. 12-1520 and supplemental materials. Please do not hesitate to call me at (503)497-1000 or email at sam@friends.org. We respectfully request an email correspondence with the final decision and any relating materials to Sam@friends.org.

Thank you for your service to ensure we have strong, healthy, and prosperous communities now and into the future through our land conservation and development decisions.

Sincerely,

A handwritten signature in black ink that reads "Sam Diaz".

Samuel Diaz
Executive Director

January 7, 2025

Periodic Review Specialist
Department Of Land Conservation and Development
635 Capitol St. Northeast, Suite 150
Salem, Oregon 973 01

RE: Metro Urban Growth Boundary Amendment Ordinance 24-1520

I am submitting this letter under my own name. I come to this issue with 36 years of local government experience in land use planning and more in the non-profit sector. The following are my own objections to Metro's Ordinance No. 2415-20 amending the Metro Regional Urban Growth Boundary (UGB). I participated orally and in writing at the September 26, 2024, Metro hearing on this matter and in writing on October 15, 2024, and October 28, 2024.

In general, the attached objections and related findings contend Metro's Council's decision to adopt Ordinance No. 2415-20 do not adequately address key elements of its Urban Growth Management Functional Plan, its Public Engagement Guidelines, Metro Regional Transportation Plan and portions of the Regional Framework Plan. This document provides detailed findings and conclusions based on the Sherwood Concept Plan findings as justification for Metro approval. Therefore, it is requested these objections be included in the record.

The above refer significantly to the fact that providing infrastructure to Sherwood's UGB proposal will cost a great deal and net a relatively small amount of developable land. The result will result in high development costs that will make it infeasible to develop moderate and affordable housing. I urge you to read the attached short report (Attachment 3) which explains this in detail.

The remedies being requested are identified in the objections document. In summary these are for DLCD to remand Metro's Decision (Ord. 24-1520) for it to propose more creative land use alternatives to promote a more compact urban form that will better address Metro Functional Plan requirements, the intent of the Regional Framework Plan and the Statewide Planning Goals.

Please also find attached supporting documentation also prepared and submitted by me.

Sincerely,

Ron Bunch

Attachments:

1. Findings in Rebuttal Findings in Rebuttal of the Sherwood Urban Growth Boundary Expansion (UGB) Proposal
2. Memo to Metro Council and Metro Core Committee October 15, 2025, regarding Equity and the Sherwood West UGB Expansion
3. Sherwood West Urban Growth Boundary Expansion Land use, Infrastructure, Funding and Other Costs

File: Letter to DLCD Objections 2

Attachment 1:
Objections to Metro's Approval of the
Sherwood Urban Growth Boundary Expansion (UGB) Proposal

The following address claims and justifications contained in the Sherwood Urban Growth Boundary Concept Plan as the basis for expanding the Metro UGB.

OBJECTION A: METRO'S UGB PROCES AND DECISION WAS BASED ON MANAGED INPUT FROM SELECT GROUPS WHOSE INTEREST ALIGN TO GAIN BENEFIT FROM THE UGB DECISION, IN VIOLATION OF STATEWIDE PLANING GOAL 1 AND MEETRO'S PUBLIC ENGAGEMENT GUIDELINES.

Discussion:

Metro claims there was extensive input from community members, property owners, business owners, and public service providers.

There are important questions to be asked about this claim, particularly, how broad was the engagement process, who were involved, and what was their motivation. For example, the engagement record makes no mention of an on-line survey that done in 2021, that showed a majority of those surveyed (more than 80%) were opposed to a similar urban growth boundary expansion?

Finding IA: Many of those that support the UGB expansion would benefit financially or have other vested interests in the expansion. The endorsement of the UGB expansion came from these groups or their allies including those in the real estate, construction development sectors, consultants and economic development organizations. Other support came from local governments and agencies whose primary focus is to support their agency colleagues. Special districts are supportive of these actions because their narrow mission is to provide services, which in turn expands their tax base and service area. None of these expressions of support factually acknowledge negative consequences, or lost opportunities of this specific UGB expansion from a growth management perspective. There was either no, very little input from the larger Sherwood community such as neighborhood and civic organizations or those who advocate for affordable housing, natural resource protections, transportation, economic social and racial equity. For example, the above claim is contrary to statement from the Metro CORE Committee that the concept plan process failed to provide or address equitable, inclusive engagement or results.

The Guidelines for Goal 1 include this statement: “A. PREPARATION OF PLANS AND IMPLEMENTATION MEASURES Preparation of plans and implementation measures should be based on a series of broad phases, proceeding from the very general identification of problems and issues to the specific provisions for dealing with these issues and for interrelating the various elements of the plan. During each phase opportunities should be provided for review and comment by citizens and affected governmental units.”

Metro published its hundreds of pages of analysis of alternative UGB expansion areas after critical public hearings and after the Metro Council had already made a preliminary decision to approve the Sherwood UGB expansion.

Conclusion: There has been managed input from select groups whose interests align to gain benefit from the UGB decision. The input has focused on the benefits that would accrue to the specific interest of these groups and not the region or the whole community. Therefore the, the premise that extensive input can justify the UGB expansion is false.

Metro Council’s approval of the Sherwood West UGB expansion (Ordinance 24-1520) is not consistent with the intent of Statewide Planning Goal 1 as implemented in the by the Metro Public Engagement Guide – Appendices A and C, as it pertains to Statewide Planning Goal 1.

Recommended remedy: LCDC should conclude that Metro’s public engagement process was so deeply flawed that it contributes to fundamentally flawed decision making and remand the decision to Metro to reconsider the merits of its decision after allowing for proper citizen involvement.

OBJECTION B: THE SHERWOOD UGB EXPANSION WILL REQUIRE VERY LARGE INFRASTRUCTURE COSTS, AND THE AREA’S GEOGRAPHY WILL RESULT IN A HIGH-COST, LOW-DENSITY AUTOMOBILE ORIENTED LAND USE PATTERN, UTTERLY INCONSISTENT WITH STATE AND REGIONAL LAWS AND POLICIES CALLING FOR COMPACT, COST-EFFECTIVE, URBAN DEVELOPMENT WHICH SUPPORT LESS DRIVING AND HIGHER TRANSIT USE.

Discussion:

Metro and Sherwood claim that Sherwood West would be a “complete” community with a range of housing, employment types, access to retail shopping, connected buy a system of parks, trails and open space.

The claim does not match the likely outcome of the UGB expansion as proposed. It ignores that very large infrastructure costs, which I examined and critiqued in detail for Metro's consideration, and the area's geography will result in a high cost, low-density automobile-dependent land use pattern.

The cost to develop a relatively small amount of developable land that could be derived from the 1,290-acre UGB expansion makes it infeasible to build moderate income, affordable and low-income housing types or justify the development of new commercial land uses. This means that Metro failed in its statutory responsibilities to address the needs of the region's residents who will never be able to afford the expensive homes and apartments that have been and will be built in Sherwood West.

Finding 1B: The West Sherwood UGB expansion will be partially separated from the rest of the city by a major state highway (Highway 99 West) and bisected by major county arterial and collector streets. The new street system will allow external traffic from all points to access to use these streets as major east-west connectors. This will contribute to the making the project area car dominated and auto dependent.

A major factor why the area cannot become a "complete community is that it will net a relatively small amount of developable land out of the proposed 1290-acre expansion. The concept plan recognizes only about 605 acres of the total are developable. However, its estimated that this will be reduced to about 430 acres after removing land needed for streets, easements, parks, future schools and possibly public safety facilities.

This is significant, because the estimated cost of foundational and development infrastructure could be more than \$500 million (present value). This relatively small amount of developable land combined with these costs will lower the feasibility of developing affordable, moderate- and low-income housing. The development costs will be very high. Also, this will restrict land acquisition and development for parks and trails, further undermining the claim the Sherwood West UGB expansion will result in a "complete community"

The size, linear shape, topography and "through traffic potential" of the area will not be supportive of transit, pedestrian and bike travel per the proposed concept plan. Instead, shopping, entertainment, recreation, job and school access, will all be dependent on automobile travel. These same factors, combined with an overall low residential density would discourage development of a mixed use "sub-centers" or mixed-use

commercial/residential corridors. Much of the area will be a considerable distance from Sherwood's retail and commercial services and those of other communities thus requiring automobile travel.

Finding 2B: Much of West Sherwood will be an auto dependent and road dominated suburban style development . The existing and proposed street system, geography and topography will present significant barriers to non-automobile travel and to overall connectivity of land uses. The geographic characteristics of the area such as the steep topography , flood plains and linear form does not support the claim of a complete community.

Housing and infrastructure construction costs are greater on steeper land. Within suburban contexts, density on topographically constrained land must be relatively low and utilities and streets are more expensive to build. These costs require very low density and very expensive single-family homes.

Finding 3B: Those living in residential areas require services such as grocery stores, hardware, pharmacies, apparel, etc. on a regular basis. Retail and some commercial services exist already, east and west of Hwy 99W and will be accessible to the proposed expansion area but will require automobile travel. The claim that the area will be a complete community from the perspective that a complete range of goods and services will be easily accessible to residents cannot be proven.

Some small-scale neighborhood commercial retail development may occur, but it is more likely that existing commercial uses in Sherwood and nearby communities will accommodate retail demand from Sherwood West should it develop as circumstances dictate.

Competition from nearby established major retail centers in both Sherwood and nearby communities will be major barriers to development of retail commercial land uses in the UGB area. Local retail shopping opportunities both regional and sub-regional will accommodate much of the market for both durable and non-durable goods that will be generated by residential development in Sherwood West. The consequence is that significant traffic will be generated from West Sherwood to and from retail shopping and services in nearby communities. From this perspective inter-city travel within the sub-region will likely be increased. This further undermines Sherwood's "complete community" narrative.

Another impediment to new commercial/retail uses being established in the expansion area is that ODOT will likely discourage retail land uses that will add more trips to Highway 99W or require significant exactions to pay for the same . This would be in addition to already high development costs and city, county and service districts SDCs and road taxes.

Conclusion: For the above reasons the proponents of the Sherwood West expansion have not proven it will be a “complete community. “ The reasons for this are:

- A range of housing types will not be developed in Sherwood West, because of the small amount of net developable land compared to the size of UGB expansion. High infrastructure and development costs will preclude building moderate, affordable and low-income housing.
- The size, configuration geography and topography of the area present barriers to non-automobile travel (transit, bike and pedestrian) and connectivity of land uses.
- New commercial uses , beyond some neighborhood commercial, cannot be viable area because of land/infrastructure costs, low residential densities, auto dependence and competition from nearby established and viable commercial uses.
- Land costs will restrict the ability to provide parks and trail connections as envisioned. Because of low land use densities and associated costs, the land use pattern will be auto dependent.

Metro Council’s approval of the Sherwood West UGB expansion (Ordinance 24-1520) is inconsistent with its Regional Transportation System Plan because generally the UGB area will increase auto dependency, force investments in road infrastructure, perpetuate a low density, high-cost suburban development pattern and will result in unforeseen impacts on the Metro 2023 Regional Transportation System Plan (Title 2) , including Highway 99W. It is also counter to the Metro Code Titles 1 Housing Capacity, Title 7, Housing Choice, and Title 11 Planning for New Urban Areas, and Title 12: Protection of Residential Neighborhoods – Access to Parks and Schools.

Recommended remedy: Remand the Metro Council’s decision with direction to the staff and Council to analyze the automobile dependency of the proposed UGB expansion area and consider alternative measures for changes inside the UGB or alternative adjustments of the UGB that will support a less car-centric development pattern.

OBJECTION C. IMPLEMENTATION OF THE SHERWOOD WEST CONCEPT PLAN WILL NOT RESULT IN DEVELOPMENT OF AFFORDABLE AND MIDDLE HOUSING TYPES THUS FAIL TO MEET HOUSING NEED IN SHERWOOD AND ADDRESS AFFORDABLE HOUSING NEED IN THE STATE AND PORTLAND METRO REGION.

Discussion: It is unlikely that Sherwood West will be capable of providing more than a token amount of moderate, affordable or low-income housing for the reasons stated above.

Findings IC: Per the above, high infrastructure costs, and a relatively small amount of net, developable land will reduce the feasibility to build moderate, affordable and low-income housing in many parts of the Sherwood West UGB expansion area. Furthermore, the cost of needed new public facilities is not static. They will increase over time associated with labor and materials costs and local government exactions during the 20 – 30 years during which it's expected the area will be developed.

Infrastructure systems are not developed all at once. Cost estimates today can change dramatically. Experience has shown they could be much greater even a few years from when the original estimates were prepared. This is significant from the perspective of providing affordable housing and developing a complete community. The greater the infrastructure costs, the less affordable housing becomes and development defaults to higher profit margins on expensive large homes.

Water and sanitary rate structures will also need to be increased to keep pace with inflation and pay for needed capital investments and major maintenance in Sherwood West. Utility rates are a housing cost issue. Utility rates should be spread over a variety of a relatively large customer base, to be build affordable. Systems must be designed, built and maintained to be resilient to “rate-shocks” such as when they fail. Otherwise, low- and moderate-income housing residents can be burdened with these costs. This would be significant for Sherwood West and to utility customers system wide.

Conclusion: The Sherwood West Concept Plan does not explicitly show how Sherwood can make a long-term commitment to provide affordable, moderate- or low-income housing. Furthermore, for reasons, Sherwood West will most likely be developed at densities not supportive of public transit which will further reduce the potential to site these housing types. While the cost of infrastructure is acknowledged to be high, there is also uncertainty about the long -term costs of both constructing maintaining, repairing these systems. However, the past has shown Inflation, and other factors will drive costs

higher, thus placing additional cost burden on households. Because of this Metro's approval of the UGB expansion decision is contrary to Functional Plan Titles 1 and 7, Housing Capacity and Housing Choice.

Recommended remedy: Remand the decision to the Metro Council to consider and address the impacts of low residential densities and high infrastructure costs and increased household transportation costs on housing affordability.

OBJECTION D. METRO'S ENDORSED UNJUSTIFIED CONCLUSIONS OF HOUSING NEED, APPROVED LOW DENSITY SINGLE FAMILY RESIDENTIAL DEVELOPMENT IN SHERWOOD WILL DO NOTHING TO INCREASE THE SUPPLY OF HOUSING NEEDED IN THE REGION, AND NEVER CONSIDERED HOW HOUSING NEEDS COULD BE SATISFIED ON LAND ALREADY INSIDE THE UGB.

Discussion: A fundamental question posed by this claim is for whom will new housing in Sherwood West be built? A big part of the supply problem is tied to affordability, and the types of housing that the industry either chooses or must build to be profitable. What the Sherwood West plan asserts is that the UGB expansion will meet overall housing need more than it would. This particular expansion gives all the signs it will be oriented toward building predominantly single-family housing at or above market rates. It will not and cannot provide an appreciable amount of moderate and affordable housing.

It must be noted that West Sherwood Concept Plan referenced the governor's executive order 2023-02, and the finding the Portland metro region experienced a 50.4% increase in homelessness. This is because homelessness results from many-factors and the solutions are multi-faceted. Therefore, questions to address here is, "Will the expansion result in the type of housing at this location that will address local regional issues of homelessness and need for transitional housing. Sherwood West Concept Plan does not present any evidence that it would.

Providing needed housing is more than land supply. The approach to increasing the housing supply includes other factors such as mobility to provide access to stable family wage jobs within a reasonable distance, the ability of a household to have more than one wage earner which requires access to childcare and financial support such as family-tax credits and mortgage subsidization. These factors are more likely to occur in existing communities that have developed the full range infrastructure and private and public institutional support.

Finding D1. In addition to not considering the impact of land and development costs, the West Sherwood plan only considers the housing issue from a land supply side. The expansion plan does not recognize and attempt to address the complexity of the housing supply and housing affordability problem. The metro and statewide housing shortage is caused by combination of factors such as income, interest rates, lack of affordable childcare, the wrong kind housing being developed, the lack of homeless services and transition housing services, etc.

Sherwood's claim about meeting the need region's housing need is only partly correct. Implementation of the Sherwood West Concept Plan as proposed will meet the need of mostly low density single-family and attached housing at high price points and not for those with low and moderate incomes or those. Particularly left out of this discussion is housing for low-income persons and others such as the growing population of the elderly

Finding D2: The UGB expansion proposal did not provide justification about how Sherwood's specific housing needs is forcing a UGB expansion and whether the types of housing proposed in Sherwood West will address its own and regional housing need. It is not at all strategic in terms of matching infrastructure investments, and long-term costs against the benefits of the kind housing that will be built in Sherwood West. Furthermore, it did not consider less expensive options to expanding the UGB to this extent such as infill and redevelopment tailored to more specific housing types that can be served by transit and existing infrastructure.

Finding D3. In projecting housing need and type, the Sherwood Concept Plan emphasized population growth as more of factor than what is actually projected. Population is expected grow in the Metro region. It will increase but not at the level or in ways it has in the past. Demographic change, particularly ageing, and smaller household size will be significant factors in the need for different kinds of housing. Importantly the region must catch-up to the need for more low-income and affordable housing.

Findings D4. Sherwood's 2018 – 2038 Housing Needs Analysis (HNA) and subsequent updates identified a deficit of land of about 610 housing units within its current UGB to meet its projected house needs. On the other hand, The Sherwood West concept plan proposes between 3,000 and 5,500 housing units on new UGB lands "to address the city's current deficit of residential land and additional demand that is expected"

This is an enormous difference between what Sherwood states its needs in its HNA and what the above UGB will provide for are. There is no analysis to support that either city or the region needs this amount of housing at this location.

The most relevant analysis is that Sherwood identified a deficit of 608 housing units within its current urban growth boundary through its 2018 – 2038 Housing needs Analysis and subsequent updates. This work by itself does not justify adding 1,290 acres to the city's urban growth boundary which would only net 430 net buildable acres, much of which is proposed to be accommodated by employment uses. Furthermore, there is no evidence presented that a housing deficit exists within the south-west portion of the Portland metro urban growth boundary at this time. This is especially so in view of ongoing development of thousands of new homes in the River Terrace 1 and 2 and Cooper Mountain UGB expansion areas.

From a housing production perspective, the West Sherwood Concept Plan concept provides an example that about 1,500 units of multi-family and mixed-use housing can be accommodated on less than 100 acres. This undercuts the assertion that almost 1,300 acres are needed for the UGB expansion. Furthermore, upon review of potentially vacant and redevelopable land inside the City a very large number of single family and multi-family units could be built on undeveloped and underdeveloped land under the right policy conditions.

Portland State University's Population Research Center projects that the metro region's rate of population growth will decline, including that of Sherwood and other Metro cities to about .5% per year in the coming decades. Furthermore, the region's population, including Sherwood's, is getting older. Seniors will be a much larger demographic segment in the mid to longer term. This will have impacts on the housing market, as older adults transition from existing single-family homes. The consequences of existing single-family dwellings coming onto the market is unknown but has the potential to meet part of future demand for single family housing.

On the issue of housing affordability, I agree with the arguments made by other objectors, including Housing Land Advocates, 1000 Friends of Oregon and the West of Sherwood Farm Alliance.

Conclusion: The Sherwood West Concept Plan simplified regional housing need and conditions to justify a low density UGB expansion that will not appreciably address the regions need for a variety of housing types to serve a range of housing needs. Furthermore,

the UGB Concept Plan over-emphasized regional population growth and correspondingly inflated Sherwood's and the region's need for future housing. Also, the Concept Plan did not consider less expensive and more accessible development alternatives to the UGB expansion.

The cost of new residential units in the UGB area including apartments, and "middle housing" will likely be a barrier even to people now experiencing homeless or being significantly underhoused. Subsidized and transitional housing types are also needed. The West Sherwood plan does not address these specific housing needs.

Metro Council's approval of the Sherwood West UGB expansion (Ordinance 24-1520) is not consistent with its Title 11 Planning for New Urban Areas because the cost of future infrastructure will make it difficult near impossible to build needed housing and for efficient urbanization to occur. In this context the UGB expansion is it is It is also counter to Metro Functional Plan Titles 1 and 7, Housing Capacity and Housing Choice.

Recommended remedy: LCDRC should reject Metro's housing affordability analysis and remand the decision to Metro to reconsider what ways and places would do the most to increase the supply housing for the majority of residents who will never be able to afford to buy a home or rent an apartment in Sherwood.

E. CLAIM: SHERWOOD WEST URBAN GROWTH BOUNDARY EXPANSION WILL DO NOTHING TO ADDRESS THE CITY'S IMBALANCE OF JOBS TO HOUSING AND WILL INCREASE RATHER THAN DECREASE DRIVING IN THE REGION.

Discussion: The ratio of jobs to housing in a city and the types of jobs available are important issues but the Sherwood West Concept Plan misuses the concept. In general, most suburban cities have a reasonable ratio of jobs to housing. However, many, if not most residents work elsewhere – in nearby cities. Where this becomes a problem is where jobs in suburbs are so lacking that long distance commuting must occur from far-away locations.

From this perspective the Sherwood West UGB proponents have unreasonably appropriated the job-housing balance issue. The Concept Plan report claims more commercial and economic development will create jobs that will be taken by Sherwood residents. However, more jobs in one location does not result in people locating to be near these jobs, when they have the means to commute.

Finding 1E. Within metropolitan regions that have integrated regional economies and reasonably developed transportation systems, it is not possible for local policy action to create a localized balance of jobs to housing. Simply expressed, people who take a job in one location, may in a few years decide to work in another within the same region. However, they do not pack up their household and move to Sherwood from Beaverton or Tigard unless costs and other factors turn out to be advantageous, such as significant income increases or housing affordability.

Housing location is dependent on many factors other than job location including financial equity in existing homes and other property, personal relationships, schools, civic and religious association, mobility and importantly, income. Matching Income, housing affordability and access to jobs, are key components of creating localized jobs to balance conditions. However, in Metro regions, with reasonable transportation systems there is little that local governments can do to affect this.

The job housing balance issue matters more when people must commute from outside the region from areas such as distant Yamhill County, Woodburn, Estacada, Salem /Keizer, Rainier, etc. One factor is because housing in the Metro area is economically beyond reach. However, anecdotal evidence suggests many people, who do these commutes, are vested in their communities and prefer to live there. This is particularly true for those with families. Furthermore, technology has changed the nature of work and remote and hybrid work makes job and housing proximity less important.

Where local policy can make a difference in matching jobs to housing is to take actions promote safe, well, designed affordable housing that has transit access, including that for lower-income persons.

As with housing it is not possible for local jurisdiction to exert policy control to match business siting requirements with housing need and residents' skills. Nor is it possible for local land use controls to impact the types of businesses that would provide jobs residents will take. Also, the real estate market in this respect is regional or sub-regional in scope and dependent on many factors which local governments cannot control.

From a business location perspective, it is most likely that medium and small-scale businesses, office and industrial uses might locate in the in West Sherwood – not major companies or corporate offices. The Portland Metro Region already has inventory of these types of available lands. For example, the Hillsboro, Portland and Gresham sub-regions region will continue to dominate the high tech and manufacturing sector. Because of the

desire of technology industries to co-locate there will likely be a little spill-over to Sherwood of major higher-level technology jobs including research and development

Conclusion: The Sherwood West UGB expansion cannot meaningfully impact the city's job/housing balance either from the housing or job side because of the above-mentioned factors. The more likely outcome of Sherwood West's development pattern will be perpetuating the current suburban model of automobile dependent commuting between communities. The exception to this would be for the City to adopt policies and implementing measures that would promote development of significant affordable, moderate- and low-income housing to allow those entering the work force ,or whose skills ,match locally available jobs. This rationale for expanding the UGB is inauthentic. Without proof it is not a reason to expand the Urban Growth Boundary and is contrary to Metro Functional Plan Titles 1, 2, and 11 - Housing Capacity Housing Choice and Planning for New Urban Areas.

Recommended remedy: Remand the decision to Metro and direct the Metro Council to either demonstrate that increasing jobs in Sherwood would lead to reductions in driving and if not, to eliminate that is a factor in its current and future UGB decision making.

OBJECTION F: THE CLAIM THAT THE LAND SUPPLIED BY THE SHERWOOD WEST UGB EXPANSION WILL MEET OVERALL LAND NEED FOR EMPLOYMENT AND HOUSING IS UNSUPPORTED OPINION CONTRADICTED BY LOGIC AND THE FACTS:-

Discussion: The housing need issue has been addressed previously but it must be emphasized again that the Sherwood West UGB expansion is being proposed in the context of already developing River Terrace and Cooper Mountain UGB expansions that will provide many thousands of new residential units.

There is no quantitative information tied to locational need to support from these "opinions" from stakeholders that justifies an additional 1,290-acre UGB expansion for in this location for additional residential or employment uses of the scale proposed.

Findings F1: The statement of letters of support from 20 key employment stakeholders is misleading. There are no affordable housing providers in this group that explicitly state they need developable land in this specific location. Most of those who signed are economic development organizations and boosters, realtors, home builders and other development related businesses that have economic interests in the UGB expansion. Several local governments, including service districts also signed on, but they do not

provide employment in the private sector either, or do they provide housing. It would be more impactful if there were actual providers of low- and moderate-income housing, businesses- manufacturing companies, finance and banking organizations, health care institution's, etc. that provided data-driven reasons why they need land in this location to site their business operations.

Conclusion : This claim that stakeholders believe the expansion will provide needed land for housing and employment is an “opinion” which does not itself justify expanding the west Sherwood UGB. The claim cannot be supported by findings to show compliance with Functional Plan Titles 1, 2, and 11- Housing Capacity, Housing Choice and Planning for New Areas.

Recommended remedy: It is a false premise that the concept of jobs-housing balance is a reason to expand the Sherwood urban growth boundary. It cannot be factually supported. The remedy is to remand the decision to Metro to address its Code requirements to purposefully and factually opportunities for those who need affordable housing types and employment

OBJECTION G: THE SHERWOOD WEST PROPOSAL DOES NOT “BUILD ON OUR REGION'S STRONG HISTORY OF PLANNING” AND IS NOT “POISED TO DELIVER NEEDED RESIDENTIAL AND EMPLOYMENT LAND.”

Discussion: Previous UGB for planning for a Sherwood West Expansion occurred in 2018 - 19. It was discontinued because of the cost of providing services, strong opposition from the public and determination it was not needed. Based on this, the assertion that the current UGB expansion is the result of “strong planning” cannot be considered a factor to support it. From a cost perspective, the UGB will have significant short and long-range costs, result in overall very low densities, be automobile dependent and, likely be opposed by the public if the question was asked directly.

Finding G1: From a cost perspective, the expense of providing public services has increased from when the first planning effort for Sherwood West was done in 2018. Also, at the time the public was asked through an online survey if there was support for the expansion. The expression of non-support was overwhelming .

Furthermore, the statement Sherwood and the region have jointly undertaken strong planning in the area is contradicted by the location of the Sherwood high school West of

Hwy. 99 W. From a planning perspective this was a very poor planning decision from urban design/location, transportation access location and serviceability perspectives.

Conclusion: Sherwood's current and past planning efforts cannot be a factor in justifying the currently proposed UGB expansion. The previous expansion efforts for the area were abandoned because of costs, opposition from the community and a determination it was not needed. Furthermore, Sherwood's compliance with Metro's functional plan requirements to designate town centers corridors and increase the opportunity for dense housing and housing types inside the current city limits does not justify an UGB expansion.

Recommended remedy: Remand the decision to Metro directing it to disregard past planning efforts, including those supported by planning grants from Metro, as a basis for a UGB expansion.

CLAIM OBJECTION H: THE CITY OF SHERWOOD DOES NOT COMPLY WITH ALL METRO AND STATE HOUSING PLANNING REQUIREMENTS PERTAINING TO HOUSING INCLUDING HAVING AN ADOPTED HOUSING NEEDS ANALYSIS. AND THE CITY WILL NOT GROW AT AN AVERAGE ANNUAL GROWTH RATE OF 1.1% CONSISTENT WITH METRO PROJECTIONS.

Discussion: Sherwood's actions in the past several years may comply with the technical requirements of metro and state housing rules and legislation, but this is not applicable criteria to evaluate whether or not the West Sherwood UGB Expansion is justified. It is merely stating facts.

Findings I1. What is factual is that Sherwood like the rest of Washington County will experience declining annual growth rates to within the vicinity of 1 percent in the near term and then declining lower in the coming decades. This is inconsistent with the Sherwood West Plan's unsupported claims that the city may grow faster than the metro forecast in the coming years. Also, the city's own Housing Needs Analysis (HNA) acknowledges the City's growth rate will decline. West Sherwood Concept Plan goes further to justify the UGB expansion this by proposing the City's higher growth of the past two decades as an example of what "might" happen.

The most recent Portland State University population projections state that Washington County has been growing approximately 1.05% /year for the past 10 years. During the forecast period PSU's population report expects the county's population growth to

continue to decelerate further. The city of Sherwood's population growth and demographics will exhibit similar characteristics.

Conclusion: The consequences of demographic shift and projected lower growth rates on housing has implications both for Sherwood and region wide. Lower growth rates and changing household characteristics do not justify this UGB expansion, especially in view of thousands of new units being built in the River Terrace and Cooper Mountain UGB areas. For example, demographic change will require adaptive reuse and infill of residential and other lands inside current urban growth boundaries to create livable, compact, accessible, and multigenerational neighborhoods.

Therefore, the proposed UGB expansion proposal is not consistent with Metro Code that it consider Goal 14 factor related to the "efficient accommodation of identified land need" or the desired outcomes identified in Chapter 1 of the Regional Framework Plan.

Recommended remedy: Remand the decision to the Metro Council to reconsider its projections for growth rates and to consider as an alternative to the Sherwood West UGB expansion to adaptive reuse and infill of residential and other lands inside current urban growth boundaries to create livable, compact, accessible, and multigenerational neighborhoods.

OBJECTION I: THE PROPOSED UGB EXPANSION WILL NOT MAKE EFFICIENT USE OF PUBLIC TRANSIT SYSTEMS, PEDESTRIAN AND BICYCLE TRAVEL TO COMMERCIAL AND CIVIC SERVICES

Discussion: This matter has been addressed above but is important stress again . The reason is it's speculative in view of what is known about the UGB expansion in terms of costs, natural resource and other geographic characteristics and the prospect it will be developed to very low densities.

I1. Findings: As previously concluded the 1,290-acre urban growth boundary expansion will not make efficient use of public investment in needed transportation infrastructure and other needed services. It will only result in about 430 acres of net developable land within an area three-times as large. There will be significant inefficiencies associated with building infrastructure that will cost many millions of dollars more , when compared to making more efficient use of land inside the existing urban growth boundaries and or targeting land that is much better situated to provide needed housing and jobs.

Conclusion: it is erroneous to claim that the proposed Sherwood West Concept Plan will result in a diverse set of land uses which will make efficient use of public infrastructure and support pedestrian and bicycle travel to commercial and civic services. Furthermore, approval of the Plan and expansion of the urban growth boundary is contrary to Metro Functional Plan Titles 1, 7 and 11 - Housing Capacity, Housing Choice and Planning for New Urban Areas.

Recommended remedy: See remedy proposed in response to prior objections.

OBJECTION J : THE UGB EXPANSION IS NOT NEEDED TO PROVIDE LAND FOR EMPLOYMENT USES

Discussion: The 2021 Sherwood Economic Opportunities Analysis (EOA) concluded, that considering existing developable land, including 127 acres within the Tonquin and Brookman areas, there was no basis for additional new land to accommodate future commercial or industrial employment during the period 2021 – 2041. The 2021 EOA stated that Sherwood had 249 unconstrained acres of employment land and about 124 acres available within the short term - five years.

However, the 2021 EOA numbers did not provide the proponents of the UGB expansion adequate justification to expand the UGB, in the West Sherwood area, so the city undertook an EOA update in 2023 to do so. The approach used in the new EOA provided the city greater flexibility in determining employment land need-based on new methodologies, aspirations and the unproven premise that it could “target” certain kinds of industry and other kinds of economic activity.

Findings J1: The more recent EOA - concluded that the city will need 485 net acres of employment land between 2022- 2042 . This is 236 acres more than currently; and of this, 143 acres may be required in the next five years.

The newer EOA also recommended that developable sites of significant size be made available size to attract major employers. Specifically, it referenced the need for “development-ready” larger sites for semiconductor and other technology-based industries.

In addition, as in effort to justify significant employment land expansion the revised EOA referenced the 2021 Federal Chips and Science Act legislation that emphasized the national need to increase semi-conductor manufacturing. Significant federal funds were

made available to promote/support technology manufacturing. It was speculated that additional industrial land in the Washington County could be a contender for these land uses. Business Oregon, Port of Portland and Oregon Business Council then prepared a publication that claimed no sites existed inside Oregon UGBs for large semiconductor manufacturers and that the only acceptable lands were on rural reserve lands near Hillsboro. However, once asked, Oregon Cities identified 10,000 acres of development-ready industrial land including several very large sites close to the Portland International Airport (PDX). The overall result of this was some federal funding was granted to technology projects on lands already inside cities. In Oregon these funds provided to modernize existing manufacturing, and product development facilities and not build on new sites.

Metro's recent employment lands analysis also found that there is adequate land for employment growth withing the existing UGB including technology uses for the foreseeable future.

Conclusion: The UGB expansion for employment lands is not justified from the proof provided. The reasons are anecdotal, especially for technology uses. From a regional perspective Metro's current land inventories indicate that there is enough industrial land inside the UGB to accommodate regional needs. Furthermore, from a site planning perspective and natural resource constraints the 130 acres proposed for mixed employment is more suited for smaller, industrial and office parks, specialized manufacturing, etc. than it would be for larger technology related manufacturing uses. These are the same kind of land uses that could locate on already available industrial lands within the Sherwood-Tualatin area UGB. Furthermore, for these reasons this UGB expansion is inconsistent with the Metro Regional Framework Plan Principles 1.4.2.

Recommended remedy: Remand the decision to Metro to reconsider its conclusion that the region needs additional sites for high-tech manufacturing, given the already available lands within the area of Sherwood and Tualatin inside the UGB.

OBJECTION K. THE CONCEPT PLAN CALLS FOR CHICKEN CREEK AND RELATED NATURAL AREAS AND ECOLOGICAL SYSTEMS TO BE SURROUNDED BY URBAN DEVELOPMENT. THIS IS A RECIPE FOR THEIR DESTRUCTION NOT A "BOLD VISION FOR THEIR PROTECTION"

Discussion: Other than simply stating that protection of natural areas and ecological systems will occur, the concept plan does not provide specifics how this will happen.

Findings L1. The Sherwood West Concept plan did not address the protection and/enhancement of the functions and values of the area's natural resources. First it does not acknowledge from a future regulatory perspective, the boundaries for the area's floodplain, topographic hazards, major tree groves, or wildlife habitat. Nor does it discuss the relationship of the area's natural resources with the overall health of Tualatin and Willamette River basins and how this would be enhanced. For example, future development will result in millions of square feet of impervious surface associated with development that will require storm water treatment and conveyance to the surface water system. Policies and standards are needed to prevent harm to existing natural drainage ways through pollutant and sediment loads and higher temperatures. Also, preliminary engineering concepts show major sewer trunklines being located along the Chicken Creek waterway. This is archaic and utility service plans must make a commitment to minimize harm to stream corridors and associated natural systems. Furthermore, the concept plan does not address, even from a general perspective, future development standards, needed to ensure the integrity and quality of the area's natural resources.

The public use of the Chicken Creek Greenway will depend on a well-developed trail system that likely cannot be funded by existing system development charges and other sources. This is described in greater detail above.

Conclusion: The Sherwood West Concept Plan presents no vision for Chicken Creek or other natural resources, let alone a bold one. The concept plan presents no evidence that there is valid intention to protect or enhance the area's natural resource qualities, functions and values through regulatory means. also, for the above these reasons the UGB expansion as approved by Metro is also inconsistent with Metro Functional Plan Titles 3 and 13 Water Quality and Flood Management and Nature in Neighborhoods.

Recommended remedy: Remand the decision to Metro to either explain how surrounding Chicken Creek and its riparian area and other natural resources areas supposedly protected by Title 13 will be protected and enhanced by roads crossing them, the runoff from surrounding paved area, and the impact of pets and invasive plants, or to find other ways or places to meet regional housing and employment needs that are not so destructive.

OBJECTION L. THE DEVELOPMENT PROPOSED IN THE CONCEPT PLAN IS INCOMPATIBLE WITH EXISTING FARM AND FOREST PRACTICE EITHER WITHIN THE PROPOSED UGB EXPANSION AREA OR OUTSIDE IT.

Discussion: Absent a much more innovative plan, the claim that development in the Sherwood West UGB expansion will be compatible with farm and forest practices inside or adjoining the UGB must be declared false on its face. Agricultural operations cannot exist with the scale of urbanization proposed by the concept plan. There are reasons why there is a separation between urban development and farming. Farming practices cannot co-exist with urban development. The conflicts are too great.

It is ironic from this perspective that it is claimed that part of the Sherwood West Concept is intended to serve as a “gateway to wine country” when the result will be the end of the Concept Plan’s winemaking businesses and other agricultural businesses. Furthermore, it is merely promotional and speculative to claim Sherwood West as this when the cities of Newburg and specifically Dundee have claimed this title already backed it up with substantial agricultural tourism investment and have supported land use actions to protect the area’s vineyards

Finding L1: The consequence of implementing the concept plan will be the demise of several agricultural operations within the area. Urbanization will have consequences on both existing agricultural uses and supporting business operations who support them for goods and services. It will undermine the millions of dollars invested in the area’s wine growing and other agricultural operations. It will also disrupt the lives of farm workers who depend on the area for jobs.

Conclusion: Fundamentally, the encroachment of urbanization including, traffic impacts, results in conflicts that are contrary to the viability of agriculture inconsistent in this case with Metro Title 11 and the Metro and Goal 14 locational factors.

Recommended remedy: LCDC should find that Metro’s finding about the compatibility of its proposed urban development with nearby farm and forest practices is unsupported by adequate facts and reasonable understanding of those practices. Metro will then have to reconsider either its conclusion, gather new evidence and/or find a different location for a UGB expansion or take measures that will avoid the need for an expansion at all. File: Liberty suggestions to Ron Bunch Jan 2025

Attachment 2: 10/15/24 Memorandum to Metro Council and Core Committee

MEMORANDUM

TO: Metro Council and Metro CORE Committee
FROM: Ron Bunch
RE: Equity and the Sherwood West UGB Expansion
DATE: October 15, 2024

Introduction

My name is Ron Bunch, and I am entering this memorandum and attachment in the record for myself. My comments are based on my experience of 36-year career of land use planning and community development in Oregon; twenty-four of which were in the Portland Metro Region. I am attaching a summary of a report I submitted previously about Sherwood West and infrastructure costs. Its purpose is to provide context to the following.

Background Discussion

I attended the September 26, 2024, Metro hearing and listened with interest to the Metro CORE Committee's presentation that the concept planning process did not address or represent equity issues. I agree. My experience with concept planning is that the process mostly aligns the mutual interests of local government, economic development organizations, and those engaged in consulting, real estate, finance and construction. In this context economic, social and racial equity issues are seldom considered, if at all.

The Sherwood West Concept Plan is an example of this. Even though the concept plan proposes eventual annexation of 1,291 acres of land, it acknowledges that only about 605 acres is suitable for development. The net developable acreage is even lower – about 432 acres when land needed for public streets, parks and schools are taken out. The above study estimates that the cost of roads and services for the whole UGB will amount to \$472.8 million, or \$1.1 million per acre of developable land. These costs combined with system development charges would make it not feasible to build affordable and low-income housing. Furthermore, the area's overall low density makes transit infeasible.

Equity Focused Alternatives

If Metro Council and Sherwood are committed to equity, they must look for ways to provide developable land for housing and employment opportunities at much less cost. This can occur within the existing city, where services already exist and through policies and incentives that encourage infill and redevelopment. Also, the scope of the UGB expansion

proposal is too large and speculative. Much smaller, more easily served and developable areas should be considered first where different types of higher density and affordable housing would be feasible.

Infrastructure and Equity

The Sherwood West UGB. expansion will require a disproportionately high public and private investment to build and maintain new roads, water, sewers, and storm drainage systems for only 432 acres of developable land. Metro Council should ask, from an equity perspective, if it is equitable to leverage this scale of investment for such a low return . Fundamentally, are there ways to get much more affordable housing, accessible and safe transportation opportunities for more people from less or comparable investments elsewhere?

Copy: Jeffrey Kleinman
Robert Liberty
Nellie McAdams
Sam Diaz, 1000 Friends of Oregon

Attachment 1: Summary of Findings: Infrastructure Costs Sherwood West Urban Growth Boundary Expansion 9/26/04

File: Memo CORE Committee Metro Council

Attachment 1

Summary Findings: Infrastructure Costs and Land Use Implications: Sherwood West Urban Growth Boundary Expansion Proposal (9/26/04)

The following are the above report's main findings. These are based on information contained in the Sherwood 2024 Urban Growth Boundary Proposal, City of Sherwood budgets, fees and charges schedules, Clean Water Services (CWS) connection charges and Washington County's transportation development tax rates. The full report was submitted into the record at the above hearing.

Low Number of Net Developable Acres: The net developable land area within the proposed 1,291-acre UGB expansion is about one-third of total. This is only 432 acres, once undevelopable areas (steep slopes, stream corridors) and needed roads, utility easements, school grounds, public safety facilities and park land are removed.

High Cost of Public Roads and Utilities Costs Necessary for Development: The report estimates the order of magnitude of providing all public infrastructure to Sherwood West to be about \$472 million as follows:

Sherwood West Order of Magnitude Summary of Costs/Investments (Millions \$)

Highway 99 W Improvements	8.60
Foundational Infrastructure – Major roads, sanitary sewer collection system, water transmission lines, storm drainage conveyance and regional facilities and parks and trails	344.24
Development infrastructure – Streets and Utilities	119.00
Total	471.84

Costs for Highway 99 W Improvements to accommodate West Sherwood traffic are derived from Sherwood transportation planning documents. These estimates vary from the above low of \$8.6 million to \$30 million.

Infrastructure Funding Gaps: There are significant “funding gaps” for foundational infrastructure because some system development charges are inadequate. Sherwood would have to find a way to make up a deficit in the range of at least \$35 –\$ 45 million.

Other Costs for Schools, Highway 99W Crossing and Public Safety: Sherwood's UGB expansion plan did not consider other significant public costs, including elementary and junior high schools, a new fire station. These are estimated to cost about \$73 million.

High Infrastructure Costs Per Developable Acre: The above costs and the UGB expansion's low net yield per acre of developable acre results in high infrastructure costs to service developable land – up to \$ 1.1 million per developable acre.

High Cost of Infrastructure, City and County SDCs Added to Land Costs Would Make it not feasible to Build Affordable and Middle Housing.

Low-Density Development Would Make Transit Service Not Feasible and Increase Auto-Dependence. Residential density of Sherwood West, overall, would be very low. If the area accommodated 4,100 units, the overall housing density of the whole would be about 3.2 units per acre.

Parks Funding is Inadequate. The “foundational infrastructure” costs above do not include park and trail development. The City's parks SDCs, if applicable, are anticipated to yield between \$45 and \$50 million. At the expected cost per acre of developable land this might be adequate to purchase, but not develop, enough land for needed park improvements and trails.

The City of Sherwood Would Assume Substantial Long-term Maintenance, Repair and Replacement Costs for Sherwood West's Infrastructure. The City of Sherwood would assume major ongoing costs to maintain and eventually repair and replace many new miles of roads, sewer and water collection and conveyance lines and associated water pumping storage systems and sewer pump stations.

Inflation: The general costs of construction and maintenance of public facilities and services are based on present day assumptions. They are subject to inflation and will be significantly higher in coming years.

Natural Resource Lands – Stream Corridors: The Sherwood West Concept Plan acknowledges that a large part of the area is Metro Title 13 lands - stream corridors and riparian areas. These lands, steep slopes and other development constraints, make a significant part of the UGB expansion area difficult and expensive to develop. However, Sherwood's plans do not make specific recommendations how these areas would be managed to protect their natural resource functions and values.

Tualatin River National Wildlife Refuge: The Sherwood West concept plan acknowledges the proximity of the refuge but makes no mention of potential impacts of Sherwood West or measures to mitigate them.

File: RB 5 Summary Findings Sherwood West 101024

SHERWOOD WEST URBAN GROWTH BOUNDARY EXPANSION REVIEW OF INFRASTRUCTURE COSTS -

INTRODUCTION AND FINDINGS SUMMARY FINDINGS

The following summarizes infrastructure costs, housing affordability, land use and other issues not acknowledged by Sherwood in its 2024 Sherwood West Urban Growth Boundary (UGB) Proposal. Sherwood’s aspirational plan for UGB expansion was based on a predetermined outcome of how to urbanize West Sherwood rather than acknowledging the consequent risks and costs and whether these outweigh potential benefits. This report responds to these fundamental issues from an “order of magnitude” perspective which defines issues in broad themes. This process is often used in government and business venues to develop findings and criteria on which to base policy decisions. It is not dissimilar to what Sherwood and its supporters have done in developing a generalized development concept for Sherwood West. However, the questions to be answered are different. Often, this kind of approach addresses the most basic questions of whether to proceed or not, with a course of action.

A decision by the Metro Council to expand the regional UGB next to Sherwood by 1,291 acres would involve both private and public benefits and impose risks, costs and losses to several groups. An example is shown in Table 1. How these benefits, losses and risks are fairly mediated among stakeholders, including the region as whole, is a matter of public policy. In this context, it is important for the Metro Council to evaluate other growth options to ensure the development needs of both Sherwood and region are addressed in the most beneficial and least harmful ways possible. For example, decision-makers must ask, “Can needed housing and employment be better accommodated elsewhere and in different ways at less cost, risk and disruption.” For example, an alternative is that housing and employment needs may be better accommodated inside the existing Metro area cities and or targeted, more manageable and less impactful expansions.

Table 1: Benefits, Costs and Risks from Sherwood UGB Expansion as Proposed by West Sherwood Concept Plan.

Potential Beneficiaries	Motive and/or Benefits
PRIVATE BUSINESS, LOCAL GOVERNMENTS AND UTILITIES	
Property Owners and Land Investors	Financial gain from zoning commitments for entitlements and public investments

Commercial, Industrial and Residential Real Estate	Financial gain from real estate transactions and public investments from zoning and commitments for public investments
	Table 1 (Continued)
Banks and Financial Institutions	Financial gain from providing capital to private companies that urbanize the Sherwood West
Companies that do residential, commercial and public works construction	Financial gain from constructing the infrastructure and developing the area for urban use.
Existing Sherwood Businesses	Potential Financial gain from new Sherwood West residents and businesses but may be tempered by competition from new business.
New Commercial Business	Financial gain from expanded customer base.
School District and Special Service Districts and Private Utilities	Financial Gain: Larger enrollment and tax base, but must be balanced with need for future expenditures, including both capital investment, maintenance, administration and ongoing investment.
Washington County and Clean Water Services	Increased Revenues: Revenues from increased TDT and regional connection fees (RCC) would assist in expanding major street and sewer systems
PEOPLE	
Private Sector Workers (Not necessarily located in the region)	Short Term Jobs; Design, engineering, construction , real estate and public sector jobs
Public Sector Workers (Not necessarily Sherwood residents)	Jobs: Municipal, service district and education sector jobs
Those who need housing currently or in the future – home buyers and renters	Needed housing, but low-/ moderate-income housing and middle-housing may not be feasible due to costs
RISKS AND LOSSES	Description of Risks and Losses
Future and Existing Sherwood Property Owners and Residents	<p>Cost: Short and long -term public subsidization of UGB Expansion planning, management, and infrastructure maintenance.</p> <p>Costs: Personnel costs and refocus of political and administrative efforts on UGB expansion away from existing communities where more benefit can be derived.</p> <p>Costs: Increase in future utility rates and property taxes associated with development of extensive new urban infrastructure system ,inflation factors and maintenance of same in perpetuity.</p> <p>Quality of Life: Low transit feasibility, auto-dependence ,Increased traffic and traffic congestion and environmental degradation.</p> <p>Rapid changes in community character and disruption caused by significant period of major construction activity.</p> <p>Quality of Life and Cost: Climate impacts of auto-dependent development and environmental degradation of the area's natural resource functions and values.</p>

	<p>Quality of Life and Cost: Investment of time and resources in high-cost low return venture. No consideration of lower impact/cost alternatives to</p> <p>Table 1(Continued)</p> <p>meet future employment/ housing needs especially low- and moderate-income housing.</p>
Existing Property Owners, Workers and Agriculture	<p>Disruption of quality of life and uncertainty posed by spiral of property value speculation.</p> <p>Demise of existing agricultural operations urban encroachment; incompatible land uses; erosion of regional agricultural business infrastructure; hazard and disruption posed by increased traffic and congestion.</p> <p>Job loss for farm workers and vineyard operations and wineries;</p> <p>Loss of investment in farm and related business ventures and inability to acquire similar value land elsewhere.</p> <p>Disruption caused by long term construction activity.</p> <p>Loss of access to agricultural products .</p>
Environment and Climate	<p>Expansion of low-density auto-dependent sub-urban development with significant land, air, water, and energy consequences.</p> <p>Negative impact on local stream corridors such as on the Tualatin River watershed fish and wildlife habitat and water quality.</p> <p>Negative consequences for the adjacent Tualatin River National Wildlife refuge</p>

Summary Findings

The following are this report's main findings .These are based on information contained in the Sherwood 2024 urban Growth Boundary Proposal, City of Sherwood budgets, Clean Water Services (CWS) and Washington County connection charges and transportation development tax rates. Additional details and methodology follow about how the findings were derived.

Low Number of Net Developable Acres: The net developable land area within the proposed 1,291-acre UGB expansion is about one-third of total, or only 432 acres, once undevelopable areas (steep slopes, stream corridors) and needed roads, utility easements, school grounds, public safety facilities and park land are considered. This is illustrated by Table 2 below.

Table 2: Sherwood West Net Buildable Acres

Net buildable Acres (per Sherwood West UGB Concept Plan)	605
Less transportation 20% ROW and Utility Easements	(120)
Less Schools and possible Fire, Life, Safety Facility	(43)
Less Urban Parks	(50)
Total Net Buildable Area	432 Acres

Funding Gap for New Major Roads and Utilities: The total cost of major roads, sewer and water lines, and storm drainage facilities necessary to set the stage for development is estimated by the UGB Concept Plan to be in the range of \$344 million per the City's most recent consultants estimates. This includes \$46-50 million is needed for parks.

The plan proposes that development would “front” these costs through system development charges (SDCs). However, the City's consultant identified significant “funding gaps” that would have to be addressed because SDC's in some categories are not adequate. Sherwood would have to find a way to make up a deficit likely in the range of \$35 –\$ 45 million based upon projections. In addition, all or some of the SDC charges will be incorporated into the price of the housing, making it difficult for developers to deliver needed affordable housing, especially given the low densities that Sherwood and the Metro Chief Operating Officer (COO) are proposing.

It's important to stress that Sherwood's ability to levy SDCs to fund needed streets and utilities is much less than that of Clean Water Services and Washington County. The city is a “junior partner” in this respect.

Parks Funding is Inadequate. The “foundational infrastructure ” costs above do not include park land acquisition and development. The City's parks SDCs, if applicable, are anticipated to yield between \$45 and \$50 million. At the expected cost per acre of developable land this might be adequate to purchase, but not develop, enough land for needed parks. If expended for land acquisition, these funds would also not be available to build the trail system proposed by the UGB Concept Plan.

Other Costs Schools, Highway 99W Overcrossing , Public Safety: Sherwood's UGB Expansion plan did not consider other significant public costs, including elementary and junior high schools, a new fire station, and road improvements to Highway 99W such as overcrossing and street intersection improvements. These are estimated to be at least \$81.58 million. Schools and a new fire station represent “down-stream” costs and not

necessary for actual development of the Sherwood West. However, they are important to acknowledge as part of the total cost burden the public will carry.

Roads and Utilities Costs for Private Development: The cost of providing all infrastructure to the Sherwood UGB Expansion area includes neighborhood streets, smaller (8”) water, sewer and storm drainage lines, plus including all other parts such as catch basins, manholes, fire hydrant, etc. needed to serve private development. This is usually paid for by private development directly (not through SDCs) and recouped after property sales. This analysis estimates private development costs at about \$119 million based on the preferred land use concept in the UGB expansion plan.

Table 3: Sherwood West Order of Magnitude Summary of Costs/Investments (Millions \$)

Highway 99 W Improvements	8.60
Foundational Infrastructure – Major roads, sanitary sewer collection system, water transmission lines, storm drainage conveyance and regional facilities. Includes parks and trails	344.24
Development infrastructure – Streets and Utilities	119.00
Total	471.84

Note:

- **Costs for Highway 99 W Improvements to accommodate West Sherwood traffic are derived from Sherwood transportation plans. These estimates vary from the above to \$30 million.**

High Infrastructure Costs Per Developable Acre: The above costs and the UGB expansion’s low net yield per acre of developable acre results in high infrastructure costs of developable land – up to \$ 1 million per developable acre.

High Road and Utilities Costs, City and County SDCs Make it not Feasible to Build Affordable and Middle Housing: High system development charges, transportation and utility costs, will make it not feasible to build affordable and middle-income housing in Sherwood West.

Overall Low-Density Residential Development Precludes Transit Service and increases Auto-Dependence. Development of Sherwood West would have remarkably low density. Consider if the whole area of 1,292 acres accommodated 4,100 units, the overall site density would be about 3.2 units per acre.

The City of Sherwood Would Assume Substantial Long-term Maintenance, Repair and Replacement Costs for Sherwood West’s Needed Infrastructure. The Sherwood West UGB Expansion would result in the planning ,engineering, and construction of miles major sewer and water collection and conveyance lines and associated water storage tanks and

water and sewage pump stations. In addition, there will be several miles of new and reconstructed major collector and arterial streets in the area.

Sherwood would assume long term maintenance and repair of these major systems and also the utilities that support actual development. These are major ongoing costs, and per the City's 2023-2024 budget. It costs about \$8.2 million a year to do so for utilities inside the current City limits

It estimated that Sherwood's property tax and utility rate payers would take on the maintenance, repair and replacement (MRR) of an additional 72 miles of water, storm and utility lines and 26 to 34 miles of streets and roads associated with residential and commercial development. This is new infrastructure would be added to the existing 61 acres of parks, 59 miles of road and 215 miles of utility lines inside the existing City limits.

Sherwood's current combined operations and maintenance budget for maintenance, repair and replacement of its existing roads and utilities is \$8.242 million per [Sherwood's 2023-24 budget](#). This would increase substantially with Sherwood West added to the city. Other public services, such as law enforcement, city administration, finance, planning, building inspection, etc. would also increase in proportion to land area and population.

Inflation: The general costs of construction and maintenance of public facilities and services are based on present day assumptions. They are subject to inflation and will be significantly higher in coming years.

Natural Resource Lands – Stream Corridors: The Sherwood West Concept Plan acknowledges that a significant part of the area is Metro Title 13 lands - stream corridors and riparian areas. This, and steep slopes and other development constraints, makes a significant part of the UGB expansion area difficult and expensive to develop. However, Sherwood's plans do not make specific recommendations for these areas other than they would be set aside for open space and natural areas. How this will happen and/or what entity would be responsible for ensuring protection is not known. For example, will these lands be part of large estate type subdivisions and become common open space tracts subject to management by a property owners association? Alternatively, is it aspired that some or all this land be public and managed by a public entity? Regardless, these lands will require oversight and management to ensure natural resources functions and values are maintained and do not present hazards to surrounding areas, such as wildfire, flooding and landslide.

Tualatin River National Wildlife Refuge: The Sherwood West concept plan acknowledges the proximity of the refuge but makes no mention of potential impacts of Sherwood West or measures to mitigate them. This is an important issue that must be addressed when making the UGB expansion decision.

BACKGROUND AND METHODOLOGY FOR ASSIGNING ORDER OF MAGNITUDE COSTS

Three categories of infrastructure costs for the UGB expansion are generally quantifiable. The first is the UGB expansion's need for "foundational infrastructure." This is the set of public facilities - major roads, surface water management, water and sewer lines that, per Sherwood's consultants' assumptions, are needed to "catalyze" private development in Sherwood West. This consists of the larger water, storage, conveyance and pumping systems, sanitary sewer collection, pumping conveyance system and major roads usually classified as major collector and arterial streets. The second cost category is related to the "development infrastructure" such as that needed to build a residential subdivision, apartments, industrial areas, etc. Once private development projects are completed and accepted, the city assumes ownership and long-term maintenance, repair and replacement costs. This is an important consideration because maintenance, repair and replacement (life-cycle costs) sometimes equal or exceeds the initial costs as facilities wear out and need replacement or remodeling over time. The final cost category includes public, but non-municipal, services. This includes things such as new elementary and middle schools, public safety facilities (fire station) and needed improvements to Highway 99W. Fire stations and schools are not needed for development to occur but need to be realized because of development much like maintenance, repair and replacement of infrastructure.

How Would Roads and Utility Infrastructure in Sherwood West be Funded.

Infrastructure must be in place before development occupancy can occur. Local governments and sometimes state government require infrastructure to be provided either before, or in conjunction with the use or occupancy of new development. For example, a new residential subdivision that would increase the traffic capacity of a major collector street would have to pay for adding lanes, intersection improvements, traffic lights, etc. This requirement is in proportion to a development's impacts on the street's safety and capacity. The same principle applies to other facilities such as needed sanitary sewers and storm drainage and surface water quality systems.

In Oregon, system development charges (SDCs) are one of the ways through which developers pay their projects' proportional cost of needed major infrastructure and to reimburse local governments for their investment in existing utility systems. This is one of the ways through which infrastructure will be funded in Sherwood West. The three primary sources of SDC revenue are [City of Sherwood SDCs](#), [Clean Water Services \(CWS\) regional connection charges \(RCC\)](#) and [surface water fees](#), and the [Washington County transportation development tax \(TDT\)](#). The Washington County [major streets transportation improvement program \(MSTIP\)](#) may also contribute by partially funding selected arterial street improvements.

All Infrastructure needed to serve specific developments, such as local streets, smaller water lines, and storm drainage are mostly paid for and built by developers to local government specifications. These costs, like SDCs, are rolled into the purchase, or lease price of property. They are in addition to SDC charges included in the cost of a new house.

SDC costs in Sherwood are significant. For example, the current charge for single-family home is about \$51,500.

Once infrastructure is completed, inspected and approved, ownership is assumed by the City, which guarantees its maintenance, repair and replacement over the long term. Revenue for this comes from public utility fees and charges and property taxes. Larger replacement and maintenance projects, as happens when roads and utilities wear out, is often funded by capital reserve funds augmented by general obligation and revenue bonds and when available, state and federal assistance.

Parks and related facilities open space, and trails are considered infrastructure but, in most cases, the land is acquired, improved and retained by local governments. In the case of Sherwood West, development would be also subject to the city's Parks SDC.

The combined cost of all infrastructure, subject to systems development charges and other exactions charges such as permits, water connections and fees associated with the building process, are passed on to the consumer. This has a significant impact on the cost of new housing and other new development. In addition to SDCs, it's acknowledged that there are many other fees and charges are associated with building and engineering permits, inspections, water meter installations, planning review, permit administration, etc. These add up to significant costs depending on the scale and complexity of a project.

How Sherwood West Foundational Infrastructure Costs and Funding Gaps Were Determined: Sherwood's city engineering staff and its consultants prepared several order-of-magnitude cost scenarios based on a variety of land use mix scenarios. These are part of [Appendix O of the Sherwood West urban Growth Boundary Proposal – 2024](#). The latest estimates were done in February 2024. The cost of foundational infrastructure at that time was estimated to be \$334.027million. Infrastructure costs and funding gaps are summarized by Tables 4 thru 6.

These examples show that the City of Sherwood's systems development charges are minor contributors towards meeting the costs of needed infrastructure, compared to Clean Water Services Regional Connection Charges (RCC) and Washington County's Transportation Development Tax (TDT). The one area where it may provide adequate funds is parks. In this instance the park funding may be enough to purchase the land but not develop it. However, though important, parks do not contributor to actual land development.

Table 4: Estimated Costs of Sherwood West Foundation Infrastructure by District - \$Million

	Water	Sewer	Storm	Parks	Roads	Totals
North	10.75	18.16	10.93	23.43	72.85	136.12
Far West	8.37	4.80	2.76	0	26.92	42.37
West/ S. West	29.17	10.01	6.18	23.82	85.79	154.97

Totals	48.59	32.97	19.87	47.25	185.56	334.24
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Table 5. Funding Gap Analysis all Districts – Low Density Housing (0%) Middle Housing-
\$ Million

Water	Sewer	Storm	Parks	Roads	Total w/ all Revenue)	Total w/City Only
-18.79	32.30 (surplus)	-14.57	7.93((Surplus)	-17.54	-10.65	-203.53

Table 6. Funding Gap Analysis all Districts – High Density Housing (20%) Middle Housing-
\$ Million

Water	Sewer	Storm	Parks	Roads	Total w/ all Revenue)	Total w/City Only
-9.37	39.98 (surplus)	-13.62	\$23.90 (Surplus)	-10.04	30.78 (Surplus)	-175.078

Notes:

- **Source: Sherwood West Concept Plan (Feb. 13, 2024, Memo from Leland Consulting Group to Eric Rutledge, City of Sherwood)**
- **Surpluses in one SDC Category cannot be used to address deficits in another**

The policy related financial issue the City must address is, how can it cover the above financial shortfall?” The Sherwood West Concept Plan recommends that the city consider funding sources such as supplemental or increased system development charges (SDCs), local improvement districts, city-wide increased utility rates, and urban renewal to partially pay for infrastructure.

There are disadvantages of all these methods. They would increase costs for development, thus making it less feasible and transfer some costs of UGB Expansion to existing Sherwood taxpayers and ratepayers.

Development Related Infrastructure Costs: Development projects such as single-family subdivisions, office parks, and multi-family projects pay for the construction of local streets and utilities that directly serve these land uses. Traditionally, these are usually two-way streets usually within 30’ to 36’ rights-of-way that include water, sewer, storm drainage/water quality infrastructure. Some jurisdictions allow smaller streets through master planned projects’ such as planned developments. Street density is a valuable urban design tool to provide for walkable neighborhoods, especially in mixed-commercial/residential environments.

Some Industrial and commercial uses require larger streets constructed to accommodate large trucks. Most often industrial land uses have relatively low street density because uses typically require larger sites. Internal site circulation is often provided by easements that meet standards for fire protection. Commercial land uses locate within high traffic volume areas most often front on major collectors and arterials for access and pay commensurate SDC's and or participate in the costs of road and utility construction.

Water and sewer utilities are most often in public rights of way. If not, they are within located within dedicated easements. These typically consist of eight-inch water and sewer line lines unless design and fire flows require greater capacity. Sometimes industrial and commercial will require greater fire flows hence water lines are often installed up to 10"-12." Local Storm drainage systems also must manage flows and water quality. This means the curb and gutter, catch- basin and pipe system is often augmented by vegetated in- street structures, vegetated swales and local water quality facilities. Within West Sherwood CWS regional water quality facilities will be needed. These are often constructed by development to CWS's specifications.

The following estimates were calculated based on acreages of land use scenarios assigned by the Sherwood West UGB Concept Plan's various land use scenarios. It is acknowledged that site design is a significant factor in the quantities of utilities needed and there will be differences in quantity and costs associated with actual development occurs.

A summary of estimated quantities of private development streets and utilities for the UGB Concept's Plans preferred land uses is shown by Table 5 below. It is a compilation of tables 6 through 9 that follow

Table 6 – Summary of Estimated West Sherwood Private Development Costs Per Sherwood West Concept Plan Acreage Allocations

SF (L/M/H) Middle Housing, Cottage Cluster	Acres	Streets K/L'	Sewer K/L'	Water K/L'	Storm K/L' (Equivalent)	Total Cost \$ Million
	308	87.00	87.00	87.00	87.00	68.47
Muti-Family	33	7.87	7.87	7.87	7.87	7.05
Mixed Employment	130	18.48	18.48	18.48	18.48	18.84
Mixed Resident/Comm	25	8.5	8.5	8.5	8.5	8.50
Hospitality - Entertainment	63	15.75	15.75	15.75	15.75	15.68
Sub-Total	559	137.6	137.6	137.6	137.6	118.54

Notes:

- SF(L/M/H Density) Street Density = 20.7% of assigned land area.
- Multi-Family Steet Density = 17% of assigned land area

- Mixed Employment Street Density = 12% of assigned land area. Framework streets only would be developed. The site users would develop interior sites specific to their needs.
- Mixed Residential Commercial Street Density = 25% of assigned land area
- Hospitality/Entertainment Street Density = 25%+ of assigned land area

The acreage total above does not include the following :

- 40 acres for elementary and junior high schools,
- About 60,000 sq. ft (1.5 acres) acres for a new fire station
- Seven acres of commercial land that was not included for reasons explained below
- For the purposes of this analysis park acreage is distributed in the various land use districts and included as part of respective land use categories.

**Table 6A: Single Family, Middle Housing , Cottage Cluster
Streets and Utilities – Estimated Development Costs \$Millions**

Streets	87KL'	Sewer	87KL'	Water /L'	87KL'	Storm	87KL'
\$300/ L'	\$26.10	\$170/L'	\$14.790	\$160L'	\$13.920	\$180L'	\$15.66
Grading, base, paving, sidewalks, etc.		Includes manholes and clean outs, etc.		Includes, hydrants appurtenances, vaults etc.		Includes manholes, catch, basins, etc.	

**Table 6B: Summary Sherwood West Single Family Residential Street and Utilities
Development Costs: (\$Millions)**

Streets	\$26.10
Sanitary Sewer	\$14.790
Water	\$13.920
Storm	\$15.66
Total	\$68.470 Million

Notes:

- Residential Street Miles (Estimated). Street Connectivity is assumed to be between 200 -400 feet.
- Does not include accessory dwelling units because they most often share the same frontage as single-family housing
- Neighborhood Streets ROW is 28 – 36 feet in width. A general average of 32' in width was used for this analysis
- Sewers, water ,are considered 8" diameter. The storm drainage system is assumed be a combination of traditional and surface water quality systems and costs are estimated using an equivalent per lineal street length. Storm drain lines average 8"to 12" diameter. It is acknowledged that special circumstances will require exceptions. All utilities are within public streets or easements.

**Table 7a: Estimated Development Cost of Streets and Utilities for Multi-Family Residential
Development Streets and Utilities- 33 Acres**

Streets	7.87kL'	Sewer	7.87kL'	Water /L'	7.87kL'	Storm	7.87kL'
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\$370/ L'	2.92	\$190/L'	\$1.49	\$170/L'	\$1.34	\$180L'	\$1.41
Grading, base, paving, sidewalks, etc.		Includes manholes and clean outs, etc.		Includes valving, hydrants etc.		Includes manholes, catch, basins, etc.	

Notes:

- Development tracts range in size from .5 acre to five acres.
- Neighborhood Streets ROW considered to be 32 – 35 feet in width. Widths can vary to 24 feet for special applications and access. Street connectivity is assumed to be in the range of 400' to 800 feet. Alleys are not considered in this analysis.
- Cost of streets serving multi-family development will be higher than SF residential due to intensity of traffic volumes, driveway access, signalization costs of possibility of turn refuges for access
- Typically, eight-inch diameter sewer lines are adequate but in case of high-density housing peak flows may be higher. Costs have been adjusted to reflect this.

Table 7B: Summary Multi-Family Residential Public Facilities Costs (\$Millions

Streets	\$2.92
Sanitary Sewer	1.49
Water	1.23
Storm	\$1.41
Total	\$7.05 Million

Table 8A. Estimated Development Cost of Streets and Utilities for Mixed Use Employment - 130 Acres - \$Millions

Streets Cost	18,480L'	Sewer Cost	18,480L'	Water /L' Cost	18.490 L'	Storm Cost	18,590L'
\$450/ L'	\$8.28	\$190/L'	\$3.5	\$200/L'	\$3.7	\$180L'	\$3.35
(Grading, base, paving, sidewalks, etc.		Includes manholes and clean outs,		.Includes fire hydrants		Includes manholes, catch, basins, etc.	

Notes:

- Variety of lot sizes two to 15 acres that could accommodate single to multiple tenancies/users with full frontage streets. Proposed arterial streets previously identified will account for half of required frontage.
- Heavy industrial uses are not considered, but some freight traffic and warehousing will occur.
- Interior streets will occur associated with development need, but no minimum connectivity is assumed.
- Public access and delivery drives will be provided. Fire lane and emergency access will be responsibility of users

Table 8B: Summary Estimated Development Costs of Streets and Utilities for Mixed Use Employment (Millions \$)

Streets	\$8.28
Sanitary Sewer	\$3.51
Water	\$3.7
Storm	\$3.35
Total	\$18.84

Table 9A: Estimated Development Costs of Streets and Utilities for Mixed Residential - Commercial Employment - 25 acres

Streets Cost	8.5Kl'	Sewer Cost	8.5kL'	Water Cost	8.5kL'	Storm Cost	8.5Kl'
\$450/ L'	\$3.82	\$170/L'	\$1.45	\$200/L'	\$1.7	\$180L'	\$1.530
Grading, base, paving, sidewalks, etc		Includes manholes and clean outs, etc.		Includes valves, fire hydrants.		Includes manholes, catch, basins, etc.	

Table 9B: Summary of Estimated Development Costs of Streets and Utilities for Mixed Use Employment - 25 acres (millions)

Streets	\$3.82
Sanitary Sewer	\$1.45
Water	\$1.7
Storm	\$1.53
Total	\$8.500

Table 10A: Estimated Development Costs of Streets and Utilities for Hospitality District 63 Acre (\$Millions)

Streets Cost	15.75k L'	Sewer Cost	15.75KL'	Water Cost	15.75kL'	Storm Cost	15.7hkL'
\$450/ L'	\$7.01	\$170/L'	\$2.68	\$200/L'	\$3.15	\$180L'	\$2.84
commercial Street Standards		Includes manholes and clean outs, etc.		Includes valving, hydrants. Increased fire flows addressed by 10" lines.		Includes manholes, catch, basins, etc.	

Table10B: Summary Development Costs of Streets and Utilities for Hospitality District
63 Acre (Millions)

Streets	\$7.01
Sanitary Sewer	\$2.68
Water	\$3.15
Storm	\$ 2.84
Total	\$15.68

Neighborhood Commercial – Seven acres

A public facility needs, and cost analysis of proposed Neighborhood Commercial land uses was not done because Neighborhood Commercial land uses as proposed do not typically require public utilities more than single or multi-family land uses. These uses will most likely be located on developed major streets and often adjacent to employment zones. Therefore, it is reasonable to propose that seven acres of neighborhood commercial will most likely utilize existing major roads for access and public facilities and services. Identifying and costing out those facilities would be duplicative.

Other Infrastructure/public Services

Sherwood West will require other kinds of public services in addition to those provided by the city. The Sherwood West Concept Plan proposes that elementary and middle schools will be needed. Per the UGB Concept Plan these uses will require about 40 acres of land - 15 and 20-acres respectively. These schools would also likely draw students from surrounding area.

Schools: The Sherwood West UGB Expansion plan assumes two schools; an elementary and middle school would be required. If 40 % percent of Sherwood West 4,000 + households or 1,600 homes would consistently have children under the age of 18, then each school would need to accommodate 750 students each. This also assumes some enrollment from other areas. The cost of these schools is estimated to \$66.78 million per Tables 11 and 12 below.

Table 11: Sherwood West Elementary School Estimated Costs

Elementary school building cost per sq. foot (2024)	Sq. feet Needed per student	# of estimated students	Costs -\$Millions
\$240	70	750	\$12.60 - Building
Land Acquisition - 15 acres at \$700K developable acre			\$ 10.50 – Land
Site Work - parking grading and utilities and play fields			\$ 2.52 – Site Work
System Development Charges			\$.96 – SDCs
Street frontage Improvements and Utilities			\$.56 – Streets and Utilities
Total			\$27.10

Table 12 Sherwood West Middle School Estimated Costs

Middle school building cost per sq. foot (2024)	Sq. feet Needed per student	# of estimated students	Costs
\$230	100	750	\$17.25 - Building
Land Acquisition - 25 acres at \$700K developable acre			\$17.50 - Land
Site Work - parking grading and utilities and fields			\$ 3.45 – Site Work
System Development Charges			\$.92 – SDCs
Street Frontage Improvements and Utilities			\$.56- Streets and Utilities
Total			\$ 39. 68

Transportation frontage and utilities costs were calculated using \$800 per lineal foot assuming a 700- foot frontage per school. It should be noted that systems development charges might be reduced if these projects are on the major street system. This because SDC credits often are granted if the developer constructs needed improvements. SDCs that are applicable to schools are those levied by City of Sherwood, Clean Water Services and by the Washington County - Transportation Development Tax

Sherwood West Fire Protection and Public Safety Facility: Serious consideration should be given to the need to provide additional fire and life safety services through a dedicated emergency services facility in Sherwood West, should it urbanize. The closest facility is Station 33 at 15440 Oregon St., Sherwood. Currently , it is unlikely for fire and emergency response times to much of the proposed UGB Expansion to meet the National Fire Protection Agency response standards. In addition to safety concerns this could substantively increase fire insurance premiums for much of the area. Table 13 below summarizes the anticipated cost of a new public safety facility in the area.

Table 13: Sherwood West Public Safety Facility Estimated Costs

Building cost per sq. foot (2024)	Building Size	Costs – Millions \$
\$1,000	5,000 sq.	\$5.0
Land Acquisition: Min. 1.5 +/- acre		\$1.0 Land
Site Work - parking grading and utilities and fields		\$.25– Site Work
System Development Charges		\$ Not Specified
Street Frontage Improvements and Utilities		\$ Utilize Existing Streets
Total		\$ 6.25 (Minimum)

Traffic impacts of Sherwood West would significantly impact State Highway 99W. ODOT will significantly control access to Highway 99W. The state's interest is to ensure the capacity of the Highway is maintained and ultimately a grade separated connection(s) will be required. Planning for Sherwood West has identified either one or two connections will be required. Preliminary cost estimates by the City of Sherwood about is about \$8.6 million for one undercrossing.

Table 14: Summary of “Other” Needed Public Services Cost - Millions

Elementary School	\$27.10
Middle School	\$39.68
Public Safety Facility (Fire Sub-station)	\$ 6.25
State Hwy 99W Crossing	\$ 8.6
Total	\$81.63

High local, county and service district (Clean Water Service) system development charges (SDCs) will have big impacts on the cost of development. The following Tables 15, 16 and 17 are examples of SDC's that would apply to residential development

Table 15: City of Sherwood, Clean Water Services (CWS) Washington County System Development Charges Applicable Single Family Residential Development (Per Unit) Including Small Lot

Jurisdiction	Water SDCs	Sanitary Sewer	Storm Water/ESU	Parks	Transportation	
Sherwood	\$10,154	\$1,032	\$1,639	\$17,256	\$2,251	\$32,332.00
CWS		\$7,009	\$ 678			\$ 7,687.00
Washington Co.					\$11,478	\$11,478.00

Total	\$10,154	\$8,041.00	\$2,317.00	\$17,256.00	\$13,279	\$51,497.00
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Notes:

- **Water SDC** is calculated using a 5/8" – ¾' Meter. Charges include \$123 per meter inspection fee
- **Sanitary Sewer** is measured in EDU of 150 gallons per day Engineers estimate applies to other uses
- **ESU** is a city defined measurement of impervious of surface.
- **Clean Water Services Regional Connection Fee (RCC)** is collected by Sherwood. The city retains 4% and 96% is remitted to CWS.
- **Storm water quality rates** are set by CWS.
- **Small lot detached single family** (middle housing will be assessed impact fees the same as large lot single family).

Table 16: City of Sherwood, Clean Water Services (CWS) Washington County System Development Charges Applicable to (Town Home) Common-Wall Single Family Housing

Jurisdiction	Water SDCs	Sanitary Sewer	Storm Water/ESU	Parks	Transportation	
Sherwood	\$10,154	\$1,032	\$1,639	17,246	\$1,347	\$31,418.00
CWS		\$7,009	\$ 678			\$ 7,687.00
Washington Co. TDT					\$6,866	\$ 6,866.00
Total	\$10,154	\$8,041.00	\$2,317.00	\$17,256.00	\$8,213	\$45,971.00

Table 17: City of Sherwood, Clean Water Services (CWS) Washington County System Development Charges Applicable to a 50-unit Apartment Building. (SDCs = \$33,623 per unit

Jurisdiction	Water SDCs	Sanitary Sewer	Storm Water/ESU	Parks	Transportation	
Sherwood	\$175,548	\$ 51,624	\$81,950	\$535,300	\$77,400	\$921,822.00
CWS		\$350,450	\$33,900			\$384,350.00
Washington Co. TDT					\$375,000	\$375,000.00
Total	\$175,548.00	\$402,074.00	\$115,850.00	\$535,300.00	\$452,400	\$1,681,172.00

- **Water SDC** is calculated using a 3" Meter. Charges include meter inspection fee
- **Sanitary Sewer** is measured in EDU of 123 gallons per day Engineers estimate applies to other uses
- **ESU** is a city defined measurement of impervious of surface.
- **Clean Water Services Regional Connection Fee (RCC)** is collected by Sherwood. The city retains 4% and 96% is remitted to CWS.
- **Storm water quality rates** are set by CWS.

- **Small lot detached single family (middle housing will be assessed impact fees the same as large lot single family).**

File: Ron 4 amended infrastructure Sherwood MKM Comments West Infrastructure Funding Final Draft

Attention: Periodic Review Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem OR 97301

I am writing to raise objections to the Metro decision to add the Sherwood West Urban Reserve to the Urban Growth Boundary. Specifically, I object to the inclusion of the industrial designation on the north portion of the Sherwood West expansion. In addition, I object to the representation of Elwert Road as a “Residential Boulevard”. I also object to the depiction of an existing neighborhood as the pathway of a conceptual connector. Remedies to these objections would consist of removing the Sherwood West north subdistrict from the expansion proposal. In addition, the expansion proposal should accurately represent an expanded Elwert Road and remove any reference to a conceptual connector.

I am including several attachments which demonstrate my participation and prior written testimony throughout this process.

The development of the Sherwood West expansion plan undermined Goal 1, Citizen Involvement.

City communication to the local community about the Sherwood West north subdistrict has not been transparent. Mixed employment was the term emphasized throughout the Sherwood West Concept Plan public outreach. The emphasis on industrial use only really surfaced during the Metro presentations. The Sherwood West North subdistrict mixed employment boundaries were expanded after the Concept Plan’s public outreach was concluded. These meetings where the expansion and the term industrial use first surfaced were not open to public participation.

The communication around future transportation infrastructure during the Sherwood West Concept Plan public participation phase has been misleading. Elwert Road, a current north south connector between Yamhill County to the south and Washington County the north, is being pictured without a realistic representation of increased capacity to accommodate future growth. The city also represented that there was a potential to build an alternate route to Elwert Road despite evidence to the contrary. These characterizations throughout the public participation phase need to be taken in context of the community pushback in 2017 which lead to the city withdrawing their request for Urban Growth Boundary expansion. The impact of characterizing Elwert Road as a “Residential Boulevard” and displaying unrealistic future by-passes is that this communication, rather than fostering an informed public, is accomplishing propaganda goals.

The proposed industrial designation on the North portion of the Sherwood West expansion area violates Goal 6, Air, Water, and Land Resources Quality and Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces. The designated area is adjacent to the Tualatin River National Wildlife Refuge, overlaps with protected upland habitat and is

near a protected waterway, chicken creek. Furthermore, this industrial area will be a new intrusion into an area that is currently farmland with no adjacent industrial use. In fact, it is a relatively small parcel, bisected by major electrical transmission lines, with the only potential to grow in size being incorporating additional farmland.

The Sherwood Est expansion plan violates Goal 12, Transportation.

The rerouting of Elwert Road violates this goal by not utilizing existing right of way and failing to plan for growth of that road's capacity. The plan also represents a conceptual route which threatens existing urban social units, the Eastview Road Neighborhood. Sherwood should have at least made a good faith effort at high level planning which addresses realistic steps to accommodate future growth.

Thank you for your consideration of these objections.

Sincerely,

Brian Fields

Secretary Eastview Road Neighborhood Association

My name is Brian Fields. I am a member of the Eastview Road Neighborhood (ERNA), and I am submitting my comments on behalf of ERNA.

ERNA objects to the continued inclusions of images portraying a potential north south connector through our neighborhood. The path of this connector, depicted in the June 2023 Sherwood West Concept Plan Draft packet is not viable, feasible, or suited for its intended use. We have stressed these concerns repeatedly at Sherwood West Concept Plan Advisory Committee meetings. Overall, we have emphasized the steep grades of the terrain, which makes the proposal cost prohibited and destructive. In addition, the City's external traffic expert, Carl Springer, confirmed that the proposed north south connector was not a solution for truck traffic or regional commuter traffic, despite the proposed Elwert-Edy road realignment. Therefore, we request the removal of any graphic representation of a connector running down Eastview Road from the proposed plan. I am attaching prior comments addressing these concerns, made on behalf of our Association for the November 17th CAC meeting. These comments also address the attached November 4 City of Sherwood Memo titled "Alignment/Grade Analysis of N-S Road, which contains a faulty engineering analysis."

ERNA insists these representations cease. The following references are included in the packet.

- Sherwood West Concept Plan, Draft June 2023.
 - Page 38 show the connector pictured as an ellipse centered around Eastview Road.
 - Page 56, figure 21 pictures the connector through Eastview Road.
 - Appendix J, Pages 2-4, the path of the proposed connector is pictured as a conceptual street.
 - Appendix J, page 14 has neon pink shading centered on Eastview Road and uses a giant label stating CONCEPTUAL NORTH SOUTH CONNECTOR.
 - Appendix L, page 3 shows the connector pictured as an ellipse centered around Eastview Road.

For the reasons stated above, we believe that engineering feasibility studies must occur before depicting the path of the connector as represented in the meeting materials. The images presented at this point have no purpose other than an intentionally deployed propaganda tool for representing a potential traffic solution that does not in fact exist.

Brian Fields,
Member of Eastview Road Neighborhood Association

Public Comments for November 17th, 2022, CAC and TAC meetings on behalf of the Eastview Road Neighborhood Association.

My name is Brian Fields, and I am submitting these comments on behalf of the Eastview Road Neighborhood Association. Our Association is in opposition to the proposed North-South truck by-pass on the western edge of the Sherwood West UGB. Specifically, I am commenting on the feasibility rational submitted in the November 4, 2022, memo from Bob Galati to Erika Palmer, which was included in the November 17, 2022, CAC meeting packet.

This memo does not demonstrate the feasibility of this proposed by-pass. It is instead an abstract engineering exercise, which cherry picks the impacts that are acknowledged and ignores the impacts which don't support its conclusion.

The rational for not improving Elwert is never made. Although a few weak and misleading shortcomings of the current Elwert Road alignment are mentioned.

- Mr. Galati simply affirms that increased truck traffic on Elwert road is “counter to citizen opinion of appropriate traffic usage”.
- Mr. Galati describes a few negative characteristics of Elwert Road in its current state.
 - Poor vertical sight distance in some areas.
 - Poor intersection sight distance issues.
- Furthermore, his comments go into a fair level of detail in describing the local connectors to Elwert, which I suppose is some sort of implied statement about the complications in improving Elwert Road.

Mr. Galati neglects to mention any of the obvious advantages Elwert Road offers as a candidate for improvement over other options.

- Mr. Galati does not acknowledge that for almost all the run of Elwert Road, between Hwy 99 and Scholl's Sherwood Road there is vacant land on either the west or east side of Elwert road that would allow for road expansion without impacting existing homes.
- Mr. Galati does not address that the neighborhoods built on the east side of Elwert were built during the current traffic patterns on Elwert Road, as a by-pass between Hwy 99W and Scholl's-Sherwood Road. The homeowners in these neighborhoods bought their homes under the current traffic flow on Elwert Road.
- The current physical limitations would require much smaller engineering project to remedy than the fantastical scheme Mr. Galati proposes in his memo.

Mr. Galati omits any acknowledgement of the severe impacts on the Eastview Road neighborhood. In fact, Mr. Galati avoids any mention that there is an existing neighborhood which his proposed truck route goes through.

- Mr. Galati's memo contains no description of the existing neighborhood on Eastview Road.
- The map included in Mr. Galati's memo, showing the North-South 3 Lane Arterial shows all the structures near Elwert Road and none of the existing homes on Eastview Road or Edy Road.

- Mr. Galati characterizes the proposed truck route as “impact(ing) the fewest number of structures.”
- In fact, a careful review of Mr. Galati’s plan shows that 9 houses would end up being removed and 4 houses in the Rural Reserve would lose access to Eastview Road.
- Mr. Galati does not acknowledge that the intersection of Edy and Eastview Road is a dangerous S-Curve with some of the highest rate of accident occurrences in Washington County.
- Mr. Galati does not acknowledge the environmental damage that can be expected with a project that lays down 76,000 Cubic Feet of fill near Chicken Creek.

The assertions I am making can be directly obtained by reviewing the implications of Mr. Galati’s Road Alignment Analysis on page 41 of the CAC Meeting #11 Packet.

- The proposal to add enough fill over the course of Eastview Road to change a 12% slope to a 7.5% slope would have a devastating impact on the neighborhood. The amount of fill necessary to accomplish this is extraordinary. The volume would be 76,000 cubic yards or 7,600 dump truck loads. This would be 21 dump trucks a day for a year to deliver this volume of fill.
- The project would involve construction of a new 450-foot-long bridge over Chicken Creek.
- The project will require a 150 foot right of way to accommodate 3 lanes of traffic, two sidewalks, 2 guardrails, fill slopes and two fences at the toe of both fills.
- The impacts of the bridge, road elevation described, and necessary right of way, would wipe out 9 houses.
 - Several homes on the east side of Eastview Road are less than 150 feet from the western side of the right of way.
 - Due to the width of the right of way for this volume of fill, 5 homes would be in the direct path of the right of way.
 - Two additional homes would have their access cut off and have a three-lane truck route on their doorsteps, and 40 feet above them.
 - One home would be removed to improve the dangerous Edy-Eastview intersection.
 - One home, which is on the west side of Eastview Road in the Rural Reserve, would be removed by bridge construction.
- In addition, raising the elevation of Eastview Road would eliminate access to 4 homes in the rural reserve to the west of Eastview Road.

I would like to point out that this feasibility memo is not a good faith effort to advocate a policy position. Mr. Galati’s memo simply asserts a position about citizen views on the appropriate traffic usage. Even if the statement is accurate and backed up by data, such as un-biased polling of a representative sample, public sentiment on one issue alone cannot forestall weighing all options for an extraordinarily expensive and destructive public project. In addition, Mr. Galati’s implied complications for Elwert Road improvement pale in comparison to the magnitude of expense and destruction that his truck route proposal would cause. Mr. Galati fails to acknowledge any impact to an existing neighborhood. He does this by excluding any

mention of our neighborhood in his narrative. In addition, he appears to have penciled out any visual representation of the houses in our neighborhood and all the houses on Edy Road. I am outraged by this ham-fisted attempt to justify an unsupportable position.

I urge all members of the CAC to reject this North-South 3 lane truck by-pass proposal. I urge members of the TAC to weigh in and reject this impractical proposal.

Sincerely,
Brian Fields
Secretary, Eastview Road Neighborhood Association

Sherwood UGB expansion comments,
Brian Fields
Secretary, Eastview Road Neighborhood Association

I urge the Metro Council to scale back the Sherwood West Urban Growth expansion. We do not have the transportation infrastructure to support this growth. In addition, the City of Sherwood has not done any planning, not even “conceptual”, to expand the capacity of Elwert Road, the only viable north south connector.

The current plans for Elwert Road are inadequate for the future growth planned.

Elwert road is serving as a regional connector. Even without bringing in additional land in the Sherwood West Urban Reserve we can expect the traffic flow to increase. With the addition of large amounts of new housing the burden on the existing road will only increase. How has Sherwood planned for increased capacity? They have not.

The Sherwood West concept plan shows the vision that Elwert road remain one lane in either direction with the addition of turn lanes. The city has repeatedly said that their vision of Elwert is that of a neighborhood street. This flies in the face of the current reality of an already overburdened regional connector, let alone showing any sense of planning for the future to accommodate a greatly increased local population. The only mention in the Sherwood West concept plan of planning for future connectivity is vague mentions of conceptual connectors. You can reference the “Transportation and Infrastructure” Section on page 101 of part 1 of the Sherwood UGB expansion proposal.

“North-South Connectivity – The concept of adding a route to enhance regional north-south connectivity will require future study. Additional feasibility and cost analysis will be

necessary. This should be considered as a long-term strategy, rather than an essential component of early stage transportation planning in Sherwood West.”

But the truth is that the Sherwood West topography is not going to allow any new north south connectors. During the public outreach portion of the Sherwood West concept plan much feedback was provided to the city outlining specific complications for a north south connector west of Elwert Road. The City’s own traffic modelling demonstrated that regional traffic could not be diverted from Elwert Road to any significant degree. The land is riddled with steep slopes and is bisected by Chicken Creek. In addition, the border of Sherwood West veers sharply east when you go north of Edy Road. If this hypothetical connector were built, as it moved north it would run into Rural Reserve land. Due to this a connection to Scholl’s Sherwood Road to the north could not be completed. This means any road that was built would have to feed back onto Edy and Elwert, the existing transportation corridor.

There really is no choice but to improve the existing transportation corridor, but the City of Sherwood’s West Concept plan does the opposite. Sherwood is proposing to move portions Elwert Road off it’s current north south alignment and meander to the west, pass through two round-abouts, incur a new Chicken Creek crossing and then meander back to the Elwert Road current alignment in the north.

We have examples in the nearby region of what successful road planning would look like. The massive development to the north of Sherwood West, on Roy Rogers Road, has been accompanied by expansion of that road to 4 lanes. If you want to see aesthetically pleasing road expansion, we need only look to the improvements Lake Oswego has done on Boones Ferry Road. The road was both

improved to 4 lanes with a turn lane, but also includes attractive landscaped dividers and sidewalks. This is much like Sherwood has proposed, but with a critical difference, Lake Oswego recognized the need to increase capacity while making attractiveness an important part of their road design. Both can be done.

To be clear my point is not that Sherwood has not already solved the capacity problem prior to asking for an Urban Growth Boundary expansion. The problem is that Sherwood is not even planning for increased capacity. In fact, their public statements during the West Concept Plan outreach process indicated they want to discourage regional traffic and keep Elwert as a neighborhood street. See the description on page 227 of the submittal, in the Section title “SW Elwert Road Design Concept”. Make note that the designation for much of Elwert Road is “Residential Boulevard”. There is much risk if Sherwood doubles down on this approach that near term development will forestall any future capacity improvements on Elwert Road.

Their proposal to bring in the entire Sherwood West Urban reserve should be scaled way back until the City actually provides realistic transportation planning. Bringing the entire 1200 acres of Sherwood West now into the UGB is only going to compound a local and regional transportation quagmire which already exists. Sherwood needs to confront the reality that topography and the Urban Reserve boundaries themselves prevent any alternate north south connector. I encourage Metro to not approve Sherwood’s ask to bring in the entire Sherwood West Urban Growth Reserve into the Urban Growth boundary.

Brian Fields
Resident of Sherwood West



Date: November 4, 2022
Project: Sherwood West Concept Planning
To: Erika Palmer, Planning Manager
From: Bob Galati P.E., City Engineer
Topic: Alignment/Grade Analysis of N-S Road

The proposed North-South 2 to 3 lane arterial alignment option along the west side of the Sherwood West UGB has received comments regarding feasibility of the alignment and the nature of the existing terrain. This analysis is to provide a technical analysis of the existing topographic conditions, and provide the rationale that a horizontal and vertical alignment is feasible.

Background

Elwert Road from Highway 99W to Scholls-Sherwood Road is currently functioning as a two lane rural arterial. Elwert Road historically was a rural road used primarily for providing transportation access for farm equipment and rural residents. Over time, Elwert Road has become a secondary bypass route for commuter traffic (through trips) traveling between Highway 99W and Scholls-Sherwood Road and Roy Rogers Road, avoiding the intersection signals along the Highway 99W route.

Elwert Road's physical characteristics consist of two 11-foot paved lanes, a straight horizontal alignment, and a vertical alignment consisting of rolling hills that include acute vertical sags and crests which result in poor vertical sight distances, and intersection sight distance issues. Access points onto Elwert Road include several private driveways and seven street intersections (both local and collector). The intersecting streets and their classifications are listed below.

- Kruger Road – Local
- Orchard Hill Road – Local
- Edy Road – Collector
- Schroeder Road – Local
- Haide Road – Local
- Handley Road – Collector
- Conzelmann Road – Local
- Lebeau Road - Local

The City of Sherwood's Transportation System Plan (COS TSP) and Washington County's Transportation System Plan (WACO TSP) coordinated the analysis and results for Elwert Road from the intersection of Highway 99W to the Scholls-Sherwood Road intersection.

Both WACO's and COS's TSP's identify the future build-out condition of Elwert Road as a 3-lane arterial which will include sidewalks and bike lanes on both sides of the road. Appropriately sized arterial roads will allow through trips to remain on the arterial system and discourage use of local streets for cut-through traffic routes.

However, it is identified that the Elwert Road upgrade would also increase the amount of truck traffic, which is counter to citizen opinion of appropriate traffic usage.

The proposed addition of the North-South 2 to 3-lane arterial road alignment along the western edge of the City's UGB, is seen as an option for providing an alternative route for truck traffic, which would still be within the City's UGB limits.

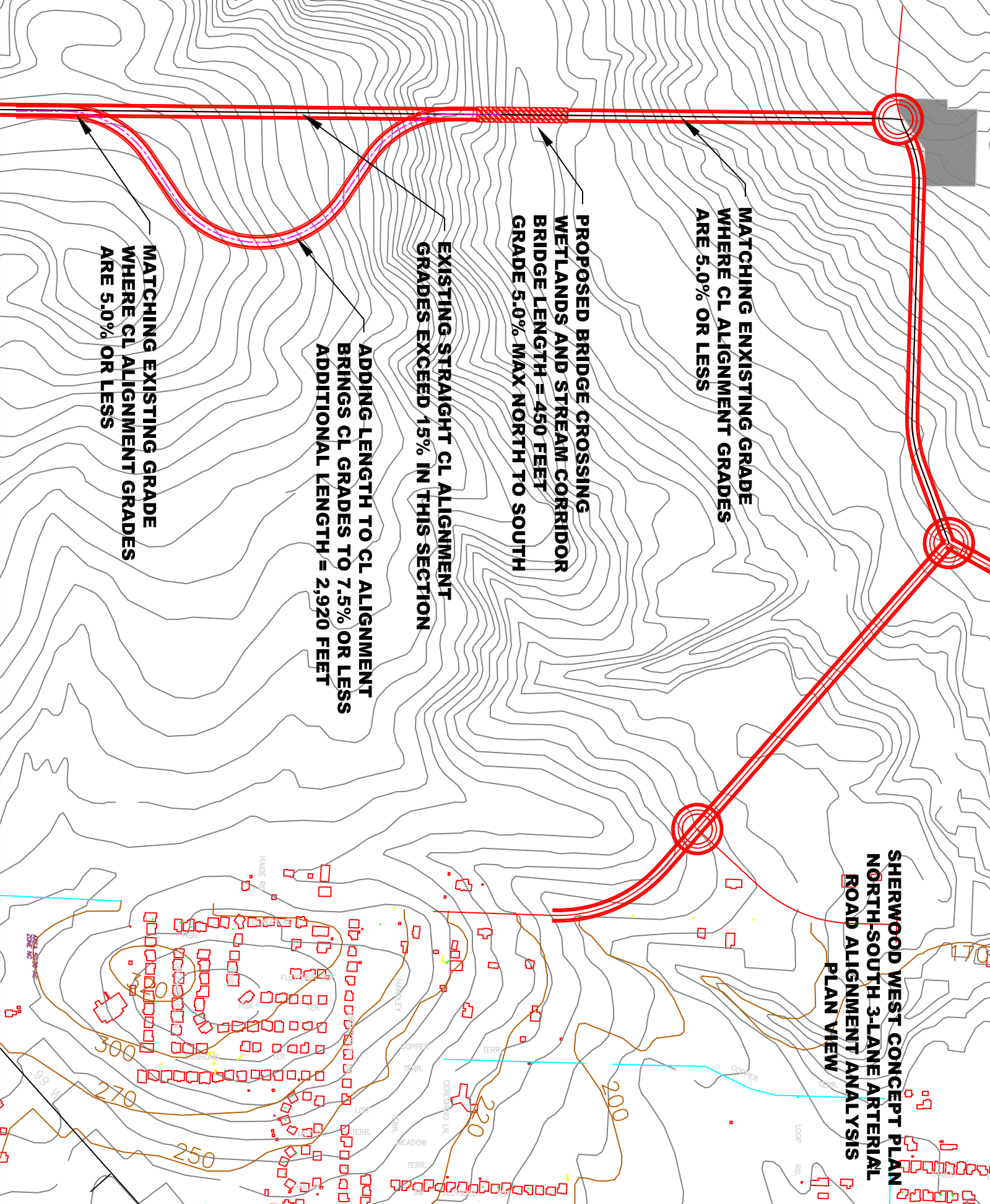
Alignment Description

The proposed alignment would see the extension of the existing SW Eastview Road to the south and eventually connecting to SW Chapman Road, which would then connect to Hwy 99W. The proposed alignment appears to be feasible for the following reasons:

- 1) The alignment tends to follow existing property lines along the majority of its extents and impacts the fewest number of structures.
- 2) The grades along the majority of the alignment's length are within the 5 to 10 percent roadway design gradient desired.
- 3) The crossing of the Chicken Creek wetlands and stream corridor can be accomplished via the use of a bridge span.
- 4) The gradient just south of the Chicken Creek crossing is where the steepest topographic grades occur along the length of the alignment. The grades in this section are 15% and greater for a distance of approximately 500 feet. The option here is to deviate the alignment by extending the length of the alignment, as shown on the attached exhibits, so as to allow roadway grades of around 7% to be used, after which the alignment returns to the original north-south alignment direction.

Conclusion

The proposed alignment option is technically feasible and may become a desirable option to direct truck traffic away from the proposed Elwert Road alignment option and upgrade.



**SHERWOOD WEST CONCEPT PLAN
NORTH-SOUTH 3-LANE ARTERIAL
ROAD ALIGNMENT ANALYSIS
PLAN VIEW**

**MATCHING EXISTING GRADE
WHERE CL ALIGNMENT GRADES
ARE 5.0% OR LESS**

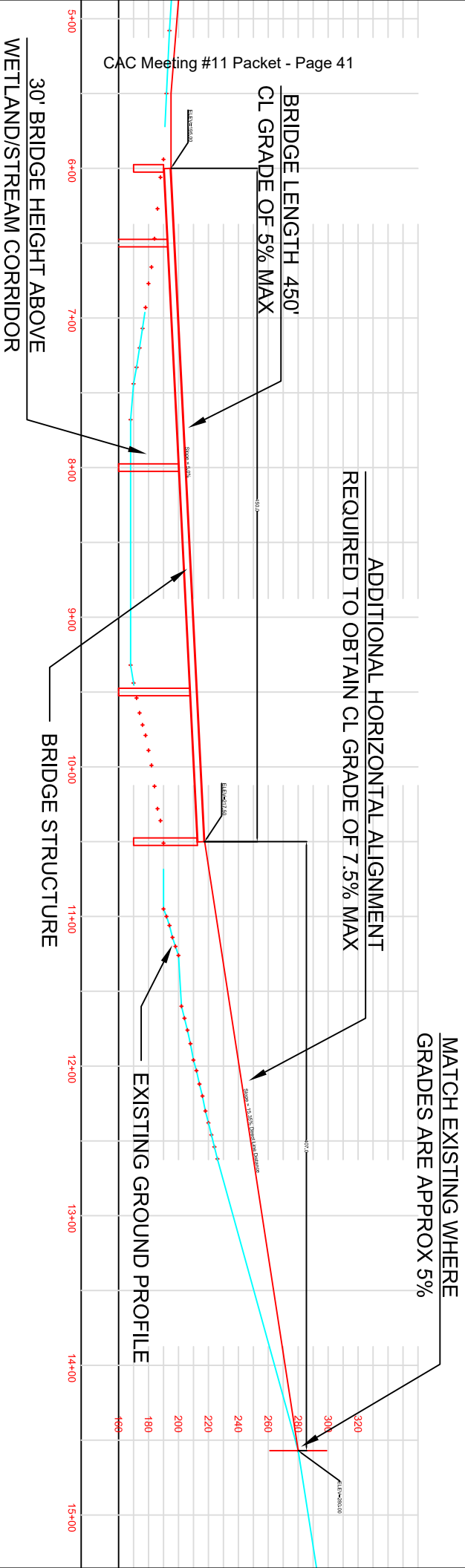
**PROPOSED BRIDGE CROSSING
WETLANDS AND STREAM CORRIDOR
BRIDGE LENGTH = 450 FEET
GRADE 5.0% MAX NORTH TO SOUTH**

**EXISTING STRAIGHT CL ALIGNMENT
GRADES EXCEED 15% IN THIS SECTION**

**ADDING LENGTH TO CL ALIGNMENT
BRINGS CL GRADES TO 7.5% OR LESS
ADDITIONAL LENGTH = 2,920 FEET**

**MATCHING EXISTING GRADE
WHERE CL ALIGNMENT GRADES
ARE 5.0% OR LESS**

SHERWOOD WEST CONCEPT PLAN
 NORTH-SOUTH 3-LANE ARTERIAL
 ROAD ALIGNMENT ANALYSIS
 WETLAND/STREAM CORRIDOR
 BRIDGE PROFILE



Sherwood UGB expansion comments,
Brian Fields
Secretary, Eastview Road Neighborhood Association

I urge the Metro Council to scale back the Sherwood West Urban Growth expansion. I have two primary objections. The scale of residential development is getting too far ahead of the regional transportation capacity. Secondly the proposed industrial zoning is inappropriate and impractical.

I oppose industrial use in the Sherwood West North subdistrict.

The location is inappropriate for industrial use. It is sandwiched between the Tualatin River National Wildlife Refuge to the east and farmland to the north and west. In addition, a significant portion of the area overlays protected Title 13 upland habitat. If for no other reasons the impacts on the environment, farming and forestry are contrary to Oregon's Land Use Goals.

In addition, this area is bisected by BPA transmission lines. This fact is a limit on what can be allowed to be built. Also, major electrical transmission lines such as these can have a negative impact on sensitive electronic manufacturing. The range of potential industrial uses will be further limited by this.

Furthermore, City communication to the local community has not been transparent. Mixed employment was the term emphasized throughout the Sherwood West Concept Plan public outreach. The emphasis on industrial use only really surfaced during the Metro presentations. The Sherwood West North subdistrict mixed employment boundaries were expanded after the Concept Plan's

public outreach was concluded. The meetings where the expansion and the term industrial use first surfaced were not open to public participation.

Having participated throughout the Sherwood West Concept Plan I have to take issue with the representations by the City representatives, at your June 24 meeting, where they made representations of Sherwood residents' awareness and approval of industrial siting in this location.

Sherwood does not have the transportation infrastructure to support this scale of residential development.

The current plans for Elwert Road are inadequate for the future growth planned. In addition, the City of Sherwood has not done any high-level planning to expand the capacity of Elwert Road, the only viable north south connector. Instead, the City of Sherwood proposals will reduce Elwert Roads effectiveness as a north south connector. This will only compound the existing problems of the existing neighborhoods connecting to Highway 99 to the south of Elwert road and Highway 99.

The Sherwood West concept plan portrays the vision that Elwert Road remain one lane in either direction with the addition of turn lanes. The city has repeatedly said that their vision of Elwert is that of a neighborhood street. This flies in the face of the current reality of an already overburdened regional connector, let alone showing any sense of planning for the future to accommodate a greatly increased local population. The only mention in the Sherwood West concept plan of planning for future connectivity is vague mentions of conceptional connectors. You can reference the "Transportation

and Infrastructure” Section on page 101 of part 1 of the Sherwood UGB expansion proposal.

“North-South Connectivity – The concept of adding a route to enhance regional north-south connectivity will require future study. Additional feasibility and cost analysis will be necessary. This should be considered as a long-term strategy, rather than an essential component of early stage transportation planning in Sherwood West.”

Local taxpayers cannot afford to pay for a north south connector. It is also clear that neither County, State, or Federal money cannot be expected to build a new north south connector. The hard fact is that the Sherwood West topography is not going to allow any new north south connectors without massive engineering and expenditures.

During the public outreach portion of the Sherwood West concept plan our neighborhood association provided feedback City outlining specific complications for a north south connector west of Elwert Road. The City’s commissioned its own traffic modelling. The public testimony provided by the commissioned traffic engineer characterized the expected as neighborhood collector scale, not arterial scale.

The land is riddled with steep slopes and is bisected by Chicken Creek. In addition, the border of Sherwood West veers sharply east when you go north of Edy Road. If this hypothetical connector were built, as it moved north it would run into Rural Reserve land. Due to this a connection to Scholl’s Sherwood Road to the north could not be completed. This means any road that was built would have to feed back onto Edy and Elwert, the existing transportation corridor.

There really is no choice but to improve the existing transportation corridor, but the City of Sherwood’s West Concept plan does the

opposite. Sherwood is proposing to move portions Elwert Road from it's current north south alignment and meander to the west, pass through two round-abouts, incur a new Chicken Creek crossing and then meander back to the Elwert Road current alignment in the north.

To be clear my point is not that Sherwood has not already solved the traffic capacity problem prior to asking for an Urban Growth Boundary expansion. The problem is that Sherwood is not even planning for increased capacity. In fact, their public statements during the Sherwood West Concept Plan outreach process indicated they want to discourage regional traffic and keep Elwert as a neighborhood street. See the description on page 227 of the submittal, in the Section title "SW Elwert Road Design Concept". Make note that the designation for much of Elwert Road is "Residential Boulevard". If Sherwood continues to doubles down on this approach near, term development will forestall any future capacity improvements on Elwert Road.

I request the Metro Council not approve the entire Sherwood West Urban Reserve being brought into Urban Growth Boundary. The scale of residential development should be reduced.

The City of Sherwood proposal to create an industrial zone in an environmentally sensitive area adjacent to farmland and forestry should be removed from this proposal.

Brian Fields
Resident of Sherwood West



A. June Bradley
Attorney

Admitted in Oregon

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Portland, Oregon 97204

Tel 503-894-9900

Fax 971-544-7236

www.tomasilegal.com

January 9, 2025

BY HAND DELIVERY AND BY EMAIL to (DLCD.PR-UGB@dlcd.oregon.gov)

Attention: Periodic Review Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301

Re: Objections to Metro Ordinance 24-1520

Dear Periodic Review Specialist,

This office represents Housing Land Advocates ("HLA"). Housing Land Advocates is a nonprofit organization that advocates for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. HLA participated in the proceedings regarding Ordinance 24-1520 before Metro by letter of November 20, 2024 ("HLA Letter to Metro"). The content of the HLA Letter to Metro is incorporated here by reference. Please include this letter in the record.

I. INTRODUCTION

In general, Metro Council's findings are insufficient to demonstrate that Ordinance 24-1520 complies with the requirements of Metro's Urban Growth Management Functional Plan and state law.¹ Metro Council's findings must include a reasoned analysis of how the facts at hand satisfy the applicable law. *1000 Friends of Oregon v. LCDC ("Woodburn II")*, 260 Or. App. 444, 450-451, 454, 458, 460 (2014).² As described below, Metro's findings are often conclusory and fall short of this requirement.

Ordinance 24-1520 is based on the Sherwood West Concept Plan, and as described below, this basis causes insurmountable legal problems. In the Sherwood West Concept Plan, the City

¹ Metro Council's Findings are Exhibit F to Ordinance 24-1520 (hereinafter "Metro Council Findings"), and Metro Council's Conditions of Approval are Exhibit B to Ordinance 24-1520 (hereinafter "Conditions of Approval").

² In particular, *see Woodburn II*, 260 Or. App. at 460, where the Court of Appeals directed that, "Substantial reason requires, at the least, an explanation of why the process in which a local government engaged *and* the results that it reached are consistent with the law." (Emphasis in the original.)

proposes to meet the requirements of House Bill 2001 by selectively concentrating middle housing outside the existing UGB, and without sufficient guarantees as to affordability or connectivity. In this way, the Sherwood West Concept Plan represents a continuation of the City's practice of shirking responsibility for accommodating denser, more-affordable housing types, a practice which amounts to modern-day redlining. As a result, Ordinance 24-1520 violates Statewide Land Use Planning Goal 10, fails to Affirmatively Furthering Fair Housing, and violates Metro Urban Growth Management Functional Plan Titles 7 and 14.

Notably, Metro Council justifies its decision based disproportionately on the fact that Sherwood, and Sherwood alone, has submitted a concept plan, which in HLA's view is a flawed one. A concept plan is merely a Metro construct intended to aid Metro Council in determining that its obligation under ORS 197A.362 to ensure the urban growth boundary ("UGB") has sufficient capacity to accommodate forecasted growth is met. Metro Code § 3.07.1110(e).³ Since concept planning is only a construct, Metro Council may waive completely the requirement for such a plan. *Id.* In overemphasizing Sherwood's submission of a concept plan, Metro Council forgoes complete analysis of other relevant facts and circumstances to determine whether ORS 197A.362, the Statewide Planning Goals, the Metropolitan Housing Plan, the Metro Functional Plan, and other state laws are met.

The most glaring instance of Metro's failure is where the Metro Council made its preliminary decision to bring Sherwood West within the UGB without ever evaluating alternative sites or measures as required by Goal 14 and Metro's Urban Growth Management Functional Plan Title 14.⁴ Instead, Metro Council issued its alternatives analysis post-facto, apparently largely as a means to an end of bolstering a decision that was already made. Instances of this defective approach are ubiquitous among Metro's findings.

Additionally, to the extent that Sherwood's concept plan may be in keeping with applicable law, the concept plan cannot alone provide assurance of actual compliance because concept plans are used to guide, but not bind amendments to city comprehensive plans or land use regulations following an addition of the area to the UGB. *Marks v. Land Conservation & Dev. Comm'n*, 327 Or. App. 708, 714 (2023) (quoting Metro Code § 3.07.1110(d)). Thus, the Sherwood West Concept Plan cannot be used to demonstrate with the requisite degree of certainty that the proposed development will meet the locational criteria of Goal 14 and Metro's Urban Growth Management Functional Plan Title 14, or to guarantee the provision of needed housing and efficient use of land within the UGB as required by Goal 10. This is because Sherwood is not in any way bound to carry out the actions set forth in the concept plan as evidence of the satisfaction of those laws.

HLA objects to the approval of Metro Ordinance 24-1520, amending the Metro regional urban growth boundary to include Sherwood West, for the reasons that follow.

³ Metro Code § 3.07.1110(e) refers to ORS 197.299, which has been renumbered to ORS 197A.362.

⁴ This failure and the circumstances surrounding it are discussed at length in the objections to Ordinance 24-1520 submitted by West of Sherwood Farm Alliance.

II. OBJECTIONS

OBJECTION NO. 1 – Ordinance 24-1520 is inconsistent with Statewide Planning Goal 10, the Metropolitan Housing Rule, and Metro Urban Growth Management Functional Plan Title 7.

Ordinance 24-1520 is inconsistent with Statewide Planning Goal 10, the Metropolitan Housing Rule, and Metro Urban Growth Management Functional Plan Title 7, which require Sherwood (and Metro) to actively promote housing choice within its existing boundaries, because the order enables Sherwood to push middle housing to the City's fringes, while preserving low density, single-family housing at the City's core. Metro's proposed order is also inconsistent with Statewide Planning Goal 10, the Metropolitan Housing Rule, and Metro Urban Growth Management Functional Plan Title 7 in that it fails to ensure the provision of affordable housing in either Sherwood or Sherwood West.

Statewide Land Use Planning Goal 10: Housing ("Goal 10") is aimed at creating housing choice across locations, specifically including within existing UGBs. Goal 10 provides,

"[b]uildable lands for residential use shall be inventoried and 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" means,

"all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes." ORS 197A.348(1).

Goal 10 is meant to,

"ensure opportunity for and promote the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries across all communities in the state...and to provide a framework for evaluation and progress on housing production, affordability, and choice." OAR 660-008-0000(1).

Relatedly, OAR Ch. 660-007 (the Metropolitan Housing Rule) is meant to "ensure opportunity for the provision of adequate numbers of needed housing units and the *efficient use of land* within the Metropolitan Portland (Metro) urban growth boundary ***." OAR 660-007-0000. (Emphasis added).

In keeping with the requirements of Goal 10 and its implementing regulations, Metro Urban Growth Management Functional Plan Title 7: Housing Choice ("Title 7") § 3.07.730 provides that cities,

"within the Metro region shall ensure that their comprehensive plans and implementing ordinances:

(a) Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.

(b) Include in their plans actions and implementation measures designed to... increase the opportunities for new dispersed affordable housing within their boundaries.

(c) Include plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing."

Ordinance 24-1520 fails to promote housing choice because it allows Sherwood to concentrate denser, the likely more affordable housing types—middle housing, including cottage clusters—outside the city center in the UGB expansion area, while neglecting to commensurately stimulate the production of those types within the existing UGB. As it stands, low density, single-family housing has typified Sherwood's development. *See* Attachment 1, the City of Sherwood Plan and Zone Map.

Both the City in its Sherwood West Concept Plan and Metro Council in its findings acknowledge that market forces are likely to continue to dictate this type of development on developable/re-developable lands in the City and region. In particular, Metro Council findings acknowledge that it adopts the "assumption that vacant land will trend more toward being developed with single unit detached homes rather than middle housing." Metro Council Findings, p. 8. While the Sherwood West Concept Plan includes dedicated middle housing and cottage cluster only zones, Sherwood has demonstrated no intent to apply those same zones within the existing UGB. The result of such action and inaction is the limitation of housing choice. The communities served by middle housing and affordable housing will be effectively closed out of Sherwood's core, where existing conditions are not likely to result in the production of those housing types. This excludes particular potential residents from enjoying the services, amenities, and opportunities available to those living "close in" to the city center.

Ordinance 24-1520 fails to ensure the provision of affordable housing because it does not include any affordability requirements. In its findings, Metro Council kicks the can rather than addressing needed housing,

"[S]pecific types of housing described in the 'needed housing' definition of ORS 197A.348(1) such as government assisted housing, affordable housing,

manufactured homes, and farmworker housing, could be any of the types of housing analyzed by Metro depending on how the building is designed and built. Accordingly, they are folded into the broader categories for purposes of identifying a 20-year land need for housing. Assessing needs for the more specific types of housing identified in ORS 197A.348(1) becomes relevant when cities and counties are adopting their own local housing needs analyses and adopting local zoning codes that are responsive to specifically identified local needs as required under state law. " Metro Council Findings, p. 9.

Metro Council does not offer support for its assertion that consideration of needed housing only becomes relevant when cities and counties adopt their local housing needs analyses and local zoning codes responsive to local needs. Metro Council's assertion is also in conflict with Goal 10's purpose of promoting the provision of needed housing, which is not confined to any particular point in the Goal 10 Housing Planning Process.

Further, Metro Council's Condition of Approval 2, "Housing affordability," (referred to herein as "Condition 2") provides little additional assurance that any housing development in Sherwood or Sherwood West will be development of affordable housing. Condition 2 states,

"The City shall work to institute new strategies and incentives to encourage the production of affordable housing. Examples include: [list omitted]

As part of its upcoming work on a Housing Production Strategy, the City of Sherwood shall work with Metro and Washington County to identify funding opportunities with the goal of meeting citywide housing affordability targets to be set by the State of Oregon.

During the Comprehensive Planning for Sherwood West, the City shall explore – within the existing Town Center, which may include the four tax lots depicted in the map that is Attachment A to this exhibit – the feasibility of regulated affordable housing, including workforce housing for employees of nearby industries." Conditions of Approval, p. 1.

Metro Council states that the Conditions of Approval are "designed to ensure an adequate supply and mix of housing [and] affordability." Metro Council Findings, p. 2. However, Condition 2 is unlikely to ensure affordability because it is neither measurable nor enforceable. Significantly, reliance on the Housing Production Strategy, which is not appealable by the public, is an improper deferral to meet the requirements of Goal 10. The public's and HLA's only opportunity to ensure adequate supply of affordable housing in Sherwood is now.

Further, Metro's analysis and Sherwood's proposal lack clarity about which new affordable housing strategies and incentives of those listed or others, or how many, Sherwood must work to institute in order to resolve its grossly inadequate current supply of housing at affordable levels to all Oregonians. Moreover, "work to institute" indicates nothing about when or to what degree

Sherwood must endeavor to attempt to encourage production of affordable housing. As another example, the direction that the City shall explore within the Existing Town Center the feasibility of regulated affordable housing does not explain how feasibility is defined or what methods the City must apply in undertaking such an analysis.

Therefore, Ordinance 24-1520 is inconsistent with Goal 10, the Metropolitan Housing Rule, and Metro Urban Growth Management Functional Plan Title 7.

OBJECTION NO. 2 – Ordinance 24-1520 fails to Affirmatively Further Fair Housing.

Ordinance 24-1520 violates Metro's obligation, as a recipient of federal funds, to Affirmatively Further Fair Housing because Metro is responsible for ensuring Sherwood's actions do not impede fair housing choice. Additionally, Ordinance 24-1520 is contrary to Oregon's commitment to Affirmatively Furthering Fair Housing, which is defined by state law to include the "replace[ment of] segregated living patterns with truly integrated and balanced living patterns," because the order further entrenches Sherwood's existing patterns of segregation.

Under Federal Executive Order No. 12892, recipients of federal funding for "all programs and activities related to fair housing and development" have an affirmative duty to further fair housing.⁵ The U.S. Department of Housing and Urban Development ("HUD") has defined three elements that certify a recipient in affirmatively furthering fair housing ("AFFH") and therefore in compliance with criteria crucial for maintaining or receiving such funds. The three elements to obtain certification are: (i) an Analysis of Impediments to Fair Housing Choice; (ii) actions to overcome the effects of any impediments identified through the analysis; and (iii) records reflecting the actions taken in response to the analysis. As a recipient of federal transportation dollars, Metro must ensure that these three elements are being met, at least to the extent that Metro is responsible for reviewing and approving transportation and land use plans of member jurisdictions, including Sherwood, and allocation of federal transportation funding throughout the region.

AFFH is also a primary purpose of recent reforms to the Goal 10 Housing Planning process. OAR 660-008-0000(1), interpreting the purpose of Goal 10, provides, "this division aims to promote safe, accessible, and affordable housing options for all Oregonians in their communities of choice, in alignment with the Affirmatively Furthering Fair Housing mandate." Towards that end, AFFH is integrated into the framework of the Oregon Housing Needs Analysis ("OHNA").

⁵ Executive Order 12892, LEADERSHIP AND COORDINATION FOR FAIR HOUSING IN FEDERAL PROGRAMS; AFFIRMATIVELY FURTHERING FAIR HOUSING.

"... [A]ll executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of the [Fair Housing Act] ... the phrase programs and activities shall include programs and activities operated, administered, or undertaken by the Federal Government; grants; loans; contracts; insurance; guarantees; and Federal supervision or exercise of regulatory responsibility (including regulatory or supervisory authority over financial institutions)."

See also 24 CFR Parts 5, 91, 92, 570, 575, 576, and 903.

Under ORS 184.451(1)(b) the Oregon Department of Administrative Services ("DAS") will establish the Oregon Housing Needs Analysis with a purpose to further the production of housing in a way that creates more housing choice by affirmatively furthering fair housing, as defined in ORS 197A.100.

Pursuant to ORS 197A.100(9), AFFH includes "meaningful actions that, when taken together, address significant disparities in housing needs and access to opportunity and replace segregated living patterns with truly integrated and balanced living patterns to transform racially and ethnically concentrated areas of poverty into areas of opportunity and foster and maintain compliance with civil rights and fair housing laws."

As a part of the OHNA, cities with a population of greater than 10,000, including Sherwood, must adopt housing production strategies (HPS) which include actions that affirmatively further fair housing. ORS 197A.100(2)(d); OAR 660-008-0200(2). Likewise, Metro must adopt a housing coordination strategy (HCS) which affirmatively furthers fair housing. ORS 197A.365(3)(d); OAR 660-008-0240. Prior to adopting an HPS, cities are required to analyze local data and identify fair housing issues that will be mitigated and remedied in furtherance of fair housing choice "throughout Goal 10 work." OAR 660-008-0005(14); OAR 660-008-0075. Such identification of "contextualized housing need" must include:

"(b) An analysis of past discriminatory actions or practices related to land and housing access...; and

(c) An analysis of fair housing choice across the following issue areas...

(F) Addressing and disrupting patterns of segregation, and their correlation with concentrated areas of affluence and poverty[.]"OAR 660-008-0075(1).

"Fair housing choice" encompasses "[a]ctual choice, which means the existence of realistic housing options – options that are affordable, attainable, accessible, and otherwise meet the needs of the household in the housing types, characteristics, and locations of their choice[.]" OAR 660-008-0005(18)(a).

DLCD is tasked with assisting DAS in the administration and implementation of the OHNA, and with providing guidance as to the adoption of appropriate actions to encourage the production of needed housing. ORS 184.451(4)(a); OAR 660-008-0210. Accordingly, DLCD is responsible for ensuring that Metro and its member cities, including Sherwood, undertake housing production in a manner that affirmatively furthers fair housing, including by disrupting patterns of segregation. While Sherwood and Metro have not yet adopted their respective HPS and HCS, it remains that DLCD is bound by statute to assist in carrying out the objectives of the OHNA, including AFFH, and the decision DLCD makes here will likely contribute in setting the tone and

tenor of conversations regarding the role of local and regional governments in AFFH going forward.⁶

For the same reasons articulated under Objection No. 1, Ordinance 24-1520 further entrenches Sherwood's existing patterns of segregation and impedes fair housing choice. Income status is recognized as a proxy for protected classes, including but not limited to race, ethnicity, and disability. Lumping the more affordable housing options (and HLA underscores this means market rate affordability since nothing in Sherwood's proposal or Metro's approval requires affordable housing production) together and isolating this supply from the rest of the City amounts to segregatory zoning. Additionally, Sherwood has a history of discriminatory practices related to housing access which need to be mitigated and remedied in order to achieve fair housing choice, including actual choice. See Attachment 2, the HLA Letter to the Sherwood Planning Commission. For example, in 2018, Sherwood initially considered participating in an out-of-cycle UGB expansion, but as soon as affordable housing was mentioned as part of the expansion goals, the City abandoned its plan to apply. Similar to now, in 2021, Sherwood proposed to meet its housing obligations through annexations from Brookman and Sherwood West, skirting the most direct methods—upzoning and densification. Similarly, Metro has abandoned its leadership, coordination, and planning role by rubber stamping Sherwood's proposal instead of meaningfully requiring affordability in this UGB expansion and rushed ahead of the Metro's deadline of December 31, 2025 to adopt the housing coordination strategy. This amounts to Metro allowing Sherwood to offset the affordability problem onto other local government's within the region before meeting any of the planning obligations under this expansion.

Therefore, Ordinance 24-1520 fails to Affirmatively Further Fair Housing.

OBJECTION No. 3 – In issuing Ordinance 24-1520, Metro Council did not adequately consider the factors enumerated under § 3.07.1425(d)(4) and (5), which weigh in favor of selecting another urban reserves area that better meets housing need.

Metro Urban Growth Management Functional Plan Title 14 ("Title 14") § 3.07.1425(d) sets forth the factors that Metro Council shall consider in determining which urban reserves areas better meet housing need. Whether the area has been concept planned is only one of five factors. Title 14 § 3.07.1425(d)(1)-(5)

Factor 4 is not met because Sherwood has not instituted best practices for preserving and increasing the supply and diversity of affordable housing within the City's existing urban area.

Title 14 § 3.07.1425(d)(4) ("Factor 4") requires that Metro consider whether the "city responsible for preparing the concept plan has implemented best practices for preserving and increasing the supply and diversity of affordable housing in its existing urban areas." "Best practice" is not defined for the purposes of § 3.07.1425, however, the common meaning of the

⁶ Sherwood is scheduled to adopt its HPS by December 31, 2028, and Metro is scheduled to adopt its HCS by December 31, 2025.

phrase is "a procedure that has been shown by research and experience to produce optimal results and that is established or proposed as a standard suitable for widespread adoption."⁷

Metro Council did not adequately consider Factor 4, which Sherwood does not satisfy. Regarding Factor 4, Metro Council's findings state,

"The fourth factor is whether the city that prepared the concept plan has implemented best practices for preserving and increasing the supply and diversity of affordable housing in its existing urban areas, including multifamily housing types that are more affordable than traditional detached single family dwellings. The city has also adopted amendments to its land use regulations that comply with DLCD's Climate Friendly and Equitable Communities (CFEC) rules, which reduce obligations to provide costly off-street parking for residential development. In 2021 the city adopted a new comprehensive plan that includes a policy that the city will provide opportunities for 'a variety of housing types in locations and at price points that meet the needs of current and future residents.' The city has also completed a Housing Needs Analysis for the 2019-2039 planning period that estimates housing needs by all income levels. The results of the HNA provide the city with the technical and factual background relating to current and future housing needs including the projected need for housing at 80% of the median family income of Washington County. The Metro Council finds that the City of Sherwood has demonstrated success in increasing the supply and diversity of housing types in its existing urban areas and taken steps toward increasing the supply of affordable housing." Metro Council Findings, p. 21.

"Taking steps toward" does not equate to "implementing best practices for" increasing the supply and diversity of affordable housing. For example, the City's adoption of a policy that the City will provide opportunities for "a variety of housing types in locations and at price points that meet the needs of current and future residents" does not automatically translate into any particular procedure, let alone one that is likely to achieve optimal results. Rather, the phrase merely parrots the definition of needed housing. Likewise, adopting an HNA does not ensure the estimated need will be addressed.⁸ Ultimately, the only step that may actually result in a reduction in the cost of developing affordable housing is the City's adoption of reduced off-street parking requirements for residential development. However, even this step doesn't appear to correlate to an increase in diversity of affordable housing. No mention of preserving any existing affordable housing is mentioned.

⁷ 'Best practice,' Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/best%20practice> (accessed January 5, 2025).

⁸ Note, Sherwood has done an unsatisfactory job of using the HNA to inform the Sherwood West Concept Plan. See HLA's Letter to Metro, pp. 2-3.

Factor 5 is not met because Sherwood has failed to take the necessary actions to advance Metro Outcomes 2 and 6, which contemplate that the City must plan for the equitable distribution of the benefits of economic prosperity and growth.

Title 14 § 3.07.1425(d)(5), ("Factor 5") requires that Metro consider whether the city responsible for preparing the concept plan has taken actions to advance Metro's six desired outcomes set forth in Chapter One of the Regional Framework Plan, including,

"2) Current and future residents benefit from the region's sustained economic competitiveness and prosperity.

6) The benefits and burdens of growth and change are distributed equitably." Regional Framework Plan, Ch. 1: Land Use Planning, p. 1.

Metro Council did not adequately consider Factor 5, which Sherwood does not satisfy. Metro Council's Factor 5 findings state,

"The fifth factor is whether the city that prepared the concept plan has taken actions to advance Metro's six desired outcomes in the Regional Framework Plan. First, as noted above, it is important to underscore that this is a factor to be considered by the Metro Council, and not an approval criterion. Next, opponents argue that the City of Sherwood's concept plan for the Sherwood West area does not further the six desired outcomes. However, the applicable factor to be considered by the Metro Council is not whether the concept plan for the proposed expansion area itself furthers the six desired outcomes – the relevant question is whether the city has generally taken actions to advance the six desired outcomes." Metro Council Findings, p. 21.

First, the language of Title 14 § 3.07.1425(d) is mandatory, not permissive—"the Council *shall* also consider the following factors in determining which urban reserve areas better meet housing need." (Emphasis added.) In this way, the line Metro Council draws between factor and criteria appears to be arbitrary. Either way, Metro Council must make some determination and findings as to the satisfaction of the enumerated factors, including Factor 5, otherwise Title 14 § 3.07.1425(d) is rendered meaningless. Second, Outcomes 2 and 6 inherently require consideration of future actions by the City, including the actions contemplated in the Sherwood West Concept Plan. To illustrate this point, Outcome 2 envisions the possibility for current *and future* residents to benefit from *sustained* economic competitiveness, and Outcome 6 contemplates that the benefits and burdens of *growth and change* may be distributed equally.

As HLA explained to Metro, the benefits of the Sherwood West Concept Plan will primarily accrue to the affluent population already living in the existing boundaries of the City, where low- to moderate-income communities will continue to be priced out. HLA's Letter to Metro, p. 3, and its Attachment 3, figures from Washington County's Consolidated Plan, Appendix C: Housing Market Analysis Supplement showing the high cost of rent and housing in Sherwood

as compared to other cities in Washington County. Moreover, Metro's own anticipation that single-family residential will prevail in the expansion area also benefits affluent people who want to live in the area, excluding people who are low-income and represent protected classes.

Metro Council's findings related to Outcome 2 do not address how the economic prosperity and competitiveness fostered by the Sherwood West Concept Plan would benefit anyone other than the 15 percent of current residents employed in the advanced manufacturing, high-tech, or semiconductor-related sectors—sectors which are characterized by high wages, as Metro Council notes, but also by significant barriers to entry and declining investment. The findings state,

"These current residents will benefit from the proposed urbanization of Sherwood West. The mixed-employment zone is designed to be the primary employment area for Sherwood West and will accommodate office, light industrial, and flex employment uses. The zone will create the opportunity for technology and traded sector businesses to grow in the region – providing a space for stable, high paying jobs. The mixed-employment zone has been planned with anticipation of new development occurring in the SW Roy Rogers Rd. and SW 175th Ave. corridor in Washington County. The addition of Sherwood West can provide local job opportunities for current and future residents, reduce commuting times, and strengthen the regional workforce pipeline." Metro Council Finding, p. 23.

As did the City, Metro likewise fails to conduct a meaningful analysis of the relationship between the proposed residential, employment, and commercial uses in Sherwood West (and now, additionally, the development occurring in the SW Roy Rogers Rd. and SW 175th Ave. corridor in Washington County). The Sherwood West Concept Plan dedicates at least 100 acres of the 135 acres of employment land that are planned for to high-tech manufacturing use. The high-tech manufacturing industry generally creates high-wage employment, which will drive demand for expensive, not affordable, housing types in Sherwood West. This is especially so where Ordinance 24-1520 contains no affordability requirements. Meanwhile, poorly-compensated service providers like janitors and other low-wage workers will be forced to continue to commute from outside of the City because there is no mandate in Metro's approval to require the provision of affordable housing. Therefore, Metro Council's conclusion that the development of Sherwood West will reduce commuting times is ill supported. Conversely, it is more likely that the development of Sherwood West will place additional pressure on a regional highway system that is already overburdened by commuting.⁹

Regarding Outcome 6, Metro Council's findings are conclusory and irreconcilable with the facts. Metro Council's findings state,

"As described in the city's UGB expansion proposal, Sherwood West's design features a variety of housing options, new employment opportunities, parks, and

⁹ According to Sherwood's HNA, 91% of Sherwood's working residents commute outside the City, and about 85% of those who work in the City live outside the City. HNA, p. 33.

active transportation choices. The city's stated intent is that providing additional opportunities for housing, parks, jobs, and transportation in Sherwood West will provide a platform for an equitable distribution of positive outcomes that would benefit communities of color in the greater area. Sherwood West will provide walkable and bikeable amenities and transportation safety improvements for residents on the city's east side as the Highway 99W pedestrian overcrossing project ties Sherwood High School to the YMCA, community skatepark and trail system. In addition to housing choices, the city's plan to designate employment land and attract living wage jobs are intended to further equity outcomes. The mixed-employment zone in Sherwood West will target the manufacturing sector, which would include more living wage jobs compared to other industries." Metro Council Findings, p. 26.

As described under Objection No. 1, the provision of housing choice promised by the Sherwood West Concept Plan is illusory. As described in this Objection, the provision of employment opportunities is narrowly focused and therefore limited. Further, the proposed pedestrian overcrossing and trail system are not a substitute for proximity to existing employment or commercial centers or for linking Sherwood West to existing public transit options (currently, the nearest bus stop is over a mile away). Finally, Metro Council's findings lack an adequate factual bases to support its conclusion that development of Sherwood West will benefit communities of color in the greater area in particular. Rather, the burdens arising from the development of Sherwood West, such as increased transportation costs and systems development charges, may by their financial nature bear disproportionately on those with lesser financial means, and therefore on protected classes.

Therefore, Factors 4 and 5 weigh in favor of selecting another urban reserves area that better meets housing need.

III. RECOMMENDED CHANGE

DLCD should remand Ordinance 24-1520 for Metro to wait for and consider alternate concept plan submissions. In this remand, Metro should be directed to consider increased densities in the existing UGB, upzoning within the existing UGB, and mandatory affordability requirements both inside the existing boundary and in the proposed expansion area in Sherwood West. Much more planning work is required by both Sherwood and Metro before this expansion should be approved.

IV. CONCLUSION

For the foregoing reasons, HLA objects to the approval of Metro Ordinance 24-1520 and requests that these objections be entered into the record of these proceedings and that a copy of any order be sent to our office, Tomasi Bragar DuBay, 121 SW Morrison St, Suite 1850, Portland, OR 97204.

TOMASI BRAGAR DUBAY
January 9, 2025
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Sincerely,

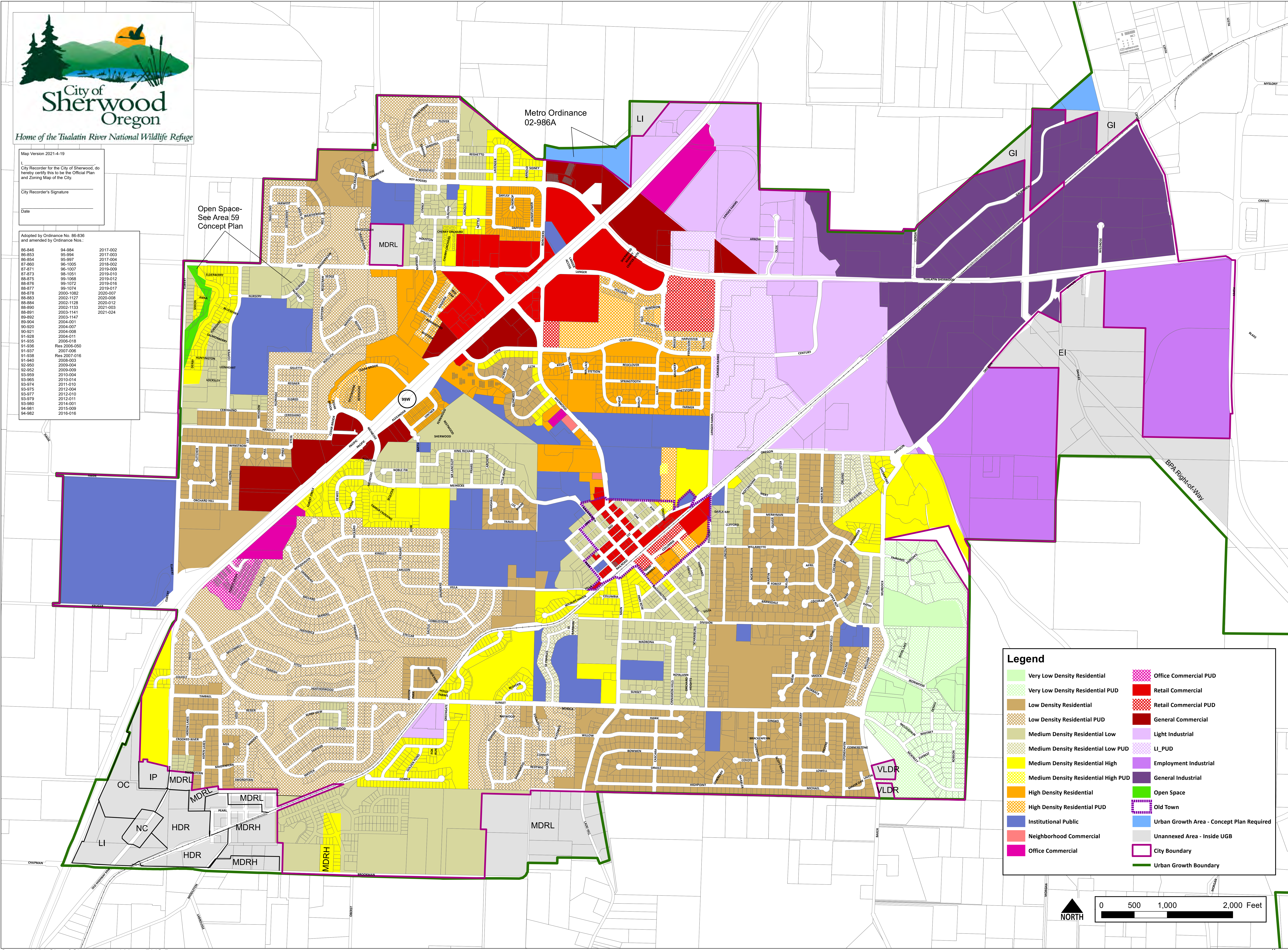


A. June Bradley

cc: (all by email)

Jennifer Bragar
client
1000 Friends of Oregon
West of Sherwood Farm Alliance
Tualatin Riverkeepers
Verde

City of Sherwood Plan and Zone Map





October 25, 2021

Sherwood Planning Commission
c/o Erika Palmer
22560 SW Pine Street
Sherwood, OR 97140

Re: Major text amendment to the Sherwood Comprehensive Plan that will replace the document in its entirety with updated goals and policies. (LU 2021-020 PA)

Dear Planning Commission Members:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing. Please include these comments in the record for the above-referenced proposed amendment.

As you know, all amendments to the City's Comprehensive Plan and Zoning map must comply with the Statewide Planning Goals. ORS 197.175(2)(a). When a decision is made affecting the residential land supply, the City must refer to its Housing Needs Analysis (HNA) and Buildable Land Inventory (BLI) in order to show that an adequate number of needed housing units (both housing type and affordability level) is supported by the residential land supply after enactment of the proposed change. Goal 10 findings are also required for code changes affecting residential development feasibility, such as parking standards and setbacks.

The staff report for the proposed amendments to the Sherwood Comprehensive Plan recommend their approval. This conclusion is contingent on the Goal 10 findings contained within the report, articulating that "Sherwood plans for a complete community that balances housing needs," and then suggests Goal 10 is satisfied. However, based on Sherwood's own HNA this statement is not supported. Sherwood has a deficit of 608 dwelling units, the largest number in the Medium to High Density Zones. The HNA states that affordable housing types (apartments, townhomes,



etc.) are needed to serve the 31% of Sherwood residents that have incomes below 80% Median Family Income (MFI). Yet, the amendments advance that the only way to meet these goals is through achieving compliance with the Metropolitan Housing Rule and performing annexations. In contrast to other cities, this approach does not consider the most direct method of meeting its housing obligations upzoning and increasing densities in order to fulfill the city's housing needs.

Additionally, even if the city could meet its deficit of higher density zoned land through annexations from Brookman and Sherwood West, as the amendments contend, this would create a mimicry of redlining, with the more affordable housing options lumped together and isolated from the rest of the city. The new housing recommendations of the Sherwood comprehensive plan would meet the minimum requirements of the Metropolitan Housing Rule, but it would ensure default segregation (if not outright exclusion) of Sherwood's more vulnerable present or future residents. See Attachment 1, describing HLA's concerns about Sherwood's patterns of segregation. The required Goal 10 findings must demonstrate that the changes do not leave the City with less than adequate residential land supplies with respect to the types, locations, and affordability ranges affected. See *Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731 (1999) (rezoning residential land for industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); see also, *Home Builders Assn. of Lane Cty. v. City of Eugene*, 41 Or LUBA 370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations).

Moreover, the City's track record with annexations shows that annexation is not a problem solver for housing. For example, Sherwood annexed land to expand its high school. Instead of planning for a mix of housing on ample land available for such use in proximity to the new high school, the City instead prioritized massive sports field. In fact, that school site search said that having a single high school mascot was more important than even considering the possibility of two high schools – such that housing opportunities could have been, but were not, considered in a the mix of school sites that could have alternately been considered. See Attachment 2, an excerpt of the decision approving high school annexation. The City has not taken a proactive approach to building up its housing supply or building-in affordability to that supply.



Significantly, Sherwood ranked near the bottom of large cities in housing production during 2020. Attachment 3.

HLA and FHCO urge the commission to defer adoption of the proposed amendments until adequate Goal 10 findings can be made, and the proposal evaluated under the HNA and BLI. Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Allan Lazo, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Please feel free to email Allan Lazo at information@fhco.org or reach him by phone at (503) 223-8197 ext. 104.

Thank you for your consideration.

A handwritten signature in blue ink that reads "Allan Lazo".

Allan Lazo
Executive Director
Fair Housing Council of Oregon

A handwritten signature in blue ink that reads "Jennifer Bragar".

Jennifer Bragar
President
Housing Land Advocates

cc: Kevin Young (kevin.young@state.or.us)
Metro Council
Roger Alfred

Attachment 1



BY EMAIL

December 4, 2018

President Tom Hughes and Metro Councilors
600 NE Grand Avenue
Portland, OR 97232

Re: UGB Expansion Proposals

Dear President Hughes and Metro Councilors,

As Metro considers proposals to expand the urban growth boundary, Housing Land Advocates (“HLA”) believes that it is imperative that Metro recommit to providing present and future urban Clackamas, Washington, and Multnomah County residents with greater access to affordable housing. By Metro’s authority within Oregon’s statewide land use system, and pursuant to state and federal requirements as set forth below, HLA believes the time for Metro to integrate these obligations into any plans to expand the urban growth boundary is now. Please include this letter in the record.

I. Federal Case Law

As the elected body to represent and govern regional planning for more than 1.5 million Oregonians, Metro sets policies that profoundly affect local governments that are federal funding recipients. To support local entities in efforts to obtain funding for affordable housing endeavors and sustain grants, Metro must undertake all necessary measures to ensure that zoning ordinances and policies do not impede access to affordable housing.

Under the federal Fair Housing Act (“FHA”), it is unlawful to “otherwise make unavailable ... a dwelling to any person because of race, color, religion, sex familial status, or national origin.”¹ Pursuant to the decision in *Metropolitan Housing Development Corp. v. Arlington Heights* (“*Arlington Heights*”)² effect, rather than motivation, has long been the

¹ 42 USC §3601.

² 616 F.2d 1006 (7th Cir. 1980). The procedural background in *Arlington Heights* included the Supreme Court’s consideration of whether the zoning decision at issue could be construed as violating the Equal Protection Clause. *Arlington Heights v. Metropolitan Housing Development Corporation*, 429 U.S. 252 (1977). The Supreme Court ruled that no federal constitutional violation occurred because under its then-recent decision in *Washington v. Davis*, 426 U.S. 229, 240-242 (1976), as no intent to discriminate was shown. The Supreme Court remanded the case to the 7th Circuit to consider whether discriminatory effect violates the FHA. The case was subsequently settled; however, the Seventh Circuit set out four factors to analyze the effects of housing discrimination that could not be shown to be intentional. These factors were effectively adopted by the Supreme Court in *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. ___, 135 S.Ct. 2507, 192 L.Ed.2d 514 (2015).

December 4, 2018
President Tom Hughes and Metro Council
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touchstone in determining whether a government entity has denied individuals housing on the basis of race or interfered with the right to equal housing opportunities under the FHA.³

In *Arlington Heights*, the defendant city's zoning ordinance prohibited the Metropolitan Housing Development Corp. from building new low-cost housing that would be available to racial minorities. On remand the 7th Circuit held that if the challenged zoning ordinance had the ultimate effect of keeping members of protected classes out of the predominantly white suburban city, the defendant city was obligated under the FHA to refrain from implementing the zoning ordinance. As the City of Portland similarly noted in its June 17, 2011, Fair Housing Plan Analysis of Impediments, zoning that excludes or deters multi-family housing might result in the concentration of protected classes in particular areas of a city,⁴ and as *Arlington Heights* indicated, such zoning ordinances might result in an FHA violation. Therefore, Metro's obligation does not end with simple policy choices. Rather, Metro unquestionably has an affirmative duty to alleviate discriminatory effects of its member jurisdiction's historic zoning decisions as they move forward to create modern plans.

Further, under Executive Order No. 12892, recipients of federal funding for "all programs and activities related to fair housing and development" have an affirmative duty to further fair housing.⁵ The U.S. Department of Housing and Urban Development ("HUD") has defined three elements that certify a recipient in affirmatively furthering fair housing ("AFFH") and therefore in compliance with criteria crucial for maintaining or receiving such funds. The three elements to obtain certification are: (i) an Analysis of Impediments ("AI") to Fair Housing Choice; (ii) actions to overcome the effects of any impediments identified through the analysis; and (iii) records reflecting the actions taken in response to the analysis. As a recipient of federal transportation dollars, Metro must ensure that these three elements are being met, at least to the extent that Metro is responsible for reviewing and approving transportation and land use plans of member jurisdictions, and allocation of federal transportation funding throughout the region.

More recently, in *United States Anti-Discrimination Center of Metro New York v. Westchester County* ("Westchester County"), the county was found liable because its AI failed to

³ See also *U.S. v City of Black Jack, Missouri*, 508 F2d 1179, 1181 (8th Cir. 1974) (holding that a local ordinance that was shown to have racially discriminatory effect, and was not justified by a compelling government interest, violated the FHA).

⁴ "Fair Housing Plan 2011: An Analysis of Implements to Fair Housing Choice and the Strategies to Address Them." City of Portland, Gresham, and Multnomah County. Available at <https://www.portlandoregon.gov/phb/article/653184> (Accessed November 29, 2018).

⁵ Executive Order 12892, LEADERSHIP AND COORDINATION FOR FAIR HOUSING IN FEDERAL PROGRAMS: AFFIRMATIVELY FURTHERING FAIR HOUSING.

"...[A]ll executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of the [Fair Housing Act] ... the phrase programs and activities shall include programs and activities operated, administered, or undertaken by the Federal Government; grants; loans; contracts; insurance; guarantees; and Federal supervision or exercise of regulatory responsibility (including regulatory or supervisory authority over financial institutions)."

See also 24 CFR Parts 5, 91, 92, 570, 575, 576, and 903.

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include any mention or analysis of impediments to fair housing by race and ethnicity.⁶ In December 2010, HUD rejected the county's revised AI for failure to "make any material link between those impediments [to fair housing choice] and the actions the County will take to overcome them."⁷ As a result, in addition to identifying impediments to fair housing choice in their AIs, counties must show a "material link" between the impediments and their proposed recommendations to ameliorate the impediments. Although the second and third AFFH requirements were not at issue in the *Westchester County* case, Metro must take affirmative and concrete steps to overcome impediments, and to keep records reflecting the actions taken. Metro should remember this instruction when undertaking its planning and coordination functions.⁸

II. Metro Authority – Oregon Statutory Obligations

Metro has an affirmative duty to ensure that the comprehensive plans of cities and counties within its jurisdiction address their respective affordable housing needs.⁹ Existing law gives Metro the authority to conduct reviews of local jurisdictions' comprehensive plans and to propose changes to bring these plans into compliance with Statewide Planning Goals, including Goal 10,¹⁰ which requires a local jurisdiction to conduct a housing needs analysis ("HNA") and adopt a plan to accommodate current and future housing needs.¹¹

⁶ *United States Anti-Discrimination Center of Metro New York v. Westchester County*, 668 F.Supp.2d 548, 562–65 (S.D.N.Y.2009).

⁷ HUD Priv. Lrt. Rule (Dec. 21, 2010) Available at https://prrac.org/pdf/12-21-2010_HUD_Response_to_Westchester_AI.pdf (Accessed November 29, 2018).

⁸ HUD's Fair Housing Planning Guide defines an AI as "a comprehensive review of a jurisdiction's laws, regulations, and administrative policies, procedures, and practices affecting the location, availability, and accessibility of housing, as well as an assessment of conditions, both public and private, affecting fair housing choice." "Impediments to fair housing choice are any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin that restrict housing choices or the availability of housing choices, or any actions, omissions, or decisions that have [such an] effect." Fair Housing Planning Guide at 4-4. Available at https://prrac.org/pdf/12-21-2010_HUD_Response_to_Westchester_AI.pdf (Accessed December 4, 2018).

⁹ Metro Code (Or.) §3.07.730. Cities and counties within the Metro region shall ensure that their comprehensive plans and implementing ordinances:

- A. Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
- B. Include in their plans actions and implementation *measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.*
- C. Include in their plans actions and implementation measures aimed at increasing opportunities for households of all income levels within individual jurisdictions in *affordable housing.* (emphasis added).

¹⁰ Goal 10 provides for "[b]uildable lands for residential use shall be inventoried and 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."

¹¹ In 2010, Ordinance No. 10-1233B and Ordinance No. 11-1252A demonstrated Metro's acknowledgement of its responsibilities and prescribed Metro's compliance procedures and Regional framework plan.

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For the greater Portland metropolitan area, Metro manages the shared urban growth boundary for the 24 cities in the area, which includes Beaverton, Hillsboro, King City, and Wilsonville. Prior to any Urban Growth Boundary (“UGB”) expansion, a local jurisdiction needs to demonstrate its current compliance with that HNA and how it will continue to comply with that HNA and with the proposed UGB expansion. Metro must use its authority to require cities and counties to change their comprehensive plans and land use regulations to comply with the FHA.¹²

Goal 14 also requires Metro to demonstrate how the region’s housing needs under Goal 10 are being met within the current UGB and how they will continue to be met if the UGB is expanded.¹³ This includes housing “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.”¹⁴

Metro’s own studies in preparation for its January 2010 urban growth report confirmed that these affordable housing needs were not being met. To meet demand, Metro’s Regional Framework Plan called for the establishment of affordable housing production goals to be adopted by local governments.¹⁵ Metro and local governments are required to issue a biennial affordable housing inventory to demonstrate their continued dedication to reaching affordable housing goals. This report must include not only the number and types of affordable housing units preserved during the reporting time, but also the number of new units built and the county resources committed to the development of these affordable housing units.

Metro also has the power to create and enforce Functional Plans¹⁶ and direct changes in city or county plans and land use regulations as needed to bring them into compliance with such

¹² Metro’s authority under ORS 268.390 is greater than the authority of individual counties under ORS 195, allowing them to recommend them to “recommend or *require cities and counties, as it considers necessary, to make changes in any plan and any actions taken under the plan substantially comply with the district’s functional plans* adopted under subsection (2) of this section and its urban growth boundary adopted under subsection (3) of this section ...” (emphasis added).

¹³ Goal 14 requires that “[p]rior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.”

¹⁴ In addition, the “Statement of Purpose” for OAR 660-007-0000 states, “OAR 660- 007-0030 through 660-007-0037 are intended to establish by rule regional residential density and mix standards to measure Goal 10 Housing compliance for cities and counties within the Metro urban growth boundary, and to ensure the efficient use of residential land within the regional UGB consistent with Goal 14 Urbanization.”

¹⁵ Metro Code (Or.) §3.07.740 (2011).

¹⁶ Metro Code (Or.) §3.07.850.

- A. The Metro Council may initiate enforcement if a city or county has failed to meet a deadline for compliance with a functional plan requirement or if the Council has good cause to believe that a city or county is engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan.

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Functional Plans.¹⁷ In addition to the existing Regional Solid Waste Management Plan and Urban Growth Management Functional Plan, of which voluntary affordable housing production goals are a subsection, Metro should implement, compel and enforce a separate affordable housing functional plan on a uniform level. HLA continues to believe that a distinct Functional Plan addressing regional shortfalls in needed housing would establish clear expectations and elicit more robust compliance with needed housing goals.

Further, the Metro Code sets out Metro's responsibility to oversee local compliance with statewide planning goals and Metro's power to enforce compliance by issuing orders in accordance with its own Functional Plan.¹⁸ If the Land Conservation and Development Commission ("LCDC"), charged with overseeing statewide compliance with planning goals, so determines that compliance with planning goals is lacking, it may order a local government – a term that expressly includes Metro as well as the cities and counties within Metro's boundaries – to bring its plans and land use regulations in compliance.¹⁹ Taken together, HLA believes that Metro's state-delegated authority and statutory obligations demonstrate that Metro has a duty to implement affordable housing initiatives, and that Metro's duty should not be taken lightly

III. Metro Authority – UGB Expansion

In addition to Metro's duty to oversee the compliance of cities and counties in conjunction with its regional framework plan, Metro itself must address local affordable housing concerns when it decides to expand the Urban Growth Boundary ("UGB"). Metro is subject to the mandates of ORS 197.296.²⁰ Consequently, Metro must take into account the region's housing needs when establishing buildable lands within the UGB.²¹

In 2010, Metro adopted two ordinances that each reflected Metro's responsibility to account for affordable housing during UGB expansion: Ordinance 10-1252A and Ordinance 10-1244B.²² The Staff report for Ordinance 10-1252A stated that its purpose was to "[h]elp ensure opportunities for low-income housing types throughout the region so that families for modest means are not obligated to live concentrated in a few neighborhoods," because concentrating poverty is not desirable for the residents or the region.²³ Furthermore, Ordinance 10-1244B reinforced that goal and stated that "particular attention" will be given to affordable housing when expanding the UGB, and that Metro would seek agreement with local governments to

¹⁷ *Id.*

¹⁸ ORS 268.390.

¹⁹ ORS 197.320. The Land Conservation and Development Commission shall issue an order requiring a local government, state agency or special district to take action necessary to bring its comprehensive plan, land use regulation, limited land use decisions or other land use decisions into compliance with the goals, acknowledged comprehensive plan provisions or land use regulations if the commission has good cause to believe.

²⁰ *GMK Developments, LLC v. City of Madras*, 225 Or. App. 1 (2008).

²¹ ORS 197.296

²² See MC 3.07.1120 Planning for Areas Added to the UGB.

²³ Metro, Or., Staff Report for Ordin. 10-1252A (Dec. 29, 2010).

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improve affordable housing.²⁴ Together, these ordinances plainly announced Metro's intention to implement affordable housing initiatives throughout Clackamas, Washington, and Multnomah counties.

A. *Housing Land Advocates v. City of Happy Valley*

In *Housing Land Advocates v. City of Happy Valley*,²⁵ the City of Happy Valley approved an application for the zoning reduction of a previously zoned Mixed Use Residential property to a 31-lot subdivision allowing development of detached single-family residential dwellings on individual lots.²⁶ HLA appealed the city's decision, arguing that the city failed to show how the 31 single-family homes would meet the housing needs of current and future Happy Valley and Portland-area residents of all income levels.²⁷ HLA specifically cited the city's responsibility under Title 1 of Metro's Urban Growth Management Functional Plan, specifically Metro Code Section 3.07.120(e), which requires a local government to "maintain or increase its housing capacity" in line with "a compact urban form and a 'fair share' approach to meeting housing needs."²⁸ Without an adequate housing analysis, the city, HLA claimed, failed to comply with statewide planning goals, namely Goal 10 and the Needed Housing Statutes at ORS 197.295 to .314.²⁹ In response to HLA's claims, the city argued that the zone change produced a reduction of "a mere .004 percent."³⁰ The city concluded that this reduction was "negligible," which the city argued conformed to the standard established under Metro Code Section 3.07.120(e).

While the Land Use Board of Appeals ("LUBA") agreed that this zone reduction "qualifies as negligible," LUBA determined that the comparison used by the city to calculate this reduction was not the comparison required under MC 3.07.120(e). The reason being the city's findings "neither identifies what the minimum zoned residential capacity of the subject property is nor how much that minimum zoned residential density is reduced by the challenged amendment."³¹ LUBA concluded that the city would instead need to compare the reduction of the minimum zoned capacity of the property to the city's overall minimum zoned residential capacity.³² Ultimately, LUBA upheld the standard under the acknowledged MC 3.07.120(e) that only "negligible" reductions were permitted when a city reduced the minimum zoned capacity of

²⁴ Metro, Or., Exhibit A to Ordin. 10-1244B Section 1.3.10 (Dec. 16, 2010).

²⁵ *Housing Land Advocates v. City of Happy Valley*, LUBA No. 2016-031-105 (Mar. 24, 2017).

²⁶ *Id.*, at 3.

²⁷ *Housing Land Advocates v. City of Happy Valley*, LUBA No. 2016-031-105 at 3, 6.

²⁸ MC §3.07.120 ("Housing Capacity").

²⁹ ORS 197.307(3) provides, "When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need." ORS 197.307(4) provides, "Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land described in subsection (3) of this section. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay."

³⁰ *Housing Land Advocates v. City of Happy Valley*, LUBA No. 2016-031-105 at fn.10.

³¹ *Id.*, at 23-24.

³² *Id.*, at 23.

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a single lot or parcel.³³ As a result, LUBA remanded the case and ordered the city to include in its findings the “methodology and math” used to calculate the percent reduction in minimum zoned residential capacity.

Under the *Happy Valley* case, Metro needs to give the “negligible” loss standard means on a region-wide basis. Otherwise, we face the same battle and die the death of a thousand cuts. A 1% cumulative reduction could qualify as “negligible,” as could 100 units (depending on the capacity of the jurisdiction). This should be a prerequisite Metro-wide prior to considering any boundary expansion, including the one proposed for the four cities involved in this round. Further, at this time, none of the four city proposals include findings that demonstrate that they meet the standard under the acknowledged MC 3.07.120(e) that only “negligible” reductions are permitted. That code section must be interpreted consistently with the Goals it implements, specifically Goals 10 and 14, under 197.829(1)(c) and (d). A new expansion of the UGB must show compliance and, particularly, demonstrate compliance with the “orderly and efficient” accommodation of land uses within a UGB under Goal 14. The mechanisms to assure compliance must be within the Metro Actions allowing for the boundary expansion. Moreover, we assert that the evaluation of the UGB amendments cannot be limited to the four candidate areas for the boundary expansion, but must include the entire UGB as amended in order to demonstrate compliance with the statewide planning goals. In addition, Goal 2 requires that the plans shall be the basis for specific implementation measures. These measures shall be consistent with and adequate to carry out the plans.

While HLA can point to the specific shortcomings of these proposals, these cities, not HLA, have a legal duty to show that they are in compliance with MC 3.07.120(e). Moreover, Metro also has a legal duty to hold these cities to the standard upheld by LUBA and the very codes that Metro adopted in its Functional Plan. Until then, Metro will continue to be in violation of its own code and state laws.

B. *Deumling v. City of Salem*

In 2016, the City of Salem enacted Ordinance No. 14-16, which amended the Salem/Keizer regional urban growth boundary (UGB) to add approximately 35 acres of land located in Polk County and zoned for exclusive farm use (EFU) to the city’s UGB.³⁴ The ordinance also adopted an exception to Statewide Planning Goal 15 (Willamette River Greenway),³⁵ in connection with a new bridge over the Willamette River.³⁶ The petitioners argued that the city’s proposal violated OAR 660-004-0018(4)(a). Under OAR 660-004-0018(4)(a), when a local government adopts a reasons exception to a goal, “plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.” The land subject to the Goal 15 exception was entirely within the city’s UGB as it

³³ *Id.*

³⁴ *Deumling v. City of Salem*, LUBA No. 2016-126, 5-6 (August 9, 2017).

³⁵ Goal 15 is “to protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

³⁶ *Deumling v. City of Salem*, LUBA No. 2016-126, at 3.

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existed prior to the ordinance adoption.³⁷ In response, the city claimed that the existing plan and zoning designations would be maintained for the land subject to the Goal 15 exception.³⁸

LUBA determined that the city failed to explain why the existing plan and zoning designations limit the uses “public facilities and services, and activities” to only those justified in the exception.³⁹ For this reason, LUBA remanded the case and required the city to “more clearly explain” why the existing plan and zoning designations for the land subject to the Goal 15 exception satisfied those requirements in OAR 660-004-0018(4)(a).⁴⁰

In addition to the reporting requirements under MC 3.07.120(e), the four cities proposing expansion to the UGB must also clearly explain how they will be in compliance with statewide planning goals, as discussed above. Should one of these local governments adopt a reasons exception to a statewide planning goal to expand the UGB, that city’s plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in that exception. For this reason, Metro must remain cognizant of this case as it considers the four UGB expansion proposals.

IV. HLA Questions Whether Metro Will be able to Make Adequate Goal 10 Findings

The local government, Metro in this case, must demonstrate that its actions do not leave it with less than adequate residential land supplies in the types, locations, and affordability ranges affected. See *Burk v. Umatilla County*, 20 Or LUBA 54 (1990). The regional housing crisis is well-known. Yet, Metro has done little to proactively contribute to solving the problem. Instead, it attempts to make the decision here without any explanation of its compliance with Goal 10.

Goal 10 findings are not only required by the goal, but are necessary as a practical matter so a record of the ability to provide needed housing throughout the region is made under Goal 2, Land Use Planning. Already one of the most expensive suburbs in the region, Happy Valley, was let off the hook in complying with Goal 10 in the downzone case described above, and the need for affordable housing across the region grows. For example, see Exhibit 1, a letter submitted in the Happy Valley record showing that needed housing for all income levels was not provided within that city or urban Clackamas County, which are both within Metro’s jurisdiction.

In Washington County, and the City of Sherwood, the story is very similar to the Clackamas County/Happy Valley situation where Sherwood is a less economically integrated suburb of Washington County. According to the Washington County Consolidated Plan, Sherwood residents make the highest income of all cities within the county limits, and has the highest median income levels. See Exhibit 2, page 1. Failure to analyze the impacts of this proposed urban growth expansion across the region calls into question Goal 10 compliance of a

³⁷ *Id.*, 30.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*, at 31.

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narrow UGB expansion that does not address the exclusive zoning in member cities like the cities of Happy Valley and Sherwood.

Metro has created its own problem to figure out how to make Goal 10 findings in this case. On November 28, 2007, Metro's Chief Operating Officer ("COO") issued a letter to member local jurisdictions suspending reporting requirements related to housing and employment accommodation (then 3.07.120(D)), and housing choice for the affordable housing supply under Metro Code 3.07.740(B). See November 28, 2007 COO Letter attached as Exhibit 3. HLA has no knowledge that the suspension described in the November 28, 2007 letter has been lifted, despite years of advocating for a lift of the suspension. So far as we are able to ascertain, there was no Metro Council action to undertake this suspension. Unfortunately for Metro and the cities seeking the expansion here, a 10-year "temporary suspension" may mean that making Goal 10 findings are more difficult.⁴¹ If the member jurisdictions had submitted reports on meeting their fair share of affordable housing, then the public would be able to analyze whether expanding the UGB to include the proposals here makes sense in the context of the Statewide Planning Goals and regional compliance with Goal 10.

Metro must ensure that a decision to expand the boundaries in Beaverton, King City, Hillsboro, and Wilsonville does not, in effect, push off onto other cities within the region a housing responsibility it is required to assume. *Gresham v. Fairview*, 3 Or LUBA 219 (1981). Nowhere in the record is there any evidence concerning a reasoned analysis of Goal 10, Metro's regional buildable lands inventories, housing need projections, fair share allocations, housing and coordination policies, or of their application to this proposed UGB amendment. This is particularly concerning given that Sherwood had initially considered participating in the current expansion, but as soon as affordable housing was mentioned as part of the expansion goals, the city abandoned its plan to apply. Metro did not even take a step to insist that Sherwood needs to take steps to address affordability, thus, exclusionary zoning in Sherwood continues.

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⁴¹ While Metro may try to avoid the direct application of the legislative UGB amendment criteria, by claiming its adoption of criteria in MC 3.07.1428 is the exclusive process for reviewing this expansion, nothing in the code states that the criteria under its own legislative decision making under 3.07.1525 do not apply (rather only direct compliance with Goal 14 is directly resolved). In any event, Metro's own code should provide context for the necessary evaluation that needs to take place in any UGB expansion, particularly MC 3.07.1425(c)(5) that requires Metro to consider, "**Equitable** and efficient distribution of housing and employment opportunities throughout the region." (emphasis added).

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Above are the results of our research and show Metro's legal duty to require the cities of Beaverton, King City, Hillsboro, and Wilsonville to incorporate changes to their housing plans prior to the proposed land coming inside the UGB. We look forward to working with Metro to assure that it meets its obligations under the statewide planning goals. Please add Housing Land Advocates to the notice list, Housing Land Advocates, c/o Jennifer Bragar, 121 SW Morrison Street, Suite 1850, Portland, OR 97204.

Sincerely,



Jennifer Bragar

President, Housing Land Advocates

cc: (by e-mail)
Taylor Smiley-Wolfe
Anna Braun
Gordon Howard
Roger Alfred
Paulette Copperstone

City of Happy Valley
Planning Commission
16000 SE Misty Drive
Happy Valley, OR 97086

January 19, 2016

RE: "EAGLES LOFT ESTATES"
COMPREHENSIVE PLAN MAP/ZONING MAP AMENDMENT (CPA-14-15/LDC-15-15); 31-LOT SUBDIVISION (SUB-03-15); AND VARIANCE (VAR-08-15)

Dear Planning Commissioners:

This letter is jointly submitted by the Fair Housing Council of Oregon (FHCO) and Housing Land Advocates (HLA). Both FHCO and HLA are Oregon non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians.

For the reasons set forth below, we request that the proposed comprehensive plan and zoning amendments be denied, together with the subdivision and variance applications that depend on those amendments.

1. The proposed amendments do not comply with Oregon's Needed Housing Statutes, with Oregon's Statewide Housing Goal (Goal 10) and Planning Goal (Goal 2), or with LCDC's interpretive rules.

ORS 197.307(6) provides that local governments cannot adopt standards that have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

ORS 197.303(3) provides that, when a need has been shown for housing of particular ranges and rent levels, such needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.

The record lacks evidence sufficient to enable the city to determine, among other things, the city's current state of compliance or noncompliance with these statutes, such as the city's housing needs, the relevant buildable lands inventories, how the current designation addresses existing and projected needs, the city's fair share of regional housing needs and supplies, and other information necessary to establish that the proposed amendments will not have the effects proscribed by ORS 197.307(6) and that city will either remain in compliance or not slip further out of compliance as a result of the proposed amendments and variances.

The City's decision does not comply with Goal 10 requirements that land use regulations related to housing must be based on an inventory of buildable lands. Goal 10 requires the city:

“To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and 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.”

Goal 10 requires local governments to inventory their buildable land, identify needed housing, and designate and zone enough buildable land to satisfy the identified housing need. *Burk v. Umatilla County*, 20 Or LUBA 54 (1990). *See also, McIntyre-Cooper Co. v. Board of Comm. Washington County*, 2 Or LUBA 126, 129 (1980), *aff'd*, 55 Or App 78, *rev den*, 292 Or 589 (1981). The burden of proving that housing needs are met by the land use regulation rests with the City. *Gann v. City of Portland*, 12 Or LUBA 1, 4 (1984).

When a city with an acknowledged comprehensive plan and implementing ordinances amends its implementing ordinances to downzone or impose other substantial restrictions on lands within its acknowledged Goal 10 land supplies, the city must demonstrate that its actions do not leave it with less than adequate supplies in the types, locations, and affordability ranges affected. *Opus Development v. City of Eugene*, 28 Or LUBA 670 (1995) (*Opus I*); 30 Or LUBA 360, 373 (1996) (*Opus II*), *aff'd* 141 Or App 249, 918 P2d 116 (1996) (*Opus III*); *Volny v. City of Bend*, 37 Or LUBA at 510-11; *Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731 (1999) (rezoning residential land for industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); *Home Builders Assn. of Lane County v. City of Eugene*, 41 Or LUBA 370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations).

Further, OAR 660-008-0010 provides LCDC’s interpretation of Goal 10 Housing specific to Portland Metro and its planning jurisdictions:

“The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.”

LCDC’s generally-applicable housing interpretive rule defines “housing needs projection” as:

“[a] local determination, justified in the plan, as to the housing types, amounts and densities that will be: (a) Commensurate with the financial capabilities of present and future area residents of all income levels during the planning period; (b) consistent with OAR 660-007-0010 through 660-007-0037 and any other adopted regional housing standards; and (c) consistent with Goal 14 requirements for the efficient provision of public facilities and services, and efficiency of land use.”
OAR 660-007-0005(5)

OAR 660-007-0005(6) defines “Multiple Family Housing” as “attached housing where each dwelling unit is not located on a separate lot.”

OAR 660-007-0005(7) defines “Needed Housing” as follows:

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

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

Nowhere in the record is there any evidence concerning or reasoned analysis of these statutes, goals, and rules, of Happy Valley or Portland Metro’s buildable land inventories, housing needs projections, fair share allocations, housing and coordination policies, or of their application to these proposed amendments and entitlements.

Such analysis and evidentiary support is essential. In one of its earliest affordable housing opinions, *Kneebone v. Ashland*, 3 LCDC 131 (1979), the LCDC remanded a City of Ashland ordinance downzoning needed residential lands because the city’s record failed to demonstrate that the downzoning would not reduce Ashland’s supply of lands for needed housing in violation of the statewide housing goal. In its opinion, LCDC reminded Oregon’s local governments that

“Planning decisions must meet the standards set by the goals. Insofar as compliance depends upon specific, ascertainable fact, compliance must be shown by substantial evidence in the record. Insofar as compliance depends upon value judgments and policy, compliance must be shown by a coherent and defensible statement of reasons relating the policies stated or implied in the goals to the policies of the planning jurisdiction.” 3 LCDC at 124

LCDC’s Metro Housing Rule, at OAR 660-008-0060, provides as follows:

“(2) For plan and land use regulation amendments which are subject to OAR 660, Division 18 [Post-Acknowledgment Plan and Zoning Amendments, or PAPAs], the local jurisdiction shall either:

- (a) Demonstrate through findings that the mix and density standards in this Division are met by the amendment; or
- (b) Make a commitment through the findings associated with the amendment that the jurisdiction will comply with provisions of this Division for mix or density through subsequent plan amendments.”

The city has not made, and almost certainly cannot make, either the demonstration called for in subsection (a) or the commitment called for in subsection (b), both of which would require a

showing of surpluses in supplies over projected needs, supported by the kind of reasoned analysis and evidentiary support that LCDC required in *Kneebone*. Given the current shortage of buildable, available, affordable lands planned and zoned for multi-family housing in Happy Valley, its sub-region, and Portland Metro as a whole, FHCO and HLA do not believe that the requisite demonstrations can be made at this time or in the foreseeable future.

2. The proposed amendments do not comply with the intergovernmental coordination requirements of LCDC's statewide Goals 2 (Land Use Planning) and 10 (Housing) because the city failed to coordinate its actions with all other affected governmental units.

There is no evidence in the record of this proceeding that the Oregon Department of Land Conservation and Development, Portland Metro, as regional coordinator, or other nearby jurisdictions such as Gresham, Portland, Clackamas County, and Oregon City, have agreed to increase their share of comparably planned, zoned, serviced, and located land or that Happy Valley has made any efforts to coordinate with them concerning their ability and willingness to accommodate the reallocation of housing need effected by the proposed amendments. See *Creswell Court v. City of Creswell*, 35 Or LUBA 234 (1998); *1,000 Friends of Oregon v. North Plains*, 27 Or LUBA 371, *aff'd* 130 Or App 406, 991 P2d 1130 (1994).

3. The proposed amendments and variances are inconsistent with the City of Happy Valley's Comprehensive Plan.

Applicable Happy Valley Comprehensive Plan Policies that are not addressed adequately or at all to date include the following:

Policy 8: To assume proportionate responsibility for development within the City of Happy Valley consistent with projected population for the City.

Policy 42: To increase the supply of housing to allow for population growth and to provide for the housing needs of a variety of citizens of Happy Valley.

Policy 43: To develop housing in areas in areas that reinforce and facilitate orderly and compatible community development.

Policy 44: To provide a variety of lot sizes, a diversity of housing types including single family attached (townhouses) duplexes, senior housing and multiple family and range of prices to attract a variety of household sizes and incomes to Happy Valley.

Policy 45: The City shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels that are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

Policy 46: The City shall provide a range of housing that includes land use districts that allow senior housing, assisted living and a range of multi-family housing products. This

range improves housing choice for the elderly, young professionals, single households, families with children, and other household types.

Before the city can approve the amendments and the related subdivision and variance entitlements, you must be able to find that the applicant has proven by a preponderance of the evidence that all of the above policies have been satisfied. HLA simply does not believe this is possible given the current state of affordable housing need and supply in Happy Valley, its sub-region of Portland Metro, and Portland Metro as a whole.

4. The proposed amendments and variances are inconsistent with Metro's Functional Plan.

The applicant has not demonstrated compliance with Title I of the Metro Urban Growth Management Functional Plan, which requires each city to maintain or increase its housing capacity. FHCO and HLA do not believe that the applicant can meet this requirement because the requested zone change would reduce the city's housing capacity with respect to scarce needed housing types, densities, location, and affordability ranges.

5. The proposed amendments risk violation of federal fair housing requirements.

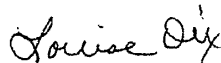
HLA believes that any action by the City that results in a reduction in housing diversity and affordability could violate the city's obligation to affirmatively further fair housing under them Federal fair Housing Act, 42 U.S.C. §§ 5304(b)(2), 5306(d)(7)(B), 12705(b)(15), 1437C-1(d)(16).

The Fair Housing Act (the Act) declares that it is "the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." It does so by prohibiting discrimination in the sale, rental, and financing of dwellings, and in other real estate-related transactions because of race, color, religion, sex, familial status, national origin, or disability. In addition, the Fair Housing Act requires that HUD administer programs and activities relating to housing and urban development in a manner that affirmatively furthers the policies of the Act.

Courts have examined the legislative history of the Fair Housing Act and related statutes. They have found that the purpose of the affirmatively furthering fair housing mandate is to ensure that recipients of Federal housing and urban development funds do more than simply not discriminate: recipients also must address segregation and related barriers for groups with characteristics protected by the Act, including segregation and related barriers in racially or ethnically concentrated areas of poverty. In the 1972 Supreme Court case, *Traffigante v. Metropolitan Life Insurance Company*, 409 U.S. 205, 211 (1972), the Court quoted the Act's co-sponsor, Senator Walter F. Mondale, in noting that the Fair Housing Act was enacted by Congress to replace the racially or ethnically concentrated areas that were once called "ghettos" with "truly integrated and balanced living patterns." In 2015, in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. ____ (2015), the Supreme Court again acknowledged the Fair Housing Act's continuing role in moving the Nation toward a more integrated society, holding that disparate impacts on protected classes, whether intended or not, can result in violations of the Act.

High concentrations of wealth appear to be a proxy for exclusionary zoning practices in Happy Valley. As reported on June 23, 2015, in the Oregonian, Happy Valley is the "richest town" in Oregon. See Exhibit A attached here. This raises concerns about the city's ability to comply with the Act. The Clackamas County Consolidated Plan ("Con Plan" available at http://www.clackamas.us/communitydevelopment/documents/conplan_final.pdf - pages referred to below are attached as Exhibit B) shows that Happy Valley's population growth between 2000-2010 was 208%, and in 2010, 76% of the population was white. See Con. Plan p. 26 and 31. Poverty has increased in the County by 10.4% between 2000 and 2010 and nearly half of female householders with young children under 5 (a protected class) lived in poverty. *Id.* at 53. Notwithstanding this crisis, Happy Valley's housing supply consists almost exclusively of single family units. *Id.* at 55. Downzoning the subject property will continue the trend of ignoring the need for affordable housing in areas of opportunity, such as Happy Valley.

Thank you for your consideration. Please provide written notice of your decision, to FHCO and HLA, c/o Louise Dix, at 1221 SW Yamhill Street, Portland, OR 97205.



Louise Dix
Fair Housing Council of Oregon



Jennifer Bragar, President
Housing Land Advocates

GSB:7496250.1 [30187.00129]

'Richest town in Oregon' may surprise you



[\[http://connect.oregonlive.com/staff/oregonian/index.html\]](http://connect.oregonlive.com/staff/oregonian/index.html) By **The Oregonian/OregonLive**

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on June 23, 2015 at 10:41 AM, updated June 23, 2015 at 12:15 PM

The website 24/7 Wall St. recently pored through Census data to come up with a list of the richest towns in each state. For their list, the site's editors stuck to only incorporated towns with 25,000 or fewer residents. (Sorry, Lake Oswego and West Linn.)

Even so, **the town at the top** [\[http://247wallst.com/special-report/2015/06/17/the-richest-town-in-each-state/9/\]](http://247wallst.com/special-report/2015/06/17/the-richest-town-in-each-state/9/) will likely surprise a lot of people. Happy Valley has more often been in the news for its unprecedented over-development just before the Great Recession, and subsequent real estate collapse. Images of empty subdivisions are rooted in many Oregonians' minds when it comes to Happy Valley.

But 24/7 Wall St. found Happy Valley's median income of \$92,773 to be tops in Oregon. **At the other end of the spectrum: Prineville** [\[http://247wallst.com/special-report/2015/06/05/the-poorest-town-in-each-state/9/\]](http://247wallst.com/special-report/2015/06/05/the-poorest-town-in-each-state/9/), long one of the areas with the highest unemployment in the state, and a median income of \$29,959.

The gap between richest small town and poorest small town puts Oregon about in the middle of the pack nationally, the website said.

-- The Oregonian/Oregonlive.com

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Ad Choices

EXHIBIT A

http://www.oregonlive.com/business/index.ssf/2015/06/richest_town_in_oregon_happy_va... 1/19/2016



2012-2016 CONSOLIDATED PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT

**CLACKAMAS COUNTY
COMMUNITY DEVELOPMENT DIVISION**



April 2012

EXHIBIT B

CHAPTER 1**HOUSEHOLDS AND FAMILIES**

According to the 2012 ACS data, there were 200,160 households in Washington County, of which approximately 134,176 (67.0%) were considered “family” households. The remainder (33.0%) was “non-family” households, consisting of individuals living alone or unrelated individuals living together. Of the 134,176 family households, 79.0% consisted of a male or female householder living with a spouse, including those with children or other related family members. The remaining families consisted of a male (6.0%) or female (15.0%) householder living with children or other family members but not with a spouse.

In 2012, the average household size for the county was 2.63 persons. There was a significant difference between the average household size for the county’s Latino population (4.30 persons) and that of the non-Latino population (2.34 persons) in 2012. Table 3-99 in Chapter 3 provides information on the average household size for all cities in the county for 2012, the most recent year for which this information is available. This table shows that the average household sizes for the cities with all or a portion of their land within Washington County ranged from 3.57 persons (Cornelius) to 1.57 persons (King City). More current data on average household sizes (from the five year 2008-2012 American Community Survey) show the household sizes for the following cities: Banks, (3.26 persons), Sherwood (2.97 persons), Forest Grove (2.72 persons), Hillsboro (2.94 persons), Tualatin (2.65 persons), Tigard (2.50 persons), Beaverton (2.45 persons) and Durham (2.25 persons).

INCOME AND POVERTY

In 2012, the county’s cost of living was among the highest in Oregon. The median household income in Washington County was \$64,375. The standard for self-sufficiency in Washington County, as reported by Worksystems, is \$65,800 for a four-person household, which is currently the highest self-sufficiency standard in Oregon. The cities in the county with the highest median income were Sherwood (\$82,257), Durham (\$65,313) and Banks (\$65,000). The lowest median household incomes were in King City (\$36,446), Forest Grove (\$45,892) and Cornelius (\$50,977). The per capita income in Washington County in 2012 was \$31,476, with the highest in Durham (\$41,490). The lowest per capita income was in Cornelius (\$17,582).

Median household incomes in Washington County grew by \$12,253 from 2000 to 2012, an increase of 23.5%.

In 2000, 7% of residents had incomes below the poverty rate; by 2012, the poverty rate had increased to 10.9%. All told, between 2000 and 2012, the number of people in poverty in Washington County grew by 76%. Poverty rates were lowest in Sherwood (4.6%) and Banks (5.1%). Poverty rate was highest in Cornelius (16.9%) and Forest Grove (19.6%). The poverty rate in Forest Grove grew by almost 4 percentage points since 2007.

County-wide, over half of the residents below the poverty level were White, although the percentage of all White residents who were below the poverty level was lower than any other ethnic group. The highest poverty rates in 2012 were found among residents who defined themselves as having some other race (25.8%), American Indian or Alaska Native residents (25.5%) and Black or African American (18.6%). The poverty rate for the Latino population was 24.1%. All of these ethnic and racial groups bear a disproportionate percentage of poverty. See Table 1-4 for a full description of the percentages of persons living in poverty in Washington County by race and ethnicity.

CHAPTER 3

The demand for low-cost affordable housing far exceeds the supply. In addition to market-rate units that serve low- and moderate-income households, there were approximately 7,000 subsidized rental housing units and 2,700 households with rental housing vouchers in Washington County in 2011, based on information in the Regional Affordable Housing Inventory prepared by Metro and data related to Section 8 vouchers from the Washington County Department of Housing Services. Since some vouchers are used in subsidized units, there are an estimated 7,000 - 9,000 households living in subsidized rental housing in Washington County, which represents 3.6% - 4.6% of all housing units in the County. Based on the estimates of available housing for households with incomes below 50% of the area median, there is an estimated need for 14,000 - 23,000 units for households with incomes below 50% of median available through private market (unsubsidized) and subsidized housing units and/or vouchers for subsidized units. This represents approximately 7 to 11% of all households in Washington County.

Ethnic and racial minorities comprise a disproportionate percentage of lower income households and are concentrated in specific areas. For example, 38% of Latino households have extremely low- or low-incomes, in comparison to 17% of all households in the County. In addition, there are 9 Census Tracts in the County that have concentrations of racial or ethnic minorities or "Minority Concentrations". Minority Concentrations are defined as those Census Tracts that have a percentage of racial or ethnic minority households from the 2010 Census that is at least 20% higher than the percentage for that racial or ethnic minority population across the whole County overall. All but two of these Census Tracts represent a concentration of Latino residents.

A significant number of households in the County also have special needs, including older adults, people with substance abuse problems, survivors of domestic violence, people with AIDS, ex-offenders, people with physical and mental disabilities, farmworkers and the homeless. Data on these populations are presented later in this section. These needs are presented in tabular form in Table 3-12.

The following is a table showing the population and household growth in Washington County between 2000 to 2011 utilizing data from the 2000 Census and 2007-2011 ACS.

TABLE 3-3 Housing Needs Assessment Demographics

Demographics	Base Year: 2000	Most Recent Year: 2011	% Change
Population	443,906	520,562	17%
Households	168,543	197,364	17%
Median Income	\$52,054	\$63,814	23%

Source:: 2000 Census (Base Year), 2007-2011 ACS (Most Recent Year)

CHAPTER 3

As noted in the regulation at 91.205(b)(2), a “disproportionately greater need” exists when the percentage of persons in a category of need who are members of this particular racial group is at least 10 percentage points higher than the percentage of low income persons in Washington County with one or more of the four housing problems: lacks complete kitchen facilities; lacks complete plumbing facilities; more than one person per room; or housing cost burden is greater than 30% of household monthly income. Three racial or ethnic groups have disproportionately greater needs, as identified in Tables 13 – 16 across income levels ranging from 0% to 100% of the Area Median Income (AMI) derived from 2007-2011 CHAS data. Those racial or ethnic groups include: persons who are Black or African American, Pacific Islanders and persons who are of Asian descent.

As indicated in Table 3-17, 86% of persons in the 0-30% Area Median Income (AMI) range reported having one or more of four housing problems: lacks complete kitchen facilities; lacks complete plumbing facilities; more than one person per room; or housing cost burden is greater than 30% of household monthly income. Of the described racial and ethnic categories, Pacific Islanders showed a disproportionately greater need in that 100% of persons in this category of need (0-30%AMI) reported having one or more housing problems (14 percentage points higher than the County as a whole). While not quite exceeding the 10 percentage points higher than threshold to meet the regulatory definition of “disproportionately greater need”, it should be noted that 93% of American Indian/Alaska Natives (7 percentage points higher than the County as a whole) and 95% of Hispanic or Latino persons (9 percentage points higher than the County as a whole) in the 0-30% AMI income range reported having housing problems.

As indicated in Table 3-18, 84% of all persons in the 30-50% AMI range reported having one or more of four housing problems. Of the described racial and ethnic categories, Pacific Islanders showed a disproportionately greater need in that 100% of persons in this category of need (0-50% AMI) reported having one or more housing problems (16 percentage points higher than the County as a whole). While not quite exceeding the 10 percentage points higher than threshold to meet the regulatory definition of “disproportionately greater need”, it should be noted that 91% of Hispanic or Latino persons in the 0-50% AMI range reported having housing problems (9 percentage points higher than the County as a whole).

Table 3-19 shows that 53% of all persons in the 50-80% AMI range reported having one or more of the four housing problems. Of the described racial and ethnic categories in this category of need (50-80% AMI), Black or African Americans, Asians and Pacific Islanders all showed a disproportionately greater need. 82% of persons who are Black or African American reported having one or more of the four housing problems (29 percentage points higher than the County as a whole). 64% of persons who are Asian reported having one or more of the four housing problems (11 percentage points higher than the County as a whole). 80% of persons who are Pacific Islanders reported having one or more of the four housing problems (27 percentage points higher than the County as a whole).

Table 3-20 shows that 35% of all persons in the 80-100% AMI range reported having one or more of the four housing problems. Of the described racial and ethnic categories in this category of need (80-100% AMI), persons who are Asian showed a disproportionately greater need. 52% of persons who are Asian reported having one or more of the four housing problems (17 percentage points higher than the County as a whole). 64% of persons who are Asian reported having one or more of the four housing problems (11 percentage points higher than the County as a whole). 80% of persons who are Pacific Islanders reported having one or more of the four housing problems (27 percentage points higher than the County as a whole). 39% of Hispanic or Latino persons reported having one or more of the four housing problems (only 4 percentage points higher than the County as a whole, but the only other racial/ethnic category that indicates a greater percentage of need in the 80-100% AMI range).

Number of Housing Units

Total Housing Units

There were an estimated 212,386 housing units in Washington County in the year 2012. The number of housing units has grown approximately 19% from 2000 to 2012. (2000 figures were based on 2000 decennial Census data, 2012 figures were estimated based on 2008-12 ACS data).

CHAPTER 3

TABLE 3-66 Total Housing Units, Washington County 2012

Name of Area	Housing units	% of housing units
Banks	576	0.3%
Beaverton	38,957	18.3%
Cornelius	3,474	1.6%
Durham	568	0.3%
Forest Grove	7,946	3.7%
Gaston	293	0.1%
Hillsboro	34,639	16.3%
King City	2,046	1.0%
Lake Oswego (part)	0	0.0%
North Plains	852	0.4%
Portland (part)	778	0.4%
Rivergrove (part)	15	0.0%
Sherwood	6,244	2.9%
Tigard	20,257	9.5%
Tualatin (part)	9,465	4.5%
Wilsonville (part)	297	0.1%
Subtotal Incorporated	126,407	59.5%
Unincorporated	85,979	40.5%
TOTAL	212,386	100.0%

Source: 2008-2012 ACS

- The largest cities in terms of number of housing units are Beaverton (18.3%), Hillsboro (16.3%) and Tigard (9.5%). Combined, the three cities contain 44.3% of all housing units in the County.
- Unincorporated areas contain 40.5% of all housing units.
- The remaining 15.4% of housing units are dispersed among the smaller communities.
- The City of Sherwood experienced the fastest growth rate in the area, with an increase in housing units of 40% (1,788 units) between 2000 and 2012.
- Hillsboro added the most absolute units, constructing an estimated 7,447 housing units between 2000 and 2012.

Table 3-69 Distribution of Subsidized Housing highlights where the 7,030 regulated and unregulated units are located in Washington County.

TABLE 3-69 Distribution of Subsidized Housing, Washington County (2011)

Jurisdiction	Number of sites	Unregulated units	Regulated units	Total units
Beaverton	34	11	501	512
Cornelius	10	0	10	10
Durham	1	0	210	210
Forest Grove	31	7	597	604
Hillsboro	62	4	2,196	2,200
North Plains	1	0	33	33
Sherwood	7	1	96	97
Tigard	18	10	632	642
Tualatin	3	0	604	604
Unincorporated County	89	7	2,096	2,118
Washington County	256	40	6,975	7,030

Source: 2011 Metro Affordable Housing Inventory Report

A significant percentage of the units (almost a third) are located in Hillsboro. Tigard, Tualatin, Forest Grove and Beaverton each include nearly 500 or more units. A substantial number of units in the inventory are also located in unincorporated portions of the County. In comparing these numbers to the proportion of the population living in these areas of the County, Hillsboro, Forest Grove and Tualatin appear to have higher concentrations of units compared to their share of County population.

The Washington County Department of Housing Services (DHS) manages public housing units owned by the County and administers the Section 8 vouchers. HUD directly administers the Section 811 and 202 housing assistance programs.

Altogether, there are 7,030 subsidized housing units and 2,784 households with housing vouchers in Washington County. Some households with housing vouchers live in subsidized housing units and some live in private market units. There are about 7,000 – 9,000 households living in subsidized housing in Washington County, which represents 3.6% - 4.6% of all housing units in the County. As discussed in the following section, this supply of subsidized housing does not necessarily meet the demand for it, particularly for those in Washington County who are earning less than 30% AMI, given that there are approximately 29,000 low- and moderate-income households in Washington County that are “cost-burdened” (spend more than 30% of their income on housing).

CHAPTER 3

Rental Costs: Per the 2008-12 ACS data, the median gross rent countywide was \$961. During that same time, the median contract rent was \$839. The difference in amount can be attributed most likely to monthly utility costs. Gaston had the lowest median gross rent (\$627) while Sherwood the highest (\$1,212). The median gross rent in Washington County grew at an estimated 2.4% per year between 2000 and 2012. This is roughly the rate of inflation during that period. Median gross rents are lowest in some of the smaller outlying communities (e.g., Banks, Gaston and Forest Grove) and highest in Sherwood, Tualatin and King City.

CHAPTER 3**TABLE 3-73 Median Rents, Washington County (2012)**

Name of Area	Median Rent (\$)
Banks	869
Beaverton	920
Cornelius	920
Durham	844
Forest Grove	756
Gaston	627
Hillsboro	1,023
King City	984
Lake Oswego (part)	0
North Plains	939
Portland (part)	684
Rivergrove (part)	0
Sherwood	1,212
Tigard	920
Tualatin (part)	972
Wilsonville (part)	1,195
Unincorporated	n/a
Washington County	961

Source: 2008-2012 ACS

TABLE 3-74 2014 HOME Program Monthly Rent Limits for Washington County (inclusive of utilities)

Monthly Rent (\$)	Efficiency (no bedroom)	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
Fair Market Rent	659	766	912	1,344	1,615
High HOME Rent	666	774	922	1,200	1,319
Low HOME Rent	638	684	821	949	1,058

Source: HUD FMR and HOME Rents

TABLE 3-75 Housing Affordability

% Units affordable to Households earning	Renter	Owner
30% HAMFI	1,691	No Data
50% HAMFI	7,994	2,080
80% HAMFI	39,810	5,973
100% HAMFI	No Data	17,398
Total	49,495	25,451

Source: 2007-2011 CHAS

CHAPTER 3

Home Ownership Costs: In 2012, median monthly homeownership costs (for homeowners with a mortgage) were \$1,888 for Washington County. In 2000, the median costs were \$1,358, which represents an increase of 3.2% per year. This increase outpaced inflation during that time.

TABLE 3-76 Median Homeownership Costs, Washington County (2012)

Name of Area	Median Selected Monthly Owner Costs With A Mortgage (\$)
Banks	1,765
Beaverton	1,868
Cornelius	1,654
Durham	2,184
Forest Grove	1,562
Gaston	1,769
Hillsboro	1,820
King City	1,148
Lake Oswego (part)	0
North Plains	1,629
Portland (part)	2,756
Rivergrove (part)	3,250
Sherwood	2,083
Tigard	1,948
Tualatin (part)	1,909
Wilsonville (part)	0
Unincorporated	n/a
Washington County	1,888

Source: 2008-2012 ACS

In 2012, ownership costs (with a mortgage) were highest in Rivergrove (partial) at \$2,076 and lowest in King City (\$1,148). Similar to rental costs, owner costs were also relatively lower in several smaller outlying communities (e.g., North Plains, Gaston, Cornelius and Forest Grove).

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METRO

November 28, 2007

TO: Mayors and County Commission Chairs
City and County Administrators
Planning Directors

FROM: Michael Jordan, Chief Operating Officer

RE: Integrating Urban Growth Management Functional Plan Compliance and
Performance Measures

The Urban Growth Management Functional Plan, originally adopted unanimously by the Metro Policy Advisory Committee and the Metro Council in 1996, regulates how local governments implement the 2040 Growth Concept. Local governments in the region are required to comply with the Plan's provisions and each year Metro is required to submit a compliance report to the Metro Council detailing each local government's compliance with the Functional Plan.

Elected officials and staff from throughout the region have identified several issues with the current approach to compliance.

- Compliance requirements tend to be focused more on reporting rather than a more substantive evaluation of whether and how 2040 is being implemented.
- Many of the requirements in the Functional Plan are prescriptive. Local governments want more flexibility to meet regional goals.
- Local governments in the region have limited staff resources.

With the New Look at Regional Choices/Making the Greatest Place and Performance Measures projects underway at Metro, now is an appropriate time to revisit how Metro approaches compliance. During the next two years, Metro will be working with you through the Metro Policy Advisory Committee and with your staff through the Metro Technical Advisory Committee to integrate compliance with performance standards. The goal of this endeavor is to develop and use performance standards to evaluate progress in implementing the 2040 Growth Concept.

As a result, Metro will suspend certain Functional Plan reporting requirements, revise Functional Plan titles as needed, continue current compliance requirements for the most recent changes including Title 4 (Industrial and Employment Areas) and Title 13 (Nature in Neighborhoods), and change the annual compliance report. These changes and what local jurisdictions need to do are detailed in the attached sheet.

I believe that integrating compliance with performance measures will result in a more meaningful evaluation and assessment of how the region as a whole is achieving the goals set out in the 2040 Growth Concept. I look forward to continuing our work together.

Attachment 1 – Urban Growth Management Functional Plan Compliance Changes

Functional Plan Title	Requirement	Action
Title 1 Housing and Employment Accommodation	Annual dwelling unit and job capacity report – Metro Code 3.07.120(D)	Temporarily suspend report – local governments do not need to send in annual report Local governments must continue to submit proposed zone changes to Metro for review
Title 1 Housing and Employment Accommodation	Biennial report on actual density of new residential density per net developed acre – Metro Code 3.07.140(D)	Temporarily suspend report – local governments do not need to send in biennial report
Title 2 Regional Parking Policy	Annual report on number and location of new parking spaces – Metro Code 3.07.220(D)	Temporarily suspend report – local governments do not need to send in annual report
Title 3 Water Quality and Flood Management		Metro staff will continue to work with the three jurisdictions that are not in compliance with the Water Quality Performance Standards
Title 4 Industrial and other Employment Areas	Protection of Regionally Significant Industrial Areas – limit size and location of retail commercial uses – Metro Code 3.07.420	Deadline for action was July 22, 2007 for jurisdictions that have Regionally Significant Industrial Areas. Those jurisdictions must either submit information showing they have met requirement or submit a request to extend the deadline to Metro
Title 4 Industrial and other Employment Areas	Protection of Industrial Areas – limit new buildings for retail commercial uses – Metro Code 3.07.430	Deadline for action was July 22, 2007 for jurisdictions that have Industrial Areas. Those jurisdictions must either submit information showing they have met requirement or submit a request to extend the deadline to Metro
Title 4 Industrial and other Employment Areas	Map Amendment Process – Metro Code 3.07.450	Continue requiring amendments to the Title 4 Employment and Industrial Areas map
Title 6 Central City, Regional Centers, Town Centers and Station Communities	Development strategy -- Metro Code 3.07.620	Eliminate December 31, 2007 deadline – Metro staff will be working with local government staff to assist and evaluate development strategies
Title 6 Central City, Regional Centers, Town Centers and Station Communities	Biennial progress report – Metro Code 3.07.650	Suspend reporting requirement – Metro staff will be working with local government staff to evaluate centers progress
Title 7 Housing Choice	Affordable Housing Supply -- Metro Code, 3.07.740(B)	Temporarily suspend reporting requirement
Title 11 Planning for New Urban Areas	Concept planning – Metro Code 3.07.1120	Continue concept planning for all areas brought into the UGB since 2002
Title 13 Nature in Neighborhoods	Application to Riparian Habitat and Upland Wildlife Areas and Comprehensive Plan Amendments – Metro Code 3.07.1330	Maintain compliance deadlines of March 13, 2007 for Tualatin Basin Natural Resources Coordinating Committee (TBNRCC) members and January 5, 2009 for non-TBNRCC members
Title 13 Nature in Neighborhoods	Report on progress in using voluntary and incentive based education, acquisition, and restoration habitat protection – 3.07.1360(C)	Move deadline to March 15, 2008 to correspond with DEQ TMDL deadline

Attachment 2

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE URBAN)	Ordinance No. 17-1406
GROWTH BOUNDARY IN THE VICINITY OF THE)	
CITY OF SHERWOOD UPON APPLICATION BY)	Introduced by Chief Operating Officer
THE SHERWOOD SCHOOL DISTRICT)	Martha Bennett with the Concurrence of
)	Council President Tom Hughes

WHEREAS, the Metro Urban Growth Management Functional Plan Title 14: Urban Growth Boundary provides a mechanism to amend the urban growth boundary (UGB) through a major amendment process for public facilities and other non-housing purposes; and

WHEREAS, the Sherwood School District filed an application for a major amendment pursuant to Metro Code Section 3.07.1430 to add approximately 82 acres to the UGB for the purpose of constructing a new high school to serve the Sherwood area; and

WHEREAS, the application was considered by a hearings officer appointed by Metro at public hearings in the City of Sherwood on May 24, 2017 and June 6, 2017; and

WHEREAS, on July 21, 2017 the hearings officer submitted to Metro a proposed order recommending approval of the application, together with findings of fact and conclusions of law in support of a decision by the Metro Council that the application satisfies the requirements of the Metro Code and applicable state law; and


WHEREAS, the Council considered the proposed order and testimony at a public hearing on August 10, 2017 under the procedural requirements of Metro Code Section 3.07.1430(u); now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The UGB is hereby amended, as indicated in Exhibit A, attached and incorporated into this ordinance, to add 82.3 acres to the UGB for development of a high school with sports fields and a roadway improvement, subject to the following three conditions of approval:
 - a. The property must be used for a public high school, associated accessory uses, and public transportation improvements consistent with the application for this UGB amendment.
 - b. The applicant must comply with the state Transportation Planning Rule (TPR) at the time the zoning is established on the subject property.
 - c. The City of Sherwood shall complete the requirements of Urban Growth Management Functional Plan Title 11, section 3.07.1120: Planning for Areas Added to the UGB, prior to development occurring.

2. The Findings of Fact and Conclusions of Law contained in the hearings officer's recommendation attached as Exhibit B and hereby incorporated into this ordinance, explain how this amendment to the UGB complies with applicable provisions of the Regional Framework Plan, Metro Code, and applicable statewide planning laws.
3. The Metro Council adopts as supplemental findings in support of its decision the legal memorandum dated August 15, 2017 attached as Exhibit C and hereby incorporated into this ordinance, which includes responses to issues raised at the public hearing by opponents of the application.


ADOPTED by the Metro Council this 17 day of August 2017.



Tom Hughes, Council President

Tom Hughes, Council President

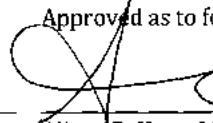
Attest:



Nellie Papsdorf, Recording Secretary

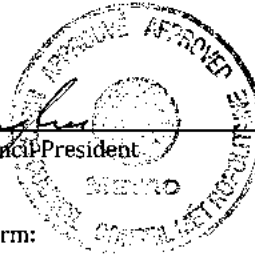
Nellie Papsdorf, Recording Secretary

Approved as to form:



Alison R. Kean, Metro Attorney

Alison R. Kean, Metro Attorney



Social Consequences: Siting the new high school in the most centrally located area possible is important to fostering a sense of civic and school pride. Although high schools can have fairly significant impacts on an area, they should be sited where the bulk of the population resides and be a use that brings people together in a place that the citizens identify as an integral part of their community. One of the alternatives that the District considered in its facilities planning to alleviate the capacity issue at the existing Sherwood High School was building a second high school. The community, however, was very much opposed to that idea. A small, cohesive community like Sherwood wants to remain bound together not divided by different allegiances to different high schools. All of the sites analyzed in Sherwood West would be superior to any sites in any other urban reserve for these reasons alone; however, within Sherwood West Sites B and C are most centrally located - both now and in the future as the city continues to grow to the south and west. Even so, development of Site B has a more immediate social consequence that Site C does not have. There are a number of residences in Site B that would have to be purchased and demolished in order to develop the new high school. Displacing residents from their homes needlessly is a very adverse social consequence and should not occur if it can be avoided, which in this case it can. Therefore, Site C comes out ahead here, too.

Conclusion: Sites B and C are the two sites that come out the most favorably when one factors in the environmental, energy, economic, and social consequences. However, Site C edges ahead of Site B due to Site B's increased adverse economic and social consequences.

MC 3.07.1425(c)(4): If the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need considering

- (4) compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside the UGB designated for agriculture or forestry pursuant to a statewide planning goal.***

Hearings Officer's Analysis: The District identified a number of site characteristics that a new site would need to meet in order to accommodate a new high school. As discussed above, is one urban reserve area that can efficiently accommodate a new high school - Sherwood West. Sherwood West has been MC 3.07.1110 concept planned and so may be considered for inclusion within the UGB. Sherwood West is adjacent to the city's existing UGB and in close proximity to the bulk of the District's student population. The area is planned for predominantly residential uses, including schools, and so as Sherwood West develops even more of the student population will reside in the vicinity of the proposed high school site. The District studied the 1,291-acre urban reserve for areas within it that could accommodate a new high school site. The District did this by utilizing an engineer and architect to evaluate all sites in the urban reserve that were flat to relatively flat; had a minimum buildable site size of approximately 50 acres or more; no or minimal constraints from streams, wetlands, and intact upland habitat; adequate/feasible access to public utilities; and proximity to a major street network. This analysis yielded six sites, which were then ranked according to the site criteria.

Attachment 3



[Home](#) [Select Housing Data](#) [Maps, Tools, and Links](#)

TUESDAY, OCTOBER 19, 2021

2000 Housing Production Per 1,000 Housing Units In Oregon's 49 Largest Cities: Portland Ranked 8th, Happy Valley #1

Hillsboro recently submitted 2000 housing production data to DLCD required by HB 4006.[There's more on the bill, including reporting requirements, on the DLCD landing page [HERE](#)].

With the Hillsboro submission 2020 housing production data is now available for all 49 cities subject to the reporting requirements of the bill. (Hopefully, more cities will comply with the Feb. 1st statutory deadline, so that 2021 production data is available more quickly than the 2020 data).

Note that I am focusing here on total housing **PRODUCTION (occupancy certificates granted)** as reported by each city and NOT housing construction permits.

Regulated production and total and regulated permit data is also reported but is NOT the focus of this blog post.

Use of Production Rates vs Production Counts

I may have additional related posts in the coming days but to start I compared the counts of housing units produced in 2020 vs the number of housing units in these cities as reported in the 2020 Census.

This method of comparison allows an assessment relative to the size of the housing stock in each city as opposed to just a raw count of units produced.

Observations:

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These 49 cities had 59% of the total Oregon housing units in the 2020 Census. [1,062,261/1,8137,747].

The 2020 overall rate of production in these 49 cities was 15 units per 1,000 housing units. **(15,944 total units produced/1,062,261 housing units).**

Happy Valley #1:

Happy Valley had the highest production rate at 66.2 units per 1,000 housing units; that rate was triple the housing production rate in the City of Portland (see below).

City of Portland #8

While the City of Portland had by far the highest NUMBER of units produced (6,256) *seven other cities had a higher RATE of production* than the City of Portland, which produced 21 units per 1,000 housing units.

Nonetheless, Portland had 28% [303,034] of the total housing units in the 2020 census in these 49 cities, but produced a larger 39% share of all units in 2020.

10 Cities Had a Housing Production Rate of More Than 20 Units Per 1,000 Housing Units

These 10 cities had 39 % [410,744] of the total housing units in the 49 cities in the 2020 census, but reported a **substantially higher 60% [9,635 units]** of total housing production in these 49 cities.

City	Census 2020 Housing Units	Units Produced in 2020	2020 Units Produced Per 1,000 Housing Units in 2020 Census	Rank
49 Cities	1,062,261	15,944	15.0	
Happy Valley	8,081	535	66.2	1
Redmond	13,262	814	61.4	2
Cornelius	3,684	152	41.3	3
McMinnville	13,257	395	29.8	4
Central Point	7,564	172	22.7	5
Dallas	6,890	155	22.5	6
Sandy	4,697	104	22.1	7
Portland	302,034	6,256	20.7	8
Bend	44,449	912	20.5	9
Canby	6,826	140	20.5	10
Courtesy, Oregon Housing Blog				

Tweets by
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Tom Cusack
[@oregonhousin](#)

Replying to
[@oregonhousing](#)

Work Schedule:
[oregon.gov/lcd/UP/Documen...](#)

Oct 24, 2021



Tom Cusack
[@oregonhousin](#)

Oregon Regional Housing Needs Analysis. Effort is ramping up, with first meeting on Oct 28.

Agenda:
[oregon.gov/lcd/UP/Documen...](#)

Landing page:
[oregon.gov/lcd/UP/Pages/H...](#)

Oct 24, 2021

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LINKS

2010 Census

(The last city reporting 2020 data, Hillsboro, ranked 19th with a production rate of 13 units per 1,000 housing units).

14 Cities Had a Housing Production Rate Below 5 Units Per 1,000 Housing Units

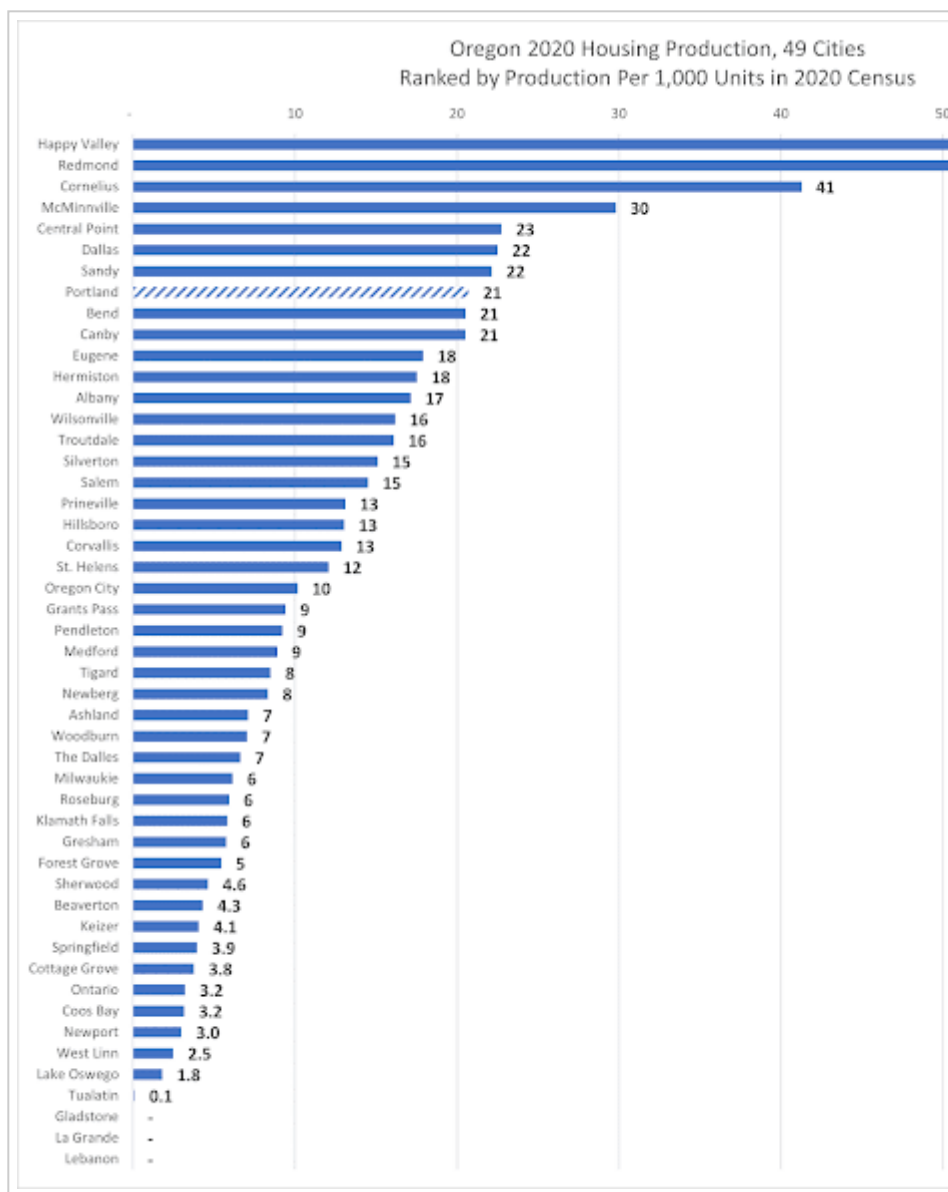
There were 14 cities where less than 5 units were produced for every 1,000 housing units, including *six cities* in the Portland metro area.

These cities had 16 % [170,923] of the total housing units in these 49 cities in the 2020 Census, but reported a much smaller 4.5% [721 units] of the total housing production in these 49 cities.

City	Census 2020 Housing Units	Units Produced in 2020	2020 Units Produced Per 1,000 Housing Units in 2020 Census	Rank
49 Cities	1,062,261	15,944	15.0	
Sherwood	7,132	33	4.6	36
Beaverton	42,288	182	4.3	37
Keizer	15,277	62	4.1	38
Springfield	25,614	101	3.9	39
Cottage Grove	4,251	16	3.8	40
Ontario	4,682	15	3.2	41
Coos Bay	7,611	24	3.2	42
Newport	5,697	17	3.0	43
West Linn	10,491	26	2.5	44
Lake Oswego	18,345	33	1.8	45
Tualatin	11,171	1	0.1	46
Gladstone	4,943	—	0.0	47
La Grande	5,852	—	0.0	47
Lebanon	7,569	—	0.0	47
Courtesy, Oregon Housing Blog				

Graph of 2020 Production Rate Per 1,000 Units for All 49 Large Cities:

75th FHA Anniversary Celebration
AARP Reverse Mtg. Calculator
Beaverton Civic Plan
Brookings Blueprint for Prosperity
Buy Oregon Bonds
C-SPAN Congressional Video Search
CALENDAR: Oregon Housing Blog
Center for American Progress
Conf.of State Banking Supervisors
Consider the Person Campaign
Consumer Law and Policy Blog
DATA.GOV
Excel OneDrive Public Files
FHA Mortgagee Letters
FHFA House Price [Change] Calculator
FICO Loan Savings Calculator
Financial Crisis Inquiry Commission
Foreclosure-Response.ORG
Front Porch Real Estate Blog (OregonLive)
GSE CY 2010 Access Databases
GSE CY 2010 Excel Files
HOPE NOW ALLIANCE
HUD RECOVERY Site
HUD Waivers: CY 2006-CY 2009
HUD Waivers: CY 2010-2014
HUD YouTube Channel
HUD YouTube Channel
Hardest Hit Plan Oregon Checklist
Hardest Hit Plan Submissions, First Round States.
Hardest Hit Plan Submissions, SECOND Round States.
Hardest Hit Plans, as APPROVED by Treasury
Home Forward YTD Board Packages



Courtesy, Oregon Housing Blog.

POSTED BY TOM CUSACK AT 10/19/2021 10:00:00 AM 

NO COMMENTS:

POST A COMMENT

- Housing Connections
- IRS Section Links
- Location Affordability Portal
- MCC OR Admin Rules
- METRO Housing Watch
- Making Home Affordable Plan
- Making Home
 - Affordable:Lender/Service
 - Guidance
- NY Times Buy vs. Rent
 - Calculator
- National Low Income Housing
 - Coalition
- National Mortgage News
- News Hour Making Sense-
 - Econ. Education
- Novogradac Podcasts
- OFA CY 2010 Meeting Packets
- OHCS Transition Plan
- ONLINE WSJ Mtg. Maps
- OR 2011 Legislative Measures-
 - "Housing" Search
- OTS Monthly Market Monitor
- OTS-Qtrly. Mortgage Metrics
 - Reports
- Oregon ABC Workgroup
- Oregon Acquisition Project
- Oregon Earmarks Blog
- Oregon HMDA 2011 Data
 - Summaries
- Oregon HUD Grantee
 - Spending Excel Lookup
- Oregon Homeownership
 - Stabilization Initiative
- Oregon Homeownership
 - Stabilization Program
- Oregon Housing Council
 - Materials
- Oregon Office of
 - Forecasting,Research and
 - Analysis
- Oregon Opport. Network
 - Newsletter
- Oregon Revenue Dpt: Stats
- Oregonian Front Porch RE
 - Blog

Oregonian Locked Out Series

Comments and Action

Items, June 2012

PDC YouTube Channel

Performance.Gov

Picture of GSE Assisted

Households, CY 2010

Portland Housing Blog

Portland Metro Asking Prices

Portland Metro REO (Beta)

Portland Metro SF Sales Data

Recovery Act: Competitive

Grant Opportunities

RegInfo.gov

Seattle PI Real Estate

News/Blog

State Homebuyer Tax Credit

Programs

States Internet Research

(Housing)

Street Roots

Subsidyscope

TARP Docs

Tom Cusack Cancer Update

USA Spending.gov

Voucher VMS Data, US and

Oregon: CY 2009-CY2012

White House.GOV

Zillow Downloadable Data

ABOUT ME



TOM CUSACK

On Independence Day in 2007 I retired after 34 years of federal

service at HUD, the last 10 as the Field Office Director in Portland Oregon. My primary blog is the Oregon Housing Blog.

[VIEW MY COMPLETE PROFILE](#)

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Figure C-20.
Change in Median
Gross Rent, All
Renter-Occupied
Units, Urban and
Rural Cities, 2012
and 2017

Note:
Includes all types of renter-occupied units, including multifamily and single-family units.

Source:
2012 and 2017 5-year
American Community Survey
(ACS).

	2012	2017	2012 to 2017 Change	
			#	%
Banks (Rural)	\$869	\$1,184	\$315	36%
Beaverton	\$935	\$1,172	\$237	25%
Cornelius	\$920	\$925	\$5	1%
Durham	\$844	\$1,076	\$232	27%
Forest Grove	\$756	\$900	\$144	19%
Gaston (Rural)	\$627	\$970	\$343	55%
Hillsboro	\$1,034	\$1,249	\$215	21%
King City	\$984	\$997	\$13	1%
North Plains (Rural)	\$939	\$958	\$19	2%
Sherwood	\$1,212	\$1,427	\$215	18%
Tigard	\$920	\$1,094	\$174	19%
Tualatin	\$975	\$1,154	\$179	18%
Washington County	\$961	\$1,183	\$222	23%

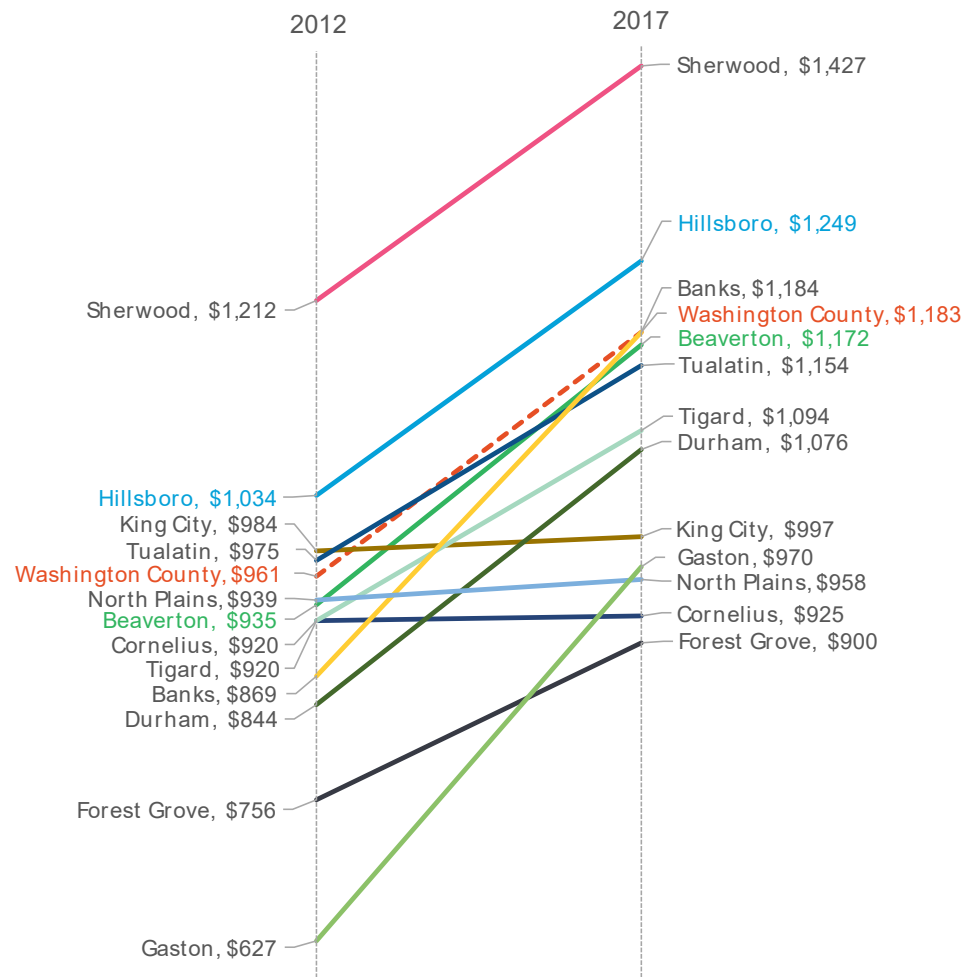
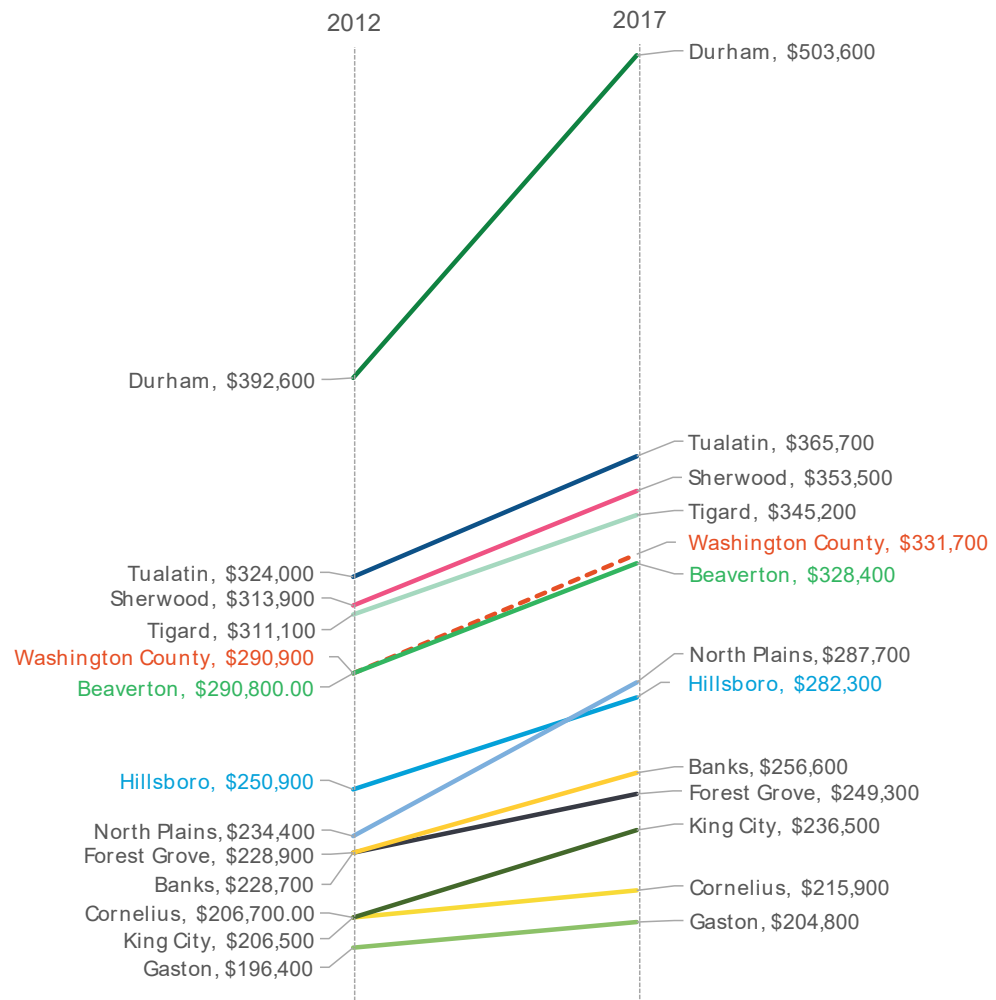


Figure C-22.
Change in Median
Home Value, All
Owner-Occupied
Units, Urban and
Rural Cities, 2012
and 2017

Note:
Includes all types of owner-occupied units, including single-family detached and attached units.

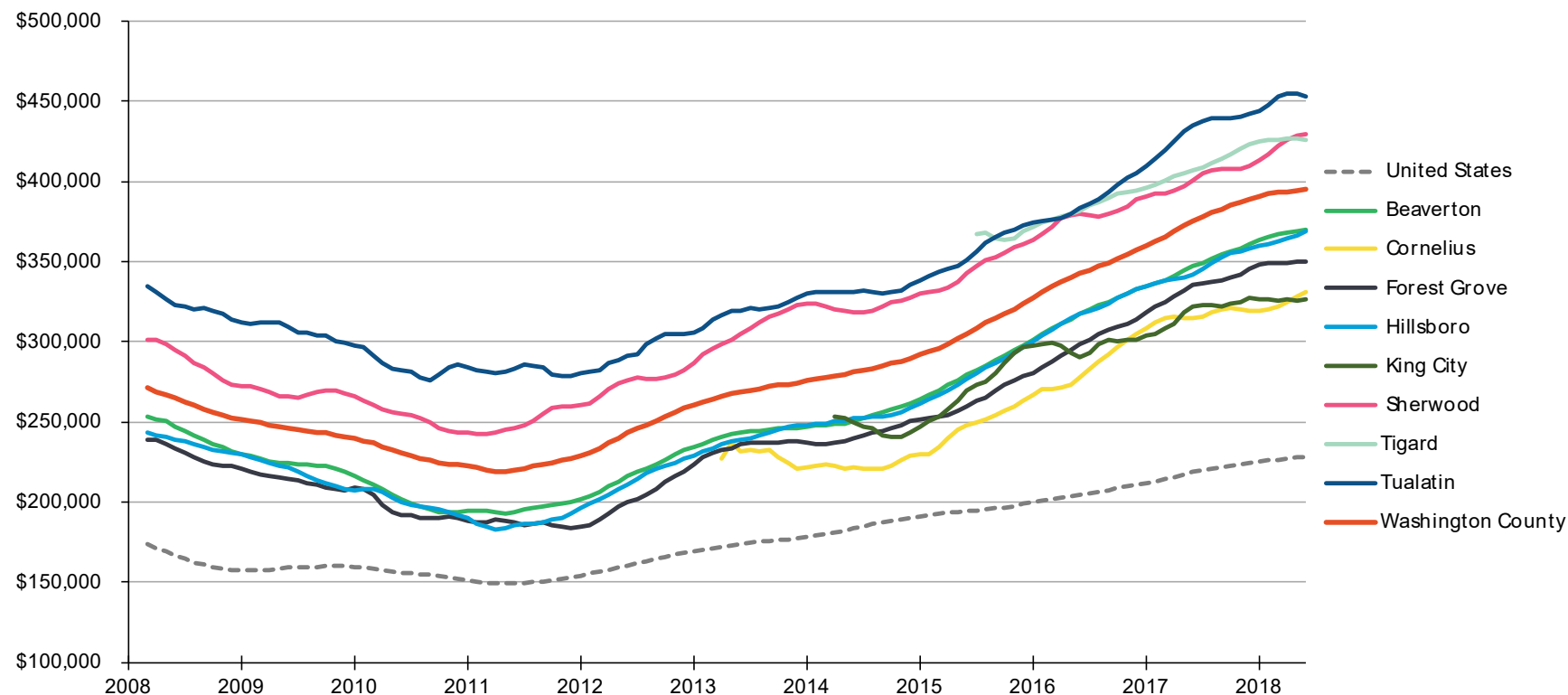
Source:
2012 and 2017 5-year
American Community
Survey (ACS).

	2012	2017	2012 to 2017 Change	
			#	%
Banks (rural)	\$228,700	\$256,600	\$27,900	12%
Beaverton	\$290,800	\$328,400	\$37,600	13%
Cornelius	\$206,700	\$215,900	\$9,200	4%
Durham	\$392,600	\$503,600	\$111,000	28%
Forest Grove	\$228,900	\$249,300	\$20,400	9%
Gaston (rural)	\$196,400	\$204,800	\$8,400	4%
Hillsboro	\$250,900	\$282,300	\$31,400	13%
King City	\$206,500	\$236,500	\$30,000	15%
North Plains (rural)	\$234,400	\$287,700	\$53,300	23%
Sherwood	\$313,900	\$353,500	\$39,600	13%
Tigard	\$311,100	\$345,200	\$34,100	11%
Tualatin	\$324,000	\$365,700	\$41,700	13%
Washington County	\$290,900	\$331,700	\$40,800	14%



Among all communities, sale prices decreased after the Great Recession, but started to recover in mid-2011. As of May 2019, home sale prices have surpassed post-recession prices. Currently, Tualatin has the highest median sale price and King City has the lowest.

Figure C-25.
Median Home Sale Price, 12-Month Rolling Average, 2008 to 2019 (YTD)



Note: Data for 2019 is year to date (through May). Historical sale data for Cornelius, King City, and Tigard is not available for all years. Zillow does not provide home sales data for Aloha, Banks, Durham, Gaston, or North Plains.

Source: Zillow.

Objection to Metro Council Ordinance 24-1520

I am writing to object to the Metro Council adopted Ordinance 24-1520, an amendment to the Metro regional UGB that adds approximately 1,291 acres of land to the Urban Growth Boundary (UGB) in the Sherwood West planning area, for housing and employment purposes.

In response to the 12/19/24 email I received from Stacy Coonfield, Legal Assistant, Office of Metro Attorney:

1. I participated in the UGB amendment process when I submitted a comment in writing to Metro.
2. My objection is described below.
3. The specific changes that would resolve my objection is to defer all or part of the expansion of the UGB, and for the Metro Council to exercise their latitude to take other measures to encourage re-development that better aligns with Oregon land use laws as well as Oregon's rules, policies, plans, regulations to address the environmental crisis.

Initially, an overarching objection. I think the burden of proof has not been satisfied - that expanding the UGB advances the health, safety, and welfare of the citizens. I should not be required to substantiate the opposite. Government organizations have tremendous resources; I have limited time and resources and cannot provide a sophisticated legal brief to gain traction on this impactful UGB proposal. Given some of the unprecedented changes (well reported in the news for years) underway - an order-of-magnitude-dramatic increase in remote work and the need to reimagine uses for malls and dozens of commercial buildings – to name only two - why would local, regional, and state governments rush to expand the UGB? Given Metro's own statements/analysis (see below) and the state's decades long policies to limit sprawl (the job of Department of Land Conservation and Development) the reasonable conclusion of the process to date is to *not rush into consuming more rural land for suburbia.*

Second, is the UGB expansion justified and what problem will be solved by Ordinance 24-1520?

- **Is 'Metro-forecasted housing growth estimate problem' being solved?**
 - **No.**
 - Under Oregon state land use law, urban growth management decisions focus on whether there is an identified regional need to add land to the UGB for forecasted housing.¹
 - According to analysis performed by Metro: "Analysis conducted for the draft Urban Growth Report revealed that there is likely room to

¹ 2024 Urban Growth Report Executive Summary, Metro, December 5, 2024

accommodate most, if not all, of the region's existing and future housing needs inside the existing UGB for the next 20 years.”²

- Since the analysis concluded there is no identified regional need, Ordinance 24-1520 is a violation of the Oregon State Land Use laws reference.
- **Is there a ‘shortage of housing problem’ to be solved?**
 - **No**
 - 99.9% of Oregonians have housing. Oregon has around 20,000 people experiencing homelessness, 13,000 unsheltered (on the streets or in homeless shelters) and 7,000 sheltered.³ With a population of 4.2 million people, 99.9% of Oregonians have housing.
 - In Oregon today, apartments have vacancies and houses require 4-6 weeks to sell in the “strong market” locations. A lack of available home options is not the problem for the tiny fraction of unhoused Oregonians. By and large there are not unhoused people with financial means and strong credit reports waiting for homes. There are homes available waiting for people with financial means to live there within the existing UGB.
 - There is no analysis that adding market priced homes to a suburb 20+ miles outside of Portland will bring relief to the unhoused.
 - Thus the “expand the UGB to address homelessness” rhetoric used to support the Ordinance fails a logical analysis.
- **Is there a ‘high cost of housing problem’ that will be solved**
 - **No.**
 - **Adding the number of homes in the Sherwood proposal (~3,000 market priced homes, less than 1% increase to the housing inventory) to a suburb 20+ miles outside of Portland will neither change the financial dynamic of the real estate market nor bring relief to the unhoused.**
 - Oregon is part of the large west-coast marketplace. This has been true for decades. Indeed, this was a catalyst for Senate Bill 100 75-years ago. For those desirous to live on the west coast, Portland (and many other locations) is the affordable spot relative to most alternatives (LA, San Diego, Bay Area, and Puget Sound).⁴ People move to Oregon because the State is attractive and relatively affordable. This a well-known, decades-long trend that increased given the recent jump in remote work.
 - There are about 1.9 million homes in the state.⁵ There are likely another ~100,000 homes (for people whose lives are centered in Oregon) a short drive from Oregon.... in Clark County, and across the Snake and Columbia Rivers.
 - There is no analysis that the Sherwood proposal (~ 3,000 primarily market rate) homes, an addition of less than 1% to the Oregon housing inventory will do nothing to change the supply/demand dynamic to bring down prices

² Ibid

³ January 2023 Point In Time count

⁴ nerdwallet.com Cost of Living Calculator

⁵ US Census Bureau, Quick Facts

in the State. Thus the “expand the UGB to reduce the cost of housing” rhetoric used to support the Ordinance fails a logical analysis.

-
- **Is there a lack of land for growth and is this a problem to be solved?**
 - **No.**
 - **According to analysis performed by Metro staff, there is not necessarily a lack of space.** “While there is a housing crisis nationally and, in our region, it is not clear that shortage is caused by a sheer lack of space for additional housing to be built.”⁶
 - “Analysis conducted for the draft Urban Growth Report revealed that **there is likely room to accommodate most, if not all, of the region’s existing and future housing needs inside the existing UGB for the next 20 years.**”⁷
 - “The Urban Growth Report analysis shows a regional surplus of 3,930 acres of industrial land to accommodate expected industrial job growth under the most likely (baseline) forecast. **“There is a small surplus even under a high growth employment forecast.”**⁸
- **Conclusion**⁹
 - Metro approved expanding the UGB¹⁰ despite their own professional analysis, and extensive months-long review process showing adequate land available inside the UGB. There is no urgent justification to expand Sherwood further to the west.
 - “Metro Council has latitude to determine there is a need to add the Sherwood West urban reserve to the UGB or to take other measures to encourage redevelopment.”¹¹
 - **“Under Oregon state land use law, urban growth management decisions focus on whether there is an identified regional need to add land to the UGB for forecasted housing and jobs growth.**¹²
 - **Not agreeing with their own analysis, does not create an identified regional need to expand the UGB now.**
 - Since the analysis concluded there is no identified regional need, Ordinance 24-150 is a violation of the Oregon state land use laws reference by Metro.
 - 75 years ago Senate Bill 100 (and others) established a core-principle That Oregon state land use laws delay expanding the UGB until a clear need is established.
 - Fundamentally, government actions must improve the health, safety, and welfare of the public. There is no analysis that Ordinance 24-1520 meets this test.

⁶ 2024 Urban Growth Report Executive Summary, Metro, December 5, 2024

⁷ Ibid

⁸ Ibid

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

- Given the Metro analysis, there is no urgent need to decide to expand the UGB now. The alternative they identify in their own documents, to take other measures to encourage re-development (while monitoring the uncertain factors in their forecast), is arguably the less risky course of action and aligned with Oregon land use laws and the requirement to deliver health, safety, and welfare to the public.
- Environmental crisis - while likely viewed as a tangential issue, it cannot be ignored, indeed, considering the health, safety, and welfare of all, should be the litmus test for actions such as Ordinance 25-1520.
 - There is an extremely well documented environmental crisis underway; often referred to as an existential threat to the biosphere of all life on earth. Oregon has rules, policies, and goals to address the Environmental Crisis.¹³ In the absence of a net-zero Sherwood masterplan, from decades of experience with millions of sprawling suburbs like Sherwood, this UGB expansion is guaranteed to add greenhouse gas – counterproductive to meeting state objectives.
 - Oregon cannot expect to mitigate the Environmental Crisis with suburban development designs used the last several decades that contributed greatly to causing the crisis. Expanding the UGB is a self-defeating step – creating more greenhouse gasses when State directives say we need to do the opposite. Ordinance 24-1520 violates the environmental goals¹⁴ of the State. It's a problem generator not a solution.

(not indented)

Thank you for considering my objection.

Daniel Hoyt
4242 SE Gladstone St
Portland, OR 97206

¹³ <https://www.opb.org/article/2024/04/01/oregon-greenhouse-gas-climate-change-legislation-protection-program/>

¹⁴ Ibid, see goals, policies, and rules listed in this article.



HATHAWAY LARSON

Koback · Connors · Heth

January 9, 2025

VIA EMAIL (DLCD.PR-UGB@dlcd.oregon.gov)

Attention: Periodic Review Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301
E-mail: DLCD.PR-UGB@dlcd.oregon.gov

Re: Metro's 2024 UGB Amendment
Ordinance No. 24-1520
DLCD Objections
My Client: David Marks

To whom it may concern:

This firm represents David Marks, who owns property in the Stafford area that is part of Metro's urban reserves area. Pursuant to OAR 660-025-0140, Mr. Marks is submitting these objections to the Department of the Land Conservation and Development ("DLCD") regarding Metro Council's adoption of Ordinance No 24-1520, which amends the Metro regional Urban Growth Boundary ("UGB").

OAR 660-025-0140(2) provides that persons who participated orally or in writing in the local process leading to Metro's adoption of Ordinance No. 24-1520 may object to Metro's decision by filing objections with DLCD. To be valid, the objections must: (a) be in writing and filed with the DLCD no later than 21 days from the date Metro sent notice of its decision pursuant to OAR 660-025-0140(1); (b) clearly identify an alleged deficiency in Metro's decision sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated; (c) suggest specific revisions that would resolve the objection; and (d) demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision. OAR 660-025-0140(2). Mr. Marks submits the following in response to these requirements for objections.

A. The objections have been submitted no later than 21 days from the date of Metro's notice.

Metro issued the Notice of Urban Growth Boundary Amendment, Metro Council Ordinance No. 24-1520, as required under OAR 660-025-0140(1), on December 19, 2024. Mr. Marks filed

E. Michael Connors
1125 NW Couch Street, Suite 550
Portland, OR 97209
mike@hathawaylarson.com
(503) 303-3111 direct
(503) 303-3101 main

these objections on January 9, 2025, within 21 days of Metro's notice. Therefore, these objections comply with OAR 660-025-0140(2)(a).

B. The objections clearly identify an alleged deficiency in Metro's decision sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated.

Mr. Marks submits the following three objections to Ordinance No. 24-1520 and Metro's decision to amend the Metro regional UGB. Before addressing the specific objections, it is important to summarize Metro's obligations with respect to the Metro regional UGB amendment process.

Metro is responsible for coordinating land use planning in the tri-county region consisting of Clackamas, Multnomah and Washington County. ORS 195.025; ORS 268.380(1)(c); ORS 268.385. One of Metro's primary responsibilities is the adoption and management of the Metro regional UGB to ensure that the metropolitan regional housing and employment needs can be met. ORS 268.380-268.390; *Marks v. LCDC*, 327 Or App 708, 712-713, 536 P3d 995 (2023); *Sensible Transportation v. Metro. Service Dist.*, 100 Or App 564, 567, 787 P2d 498, rev. den., 310 Or. 70, 792 P2d 104 (1990). The Court of Appeals has repeatedly stated that in assigning Metro the responsibility for justifying, adopting, and securing acknowledgment of the metropolitan area UGB, the Oregon Legislative Assembly "presumably determined adoption and administration of the metropolitan area UGB required Metro's unique regional perspective, rather than leaving adoption and administration of the UGB to the large number of cities and counties making up the metropolitan area." *Marks*, 327 Or App at 712-713; *Sensible Transportation*, 100 Or App at 567. (Emphasis added).

As part of its UGB-related responsibilities, Metro is required to conduct a review of the metropolitan area UGB every six years to ensure that it continues to maintain a 20-year supply of urbanizable land within the UGB. ORS 197.299. Metro adopted Ordinance No. 24-1520 as part of its six-year review of the UGB. With respect to housing, Metro must demonstrate that its regional plan has "sufficient buildable lands within the urban growth boundary . . . to accommodate estimated housing needs for 20 years." ORS 197.296(2). Metro's needs analysis must be supported by substantial evidence. *City of West Linn v. LCDC*, 201 Or App 419, 440, 119 P3d 285 (2005). If Metro determines that the land supply is inadequate, it must expand the UGB or take other measures to ensure that the identified need can be accommodated. ORS 197.296(6); ORS 197.299(2); *Marks*, 327 Or App at 713.

In considering where to expand the UGB, Metro's analysis must comply with Goal 14, which includes four "boundary location" factors that Metro must consider when determining which urban reserve land to add to the UGB. Goal 14; *Marks*, 327 Or App at 713. The four boundary location factors are: "(1) [e]fficient accommodation of identified land needs; (2) [o]rderly and economic provision of public facilities and services; (3) [c]omparative environmental, energy, economic and social consequences; and (4) [c]ompatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB." *Id.* A decision to add land to the UGB must compare alternative areas based on a balancing of all these factors, rather than reliance on any one factor. *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 17, 38

P3d 956 (2002); *1000 Friends of Or. v. Metro*, 174 Or App 406, 409–410, 26 P3d 151 (2001); *D.S. Parklane Dev., Inc. v. Metro*, 165 Or App 1, 25, 994 P2d 1205 (2000).

Metro’s Regional Framework Plan (the “RFP”) provides Metro’s process and requirements for planning new urban reserve areas. Metro Code (“MC”) Chapter 3.07, Title 11. The purpose of the RFP is to implement Metro’s regional goals and objectives in a uniform and consistent manner throughout the region. MC 3.07.010; MC 3.07.020. Metro is obligated to ensure the urban reserves are timely planned to accommodate the regional growth and housing needs. ORS 195.145(4); OAR 660-027-0070(9).

MC 3.07.1425 sets forth the “factors and criteria for amendment of the UGB.” One of those factors includes “whether the area has been concept planned,” but it is certainly not the sole factor. MC 3.07.1425(d)(2). The RFP requires cities and counties to develop concept plans for future urban development of urban reserves areas “in conjunction with Metro” and requires the date for completion of the concept plans to be “jointly determined by Metro and the county and city or cities.” MC 3.07.1110(a). MC 3.07.1110(e) provides an exception to the general requirement that concept planning occur before land is added to the UGB. If Metro and the city are unable to reach agreement on the date for completion of the concept plan, “the Metro Council may nonetheless add the area to the UGB if necessary to fulfill its responsibility under ORS 197.299 to ensure the UGB has sufficient capacity to accommodate forecasted growth.” MC 3.07.1110(e).

Metro failed to comply with these requirements as part of its 2024 UGB amendment process in adopting Ordinance No. 24-1520 in three major ways. First, Metro erred by refusing to consider any urban reserve areas for inclusion in the 2024 UGB amendment unless a local jurisdiction provided a concept plan for that area. Second, Metro erred by only considering the Goal 14 boundary location factors after it had determined that it would limit its consideration to the Sherwood West area because that was the only urban reserve area for which Metro received a concept plan. Third, Metro’s housing and employment needs analysis is an outcome-driven determination designed to justify Metro’s decision to limit its consideration to the Sherwood West proposal and is not supported by substantial evidence.

1. Metro erred by refusing to consider any urban reserve areas for inclusion in the 2024 UGB amendment unless a local jurisdiction provided a concept plan for that area.

In *Marks*, the Court of Appeals specifically addressed the role of a concept plan in determining which urban reserve land to add to the UGB. Although the Court noted that Metro can consider a concept plan as one of the components affecting its decision, the Court concluded that Metro cannot base its decision solely on the existence of a concept plan under Goal 14.

The Court concluded that in considering where to expand the UGB, Metro’s analysis must comply with Goal 14 and the four “boundary location” factors. *Marks*, 327 Or App at 713. A decision to add land to the UGB must compare alternative areas based on a balancing of all these factors, rather than reliance on any one factor. *Id.*; *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 17 (2002); *1000 Friends of Or. v. Metro*, 174 Or App 406, 409–410 (2001); *D.S. Parklane Dev., Inc. v. Metro*, 165 Or App 1, 25 (2000).

The Court emphasized that Goal 14 and the implementing statutes and the administrative rules do not even reference a “concept plan,” and certainly do not require a concept plan as a prerequisite to inclusion in the UGB. *Id.* at 714. Metro’s policy for requiring a concept plan as a prerequisite for inclusion in the UGB is based solely on the Metro Code (“MC”), but the Metro Code cannot override the requirements under Goal 14, the statutes and the administrative rules. Additionally, the Metro Code only lists a concept plan as one of the factors to consider in amending the UGB and there are exceptions to concept planning requirements. *Id.*; MC 3.07.1425(c) & (d); MC 3.07.1110(a) & (e).

The Court concluded that Metro cannot avoid the Goal 14 requirement to study all urban reserve lands for inclusion in the UGB based solely on the lack of a concept plan. *Id.* at 715-716. The Court explained: “Metro cannot use the concept plan requirement [in MC 3.07.1110] to avoid the requirement of Goal 14 that it study all urban reserve lands, including the Stafford Area, for inclusion in the Metro UGB at the time of a UGB expansion analysis, and analyze such lands using the four factors for such an analysis found in Goal 14.” *Id.* at 737. If Metro identifies a need for additional land in the UGB to accommodate the regional need for housing and employment, it must determine which land to add by evaluating alternative urban growth boundary locations consistent with the boundary location factors of Goal 14. OAR 660-024-0060(1); *Id.* at 725. Metro must balance the boundary location factors of Goal 14 for all of the urban reserves areas and determine the UGB boundary location based on all the relevant factors. OAR 660-024-0060(3). Metro cannot use the concept plan requirement in MC 3.07.1110 to avoid the Goal 14 requirement that it study all urban reserve lands for possible inclusion in the Metro UGB. *Marks*, 327 Or App at 737.

Metro made it clear from the beginning and throughout the 2024 urban growth process that the only urban reserve areas it was willing to consider and did in fact consider for inclusion in the UGB are those areas for which a local jurisdiction provided a concept plan. The 2024 Urban Growth Management Decision: Metro Chief Operating Officer/Staff Recommendations, dated August 26, 2024 (the “Draft 2024 Report”), explained the approach as follows:

Today, the greater Portland region is facing a housing shortage crisis. In addition, there is agreement across the region that attracting more family-wage industrial jobs will help our communities thrive. However, it is also clear that simply providing more land won't necessarily result in jobs and housing. Experience has shown that certain conditions must be in place to ensure that UGB expansion areas produce housing and jobs in a near term time frame. Time and time again we have seen that development occurs successfully where there is a commitment from city leaders and community members, where there is a plan for paying for needed infrastructure, and where there is market demand. If these ingredients aren't present, new urban growth is extremely slow if it happens at all.

For those reasons, in 2010 the Metro Council adopted a policy to only expand the UGB into urban reserve areas that have been concept planned by a local government and that demonstrate readiness to be developed. In the current 2024 UGB cycle, the City of Sherwood is the only city that has prepared a concept plan and proposed a UGB expansion, and they have shown that these elements are in place. Sherwood’s

readiness for new urban growth provides an opportunity to address the regional land needs identified in the draft 2024 Urban Growth Report (UGR).

Consequently, Metro staff recommend that the Metro Council consider expanding the UGB to include the Sherwood West urban reserve. Staff further recommend that the Council consider placing conditions on this expansion to ensure that the land is used efficiently and will support regionally identified needs. These conditions could reinforce the City of Sherwood's concept plan for the expansion area by improving housing affordability and protecting industrial lands so that they produce well-paying jobs in the manufacturing sector. Draft 2024 Report, p.1-2. (Emphasis added).

The Metro staff issue statement that accompanied the Draft 2024 Report, dated August 20, 2024, confirmed that Metro only considered urban reserve areas for which a local jurisdiction had completed a concept plan: "To ensure that areas added to the UGB are ready for growth, it is the Metro Council's policy to only expand the UGB in urban reserves that have been concept planned by a city or a county." Metro Staff Issue Statement, p.2.

Metro's policy of only expanding the UGB into urban reserve areas that have been concept planned by a local government is the reason that Metro only considered the Sherwood West urban reserve area for inclusion in the UGB. That is why the Draft 2024 Report did not analyze the Goal 14 boundary location factors or address any of the other urban reserve areas.

The final 2024 Urban Growth Report, dated December 5, 2024 (the "2024 Urban Growth Report") confirmed that this Metro policy is the underlying reason why Metro only considered the Sherwood West area for inclusion in the UGB. The 2024 Urban Growth Report explained:

Since 2010, it is the Metro Council's policy to only expand the UGB into urban reserves that have been concept planned by a local jurisdiction. Metro provides grant funding for cities seeking to complete concept plans for urban reserves. Title 11 of Metro code lays out concept planning requirements.

* * * * *

For the 2024 growth management decision, one city, Sherwood, has proposed a UGB expansion in the Sherwood West urban reserve. 2024 Urban Growth Report, p.9-10. (Emphasis added).

Since Sherwood was the only Metro local jurisdiction to provide a concept plan, Metro only considered the area Sherwood West area proposed for expansion.

Metro's Findings of Fact and Conclusions of Law (Appendix F) supporting Ordinance No. 24-1520 also confirmed that Metro's consideration of urban reserve areas for inclusion in the UGB was limited to those areas that have been concept planned by a local jurisdiction. Metro's Findings of Fact and Conclusions of Law clearly explain this policy:

In 2010, the Metro Council adopted a policy of taking an outcomes-based approach to future growth management decisions. This policy is based in part on Metro's experience with prior UGB expansions into areas where there was no existing plan for governance, development, or financing of needed infrastructure; unfortunately, those areas have often failed to develop. The history of Metro UGB expansions over the last 20 years clearly demonstrates that land readiness is more important than land supply for addressing housing needs and job growth. In order to increase the likelihood that development will actually occur in new UGB expansion areas, Metro now requires advance planning for areas that cities want to annex and urbanize. In 2010, Metro adopted amendments to Title 11 of the Urban Growth Management Functional Plan requiring cities to adopt concept plans for urban reserve areas prior to those areas being added to the UGB.

* * * * *

This 2024 UGB decision is the second application of Metro's new approach to UGB expansions. Consistent with the directives of the Task Force and the Metro Council, in 2017 Metro staff created a process where interested cities may submit proposals for UGB expansions. In 2018, four cities submitted proposals; however, in 2024 only the City of Sherwood submitted a concept plan proposal to Metro by the May 31, 2024 deadline. Appendix F, p.1-2. (Emphasis added).

Metro is legally obligated to base its UGB expansion decision on Goal 14 and the implementing statutes and the administrative rules. Goal 14 and the implementing statutes and the administrative rules do not even mention the concept plan factor, and certainly do not permit Metro to limit its UGB amendment decision to this sole factor. Although MC 3.07.1425 provides that a concept plan can be one of the factors to consider as part of Metro's UGB amendment process, it is not the sole factor and MC 3.07.1425 does not permit Metro to limit its consideration to urban reserve areas that have been concept planned. MC 3.07.1425(d). In *Marks*, the Court concluded that Metro cannot avoid the Goal 14 requirement to study all urban reserve lands for inclusion in the UGB based solely on the lack of a concept plan. *Id.* at 715-716.

The 2024 UGB amendment process that led to Ordinance No. 24-1520 clearly did not comply with these Goal 14 requirements or MC 3.07.1435. The Goal 14 compliant approach, which Metro used for decades until it abandoned this approach in 2018, requires Metro to: (1) first determine the need to add land to the UGB to address the 20-year housing and employment needs; and (2) second determine where that expansion should occur to best accommodate those needs using the Goal 14 boundary location factors. *See also* MC 3.07.1435(b) & (c). For the 2024 UGB amendment decision, Metro took the opposite approach. First, Metro adopted a formal policy and publicly announced up front that it will only consider urban reserve areas for including in the UGB if a local jurisdiction requests inclusion and submits a concept plan. Since the City of Sherwood was the only local jurisdiction to do so for 2024 and did so for a relatively small area, Metro limited its consideration to the City of Sherwood's proposal and was forced to justify a limited expansion of the UGB by adopting lower growth and housing need models. As Metro admitted in its findings, it is an "outcome driven process" designed to limit UGB expansions to concept planned areas. Appendix F, p.1.

By taking this approach, Metro is effectively abandoning its obligation under Goal 14 and the implementing statutes and the administrative rules to take a regional approach to Metro UGB expansion decisions and abdicating its authority to the individual local jurisdictions. As the Court explained in *Marks*, the Oregon legislature granted Metro the authority to administer the regional UGB because it “required Metro’s unique regional perspective, rather than leaving adoption and administration of the UGB to the large number of cities and counties making up the metropolitan area.” *Marks*, 327 Or App at 712-713. Metro’s policy of allowing local jurisdictions to determine when and where the UGB expansion occurs by only considering areas that are concept planned by a local jurisdiction is the opposite of that legislative directive and process. Metro is allowing the local jurisdictions to dictate when and where the regional UGB expansions will occur, effectively abdicating its authority over UGB expansions to the cities in contravention of the legislature’s intent.

If DLCD does not reject Metro’s approach and require Metro to use a regional UGB amendment process that complies with Goal 14 and the implementing statutes and the administrative rules, the Metro regional housing and employment needs will be subject to the whims of local jurisdictions for the foreseeable future. What happens if the Metro regional housing and employment needs outpace the number of local jurisdictions interested and willing to provide a concept plan? What happens if no local jurisdiction submits a concept plan in the next six-year review process? What happens if there is a significant need for more housing and employment opportunities in a particular area of the Metro region but none of the surrounding local jurisdictions submit a concept plan? Allowing local jurisdictions to dictate when and where the Metro UGB expansion occurs is not only inconsistent with *Marks*, Goal 14 and the implementing statutes and the administrative rules, it is a recipe for disaster that will significantly constrain our ability to meet the housing and employment needs of the Metro region for decades to come.

2. Metro erred by only considering the Goal 14 boundary location factors at the end of the process after it had already determined that it would limit its UGB expansion consideration to the Sherwood West area.

Mr. Marks submitted written comments to Metro regarding the Draft 2024 Report on July 23, 2024 and testified at the September 26, 2024 Metro Council public hearing for this matter, raising the issues and arguments noted in Section B.1 above. One of the issues Mr. Marks highlighted in his comments was the fact that the Draft 2024 Report clearly does not comply with the Goal 14 boundary location factors because the report doesn’t even mention the Goal 14 boundary location factors, let alone address them. Since Metro only considered the Sherwood West area, Metro had no reason or basis for considering the Goal 14 boundary location factors as it already limited its consideration to the Sherwood West area. The same is true with respect to the final 2024 Urban Growth Report – there is not a single reference to Goal 14 or the Goal 14 boundary location factors.

Recognizing this major flaw in Metro’s process, Metro staff attempted to compensate for this deficiency by drafting a Goal 14 boundary location factors analysis (Appendix 7) and supplementing the 2024 Urban Growth Report with this analysis at the last minute. Although Appendix 7 purports to comply with the Goal 14 boundary location factor requirements, it is an after-thought designed to give the mere appearance that Metro followed the required process. Appendix 7 was drafted in late October of 2024, well over a year after Metro commenced the 2024

Urban Growth Report process, months after the public comment period expired and a month after the September 26 public hearing. Appendix 7 is Metro's first and only analysis of the Goal 14 boundary location factors. Metro cannot credibly claim that this last-minute addition in response to a legal issue raised by an objecting party is sufficient to address the Goal 14 requirements. Metro's attempt to cover up this flaw in its decision by adopting Appendix 7 after-the-fact is both transparent and wholly inadequate.

The Goal 14 boundary factors should have been one of the first things Metro evaluated in this process to determine where the need for a UGB expansion is greatest and best served. That is precisely why MC 3.07.1435 requires Metro to first "determine whether there is a need to amend the UGB" and second "[i]f the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB." MC 3.07.1435(b) & (c). As the Court explained in *Marks*, Metro must consider the Goal 14 location factors when determining which urban reserve land to add to the UGB. *Marks*, 327 Or App at 713. After Metro determines the 20-year housing and employment needs of the region, the Goal 14 location factors should have been the criteria Metro used to evaluate *where* to expand the UGB to meet these regional needs.

Instead, Metro took the opposite approach. Metro's policy of limiting UGB expansions to those urban reserve areas that have been concept planned by a local government meant that Metro pre-determined where the UGB can be expanded before the process even started. Since the City of Sherwood was the only local jurisdiction to submit a concept plan, the City of Sherwood decided where to expand the UGB. The Goal 14 location factors are irrelevant under this outcome driven process if Metro is only willing to consider areas that are concept planned. Not only did this approach violate Goal 14, but it forced Metro to adopt lower growth rate projections to justify this outcome driven approach as explained in Section B.3 below.

Appendix 7 itself makes it clear that Metro's concept plan policy is the determining factor and the boundary factors analysis is designed to give the appearance of compliance with Goal 14. It acknowledged that Metro's UGB expansion approach is an "outcome-based approach" based on the concept plan requirement.¹ For Factor 1, Appendix 7 acknowledged that "the primary consideration in evaluating whether an urban reserve could efficiently accommodate an identified land need is whether it has an adopted concept plan under Title 11 of Metro's Urban Growth Management Functional Plan." Appendix 7, Introduction and Methodology, p.6. For Factor 2, Appendix 7 noted that a key consideration is "[w]hether there is a locally-adopted concept plan for the expansion area"

¹ Appendix 7A acknowledges: "The equitable distribution aspect of this factor is intended to help ensure that housing and employment opportunities are shared equitably throughout the region, and not always clustered entirely in one location. However, this goal has generally been given the least amount of weight in deciding where to expand the UGB, largely due to the policy shift undertaken at the direction of the regional Urban Growth Readiness Task Force to apply an outcomes-based approach to growth management decisions considering specific UGB expansion proposals submitted by cities. That policy shift also resulted in amendments to the Metro Code that place an emphasis on choosing locations for UGB expansions where there is a city that has an adopted concept plan for a possible expansion area and, thereby, demonstrates greater readiness to do more detailed comprehensive planning for that area, to annex it, and ultimately to regulate its urbanization." Appendix 7A, p.5. (Emphasis added).

and concluded that “[o]nly one urban reserve, the Sherwood West Urban Reserve, has a locally-adopted concept plan.” Appendix 7, Introduction and Methodology, p.7 & 11.

Metro’s evaluation of every urban reserve area except for the Sherwood West area includes the following statement: “Prior to land being included in the UGB, a more detailed concept plan, consistent with the requirements of Metro’s Urban Growth Management Functional Plan Title 11, is required.” See e.g. Appendix 7, Part 1, Beaver Creek Bluffs Urban Reserve, p.9. For the Sherwood West area, Metro stated the following:

As noted in the Introduction and Methodologies section of Appendix 7, as well as in Attachment 3, the Sherwood West Urban Reserve is the only urban reserve to have an adopted concept plan for its future urbanization. Having this concept plan significantly increases the likelihood that the reserve will actually develop and be able to efficiently provide residential and employment land opportunities within a reasonable timeframe. Appendix 7, Part 2, Sherwood West Urban Reserve, p.2.

Metro relied heavily on the Sherwood West concept plan throughout its evaluation of this urban reserve area.

Metro ruled out consideration of the Borland, Rosemont and Stafford urban reserve areas because of a 2019 inter-governmental agreement (the “Three-Party IGA”) between the cities of Lake Oswego, Tualatin, and West Linn that prohibits any of those cities from completing a concept plan until December 31, 2028. Appendix 7, Attachment 2. As part of the *Marks* case, Mr. Marks is challenging this Three-Party IGA and a Five-Party IGA that preceded it on the grounds that these IGAs violate Goal 14 and Metro’s RFP because they grant the cities the unilateral authority to dictate the timing of UGB expansion in this area by giving them complete control over the timing of the concept plan.

Appendix 7 provides scores for the Goal 14 factors for each area, but neither Appendix 7 nor the 2024 Urban Growth Report explain how Metro weighed these various scores other than to make clear that the concept plan is the predominate factor. For example, the Bendemeer, Brookwood Parkway, Grahams Ferry, Holly Lane-Newell Creek Canyon, Rosa, Sherwood North and Wilsonville Southwest urban reserve areas all received comparable or better overall scores than the Sherwood West area. Appendix 7, Attachment 3. Metro does not explain why it concluded that Sherwood West is the best, better or only candidate when so many other urban reserve areas had similar scores. The reason is obvious - Sherwood West was the only urban reserve area with a concept plan.

DLCD cannot and should not endorse Metro’s backward approach to analyzing the Goal 14 boundary location factors. After Metro determines the 20-year housing and employment needs of the region, Metro should have used the Goal 14 location factors to evaluate *where* to expand the UGB to meet these regional needs. The Goal 14 boundary factors should have been one of the first things Metro evaluates in this locational process to determine where the need for a UGB expansion is greatest and best served, not an after-thought. Metro’s approach was clearly designed to give the appearance that it determined the location of the UGB expansion based on the Goal 14 boundary

location factors when it is obvious from the record that Metro determined the location based solely on its concept plan requirement.

3. Metro's housing and employment needs analysis is an outcome-driven determination that is not supported by substantial evidence.

The whole purpose of Metro's six-year review of the Metro area UGB is to ensure there is a 20-year supply of urbanizable land within the UGB to satisfy the regional housing and employment needs. ORS 197.299; *Marks*, 327 Or App at 713. If Metro determines that the land supply is inadequate, it must expand the UGB or take other measures to ensure that the identified need can be accommodated. ORS 197.296(6); ORS 197.299(2); *Marks*, 327 Or App at 713. Therefore, Metro must first determine if there is a need for additional urbanizable land within the UGB to satisfy the 20-year housing and employment needs, and if so determine the best location(s) to expand the UGB to accommodate that need based on the Goal 14 boundary location factors. *Id.*; MC 3.07.1435(b) & (c). Metro's needs analysis must be supported by substantial evidence. *City of West Linn v. LCDC*, 201 Or App at 440.

Once again, Metro's approach to evaluating the supply of urbanizable land within the UGB to accommodate the Metro regional housing and employment needs over the next 20 years was backwards. First, Metro announced that it will only consider a UGB expansion for an area that has been concept planned. Since the City of Sherwood was the only local jurisdiction to submit a concept plan, and the area is relatively small, Metro was forced to adopt a housing and employment needs analysis that justified such a small expansion. Indeed, it is unclear what Metro could have done if the housing and employment needs exceeded the amount of land Sherwood proposed as part of the Sherwood West concept plan since Metro did not adopt the housing and employment needs analysis until the end of the process.

There are several things in the record that make it clear Metro determined the amount of additional urbanizable land necessary to accommodate the housing and employment needs to justify its outcome-driven concept plan approach. As a result, Metro's housing and employment needs analysis is not supported by substantial evidence.

Metro's housing needs determination is inconsistent with Metro's own housing needs analysis. As noted in Econorthwest's Existing Housing Needs Report, there is an existing need for 23,700 additional housing units in the Metro region to meet current demands. Appendix 8A. The Regional Housing Needs Analysis concluded that there is a need for a significant number of new housing units to address the future growth needs, ranging from 179,500 units under the high growth model, 149,500 under the baseline growth model and 119,600 under the low growth model. In total, this data demonstrates that there is a need for 143,300 to 203,200 new housing units in the Metro UGB to satisfy the 20-year needs of the region. Appendix 8. Metro's conclusion that the existing and future housing needs over the next 20 years is only 3,100 new housing units is inconsistent with Metro's own housing needs analysis.

Instead of acknowledging this need for a significant amount of new housing units, Metro relied on lower-end growth projections and its "latitude" to assume a need for less housing units due to the uncertainty of predicting future trends to justify its outcome-driven approach. 2024 Urban Growth

Report, p.38-39. The Draft 2024 Report concluded that the Metro Council has wide “latitude to determine whether additional housing capacity is needed to accommodate potential household growth,” but Metro did not cite any authority for this assumption. Draft 2024 Report, p.37. (Emphasis added). The sole basis for this alleged latitude is the “uncertainty” in predicting future trends. Draft 2024 Report, p.37-38. Metro adopted this approach as part of its decision. 2024 Urban Growth Report, p.38-39.

Contrary to Metro’s claim, there is no authority for Metro to disregard or minimize the facts and data based on this assumption. The uncertainty in predicting future trends cannot be used as a basis for ignoring the actual data and analysis because Metro’s entire process of evaluating the needs of the region for the next 20 years is inherently uncertain. If the mere uncertainty in predicting future trends was sufficient to override the facts and data, there would be no reason to do a detailed analysis of the housing needs in the first place.

Metro’s housing capacity numbers are not supported by substantial evidence. Table 9 summarizes Metro’s residential capacity assumptions that it used for purposes of the 2024 growth management decision. 2024 Urban Growth Report, p.33. Metro explained that these assumptions are based on Appendix 2, which describes a range of capacity depending on market responses, and concluded that the final assumptions in Table 9 are within these ranges. There are multiple problems with Metro’s housing capacity assumptions. The numbers in Table 9 do not match the numbers or conclusions provided in Appendix 2. Even if the numbers in Table 9 are within the ranges in Appendix 2, Metro failed to explain why it chose the specific numbers it chose and the basis for its conclusion. Metro appears to erroneously assume that it has the discretion to pick any number so long as it is within the range in Appendix 2.

Metro admitted that the housing capacity gap figures are based on several demand and capacity scenarios that can materially change the results depending on what assumptions are adopted by Metro, but Metro selected a particular scenario without explaining the basis for that selection. The 2024 Urban Growth Report explained:

Depending on the above factors, the UGB capacity gaps for accommodating existing and future housing needs vary. The draft UGR’s ranges were developed using several illustrative demand and capacity scenarios that sought to apply consistent economic reasoning in any given scenario. The three demand scenarios are as previously described, now paired with four capacity scenarios. See Appendix 8 for more detail. These scenarios are not the only ones that could be considered plausible. Instead, these scenarios are intended to provide information to support decision making. Slight changes to assumptions about demand, capacity, or housing mix would produce different results. 2024 Urban Growth Report, p.39. (Emphasis added).

Metro selected scenario 3 without explaining why: “Metro is relying on Scenario 3 as the basis for its growth management decision since it represents the most likely conditions for population growth, growth capacity, and housing mix.” 2024 Urban Growth Report, p.41. Given Metro’s admission that the UGB capacity gap is heavily dependent on which scenarios Metro selects,

Metro's conclusory statement is wholly insufficient to demonstrate that its housing capacity determination is supported by substantial evidence.

Metro's conclusion that the housing needs over the next 20 years is only 3,100 new housing units is clearly an outcome-driven determination designed to justify Metro's concept plan policy. The Sherwood West proposal will provide 3,120 new housing units. It is a statistical anomaly that the Sherwood West proposal would just so happen to supply 20 more units than the total number of new housing units necessary to accommodate the Metro regional housing needs over the next 20 years. Given the range of a need for 143,300 to 203,200 new housing units in the to satisfy the 20-year needs of the region, the fact that the Sherwood West proposal will meet that demand within a 20-unit range is either a statistical miracle or a clear indication that Metro's housing needs analysis is an outcome-driven determination designed to justify Metro's concept plan policy. Considering all of the evidence in the record, it is clearly the latter.

Had Metro considered other urban reserve areas for possible inclusion in the UGB as required by Goal 14, it would conclude that there are other areas that clearly have a need for additional urban lands. As an example, the City of Tualatin's 2019 Housing Needs Analysis concluded there is an existing lack of affordable housing and lack of capacity to accommodate certain other housing types. Tualatin is unable to accommodate these housing needs without a UGB expansion. Had Metro considered Tualatin's Housing Needs Analysis, it clearly would have concluded there is a specific need for additional urban lands in this location. By refusing to even consider other cities housing needs analysis or similar information, Metro is disregarding its responsibility to determine where the best locations for expanding the UGB in compliance with Goal 14.

Every local jurisdiction that commented on the Draft 2024 Report and the housing and employment needs analysis concluded that Metro was underestimating the Metro regional needs and should rely on a higher growth model. The City of Portland, Clackamas County, Washington County, the City of Gresham and other local jurisdictions all submitted comments to this effect. The City of Portland's comments summarized the concerns of these local jurisdictions well:

Metro is narrowly framing this decision as to whether or not the Sherwood West expansion area should be brought into the UGB. The UGR has broader implications for the region in terms of how we expect to grow in a way that is equitable and meets other regional goals, such as reducing carbon emissions.

The Urban Growth Report (UGR) is an opportunity to frame future regional planning discussions such as the regional housing production strategy, a refresh of the 2040 Growth Concept, and a regional economic development strategy.

Our concern is that the UGR is underestimating population and housing growth, underestimating residential capacity; underestimating industrial job growth, overestimating industrial land supply and underestimating commercial land supply. BPS staff raise the following issues with methodology and assumptions to better align with regional policy objectives, which are described in detail below.

Draft 2024 Urban Growth Report Public Comment Report, dated August 2024,
p.104. (Emphasis in original).

Surprisingly, Metro effectively ignored these local jurisdictions comments and concerns. The 2024 Urban Growth Report and findings do not acknowledge or respond to the local jurisdictions' comments and concerns at all.

DLCD must scrutinize Metro's housing needs analysis to ensure it is fact-driven and not outcome-driven determination because it will have ramifications beyond the 2024 UGB amendment decision. Metro's forecast will provide the basis for Metro's regional housing production strategy, and it will be provided to the State (OHCS/DAS) to establish the jurisdiction level housing targets.

Metro's housing and employment needs analysis is an outcome-driven determination that is not supported by substantial evidence. Metro must be required to reevaluate the regional housing and employment needs over the next 20 years using a fact and data drive approach, not an outcome-driven approach designed to justify Metro's concept plan policy.

Based on the arguments set forth in this Section B, these objections comply with OAR 660-025-0140(2)(b).

C. Suggest specific revisions that would resolve the objections.

Unfortunately, there is only one option available to resolve Mr. Marks' objections – Metro must redo the process for the six-year review of the UGB in a manner consistent with Goal 14 and the implementing statutes and administrative rules. Metro's primary error is fundamental and undermines the entire process. Metro's decision to limit its consideration to the Sherwood West area infected the entire process. Metro's conclusion regarding the housing and employment needs over the next 20 years was designed to justify an outcome-driven concept plan policy. Metro's refusal to consider other urban reserve areas resulted in Metro failing to apply the Goal 14 boundary location factors in a reasonable and objective manner. As the City of Portland noted, Metro did not conduct the six-year review process in a manner consistent with Goal 14 because Metro narrowly framed the decision as whether or not the Sherwood West expansion area should be brought into the UGB.

We anticipate that Metro will argue that DLCD should deny these objections because requiring Metro to redo the process will be too time-consuming and burdensome. Not only is that not a valid legal or policy basis for affirming Metro's fundamentally flawed approach to this process, but there are two additional reasons why DLCD should reject this argument.

First, Metro has known that its concept plan policy is legally flawed for several years and elected not to change course. Mr. Marks filed a petition for enforcement with LCDC on February 6, 2020 and argued that Metro's new policy of limiting UGB expansions to areas that have been concept planned violates Goal 14 and the implementing statutes and administrative rules. In the *Marks* decision, in which the Court resolved the jurisdictional issue in our favor and remanded the petition for enforcement back to LCDC to decide the substantive issues, the Court clearly indicated that Metro is not entitled to limit UGB expansions to those areas with a concept plan. Mr. Marks

forewarned Metro early in this six-year review process through written and oral testimony that it will be required to redo the process if it does not address the fundamental errors created by its concept plan policy. Metro has only itself to blame for failing to take corrective actions earlier in the process.

Second, this six-year UGB review decision is far too important to not resolve and correct now. Metro will not consider the housing and employment needs of the region until 2030. Waiting six more years to correct Metro's decision is far too long and will have long-lasting consequences for the region. There is an existing housing deficit of 23,700 units that will continue to grow exponentially over the next six years. The longer this deficit is allowed to grow, the harder it will be to correct it in the future. Metro's forecast will provide the basis for Metro's regional housing production strategy, and it will be provided to the State (OHCS/DAS) to establish the jurisdiction level housing targets. DLCD needs to act now to correct this problem before it is too late.

Therefore, these objections comply with OAR 660-025-0140(2)(c).

D. Demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision.

Mr. Marks submitted written comments to Metro on July 23, 2024 and November 19, 2024 and testified at the September 26, 2024 and November 21, 2024 public hearings before the Metro Council. Mr. Marks raised the issues stated in these objections in his oral and written testimony. Therefore, these objections comply with OAR 660-025-0140(2)(d).

Conclusion

Metro's whole approach to this six-year UGB expansion review has turned the process on its head. The Oregon legislature granted Metro the authority to administer the regional UGB because it "required Metro's unique regional perspective, rather than leaving adoption and administration of the UGB to the large number of cities and counties making up the metropolitan area." *Marks*, 327 Or App at 712-713. Metro's approach is the opposite of that legislative directive and process. Metro is allowing the local jurisdictions to dictate when and where the regional UGB expansions will occur, effectively abdicating its authority over UGB expansions to the cities in contravention of the legislature's intent.

Not only is Metro's approach to this UGB expansion process inconsistent with *Marks*, Goal 14 and the implementing statutes and administrative rules, but it will exacerbate the current housing crisis in the Metro region. The Metro region clearly does not have a sufficient housing supply and many residents are priced out of the market. That trend will only worsen over time. DLCD needs to provide leadership on this issue and ensure that Metro complies with the required Goal 14 process and is willing to make the hard decisions necessary to address the difficult housing supply and housing affordability issues plaguing our region. The first step in doing so is to ensure the 2024 UGB expansion process follows the requirements of Goal 14 and the implementing statutes and administrative rules.

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January 9, 2025

We appreciate your consideration of our objections and look forward to addressing this issue further with DLCD.

Very truly yours,

HATHAWAY LARSON LLP

A handwritten signature in dark ink, reading "E. Michael Connors". The signature is written in a cursive, flowing style. The first name "E." is small and followed by a period. "Michael" is written in a larger, more prominent script, and "Connors" follows in a similar style.

E. Michael Connors

EMC/ep

cc: Roger Alfred, Office of Metro Attorney (via email)
David Marks (via email)

January 9, 2025

RE: DLCD Review of Metro Decision Approving Sherwood West UGB Expansion Proposal

Attention: DLCD Periodic Review Specialist

To the Oregon Department of Land Conservation and Development: Greetings!

My name is Jim Marsh. My wife Laurie and I live in a home we built on family property 35 years ago. Our property, consisting of two lots each with a home and rural acreage, totaling 10 acres, and is located on the North West portion of the Sherwood West UGB expansion tract. The expansion proposal currently plans to zone our property for Industrial applications.

We oppose the Sherwood West expansion of the UGB, adopted as Ordinance 24-1520, and have voiced our concerns by sending an email to Metro before the November 2024 public hearing, as well as attending and participating in Sherwood Farm Alliance activities.

We oppose the proposed Sherwood West UGB expansion proposal due to the following:

- Wildlife that resides on our property (which has Title 13 Status), would be killed by development after UGB expansion. Wildlife species include, but are not limited to, deer, cougar, bobcat, coyote, raccoon, hawks, falcons, owls, hummingbirds, and others.
- Exotic trees and plants making up an arboretum that has existed on our property would be adversely impacted or destroyed by development after UGB expansion.
- Our property value has been adversely impacted, during the UGB proposal consideration phase, and will continue to decline after UGB expansion.
- Productive forestland within our property would be adversely impacted or destroyed by development after UGB expansion, given the current zoning plan for our property.
 - Many of the douglas fir trees in our forest are more than 60 years old, prime growing age, and are actively sequestering carbon at an increasing rate.
- Productive orchard land within our property would be adversely impacted or destroyed by development after UGB expansion.
- Productive forestland adjacent to the expansion would be adversely impacted by development after UGB expansion of the proposed tract.
- Currently targeted industrial segments would require transportation of necessary hazardous chemicals through Sherwood to reach the planned industrial sites.
- Necessary traffic expansion resulting from re-zoning and development after UGB expansion would adversely impact wildlife habitat and migratory patterns.

- Necessary traffic expansion resulting from re-zoning and development after UGB expansion would adversely impact community quality of life due to traffic noise and congestion.
- Necessary traffic expansion resulting from re-zoning and development after UGB expansion would adversely impact our property value.
- Necessary utility infrastructure additions required by the current zoning plan in our portion of the Sherwood West UGB expansion proposal would adversely impact wildlife habitat and migratory patterns.
- Necessary utility infrastructure additions required by the current zoning plan in our portion of the Sherwood West UGB expansion proposal would be very expensive.

The Sherwood West expansion proposal as adopted by Metro does not match the projected needs of Sherwood and the south western Metro region as stated in Metro's own recent estimates. Just as important, it does not protect nor does it enhance the heritage and culture of the Sherwood community. Execution and completion of the adopted proposal will ensure Sherwood becomes just one more suburban clone, losing its historical culture forever.

Focused Industrial site development based on state regulation and desire to garner Federal CHIPS revenue is driving the priority for dedicated 50+ acre sites, which might be available in the North west portion of the expansion tract, only if multiple contiguous lots are combined. The likely use case for the above-mentioned drivers, providing 3 to 4 thousand jobs, would require major traffic development, both for employee commuting and transport of many hazardous chemicals needed for semiconductor manufacturing. This unique flavor of manufacturing also needs an immense quantity of power and clean water, necessitating monumental infrastructure development to the most remote section of the expanded UGB.

We recommend the expansion plans remove the industrial portion of the proposal, and fight the Oregon state level requirements that mandate such inclusion to any community growth plan. Then we recommend Sherwood embrace it's historical agricultural and neighborly community roots, and change the development plan to enhance this culture.

Thank you for your time and consideration.

Best Regards,

Jim and Laurie Marsh

18850 SW Schroeder Lane
Sherwood, OR 97140



Attention: Periodic Review Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301
Email: DLCD.PR-UGB@dlcd.oregon.gov

Thursday, January 9, 2025

RE: Objections to the Metro Urban Growth Boundary Amendment, Metro Council Ordinance No. 24-1520, pursuant to OAR 660-025-0140.

Tualatin Riverkeepers respectfully objects to Metro Council's submittal of Ordinance 24-1520, which amends Metro's regional Urban Growth Boundary (hereinafter "UGB") and adds approximately 1,291 acres of land in the Sherwood West planning area to the existing UGB. Tualatin Riverkeepers disputes the conclusions outlined in Ordinance No. 24-1520 and its supplemental appendices.

Tualatin Riverkeepers (TRK) is a community-based organization that protects and restores the Tualatin River watershed. Our 500 members and thousands of volunteers - primarily Washington County residents - build watershed stewardship through advocacy, restoration work, and education. TRK's advocacy in water quality and the overall health of the Tualatin River watershed leads us to closely monitor UGB expansion proposals that affect important water bodies and surrounding riparian areas within the Tualatin Basin. Developing Sherwood West would disrupt important wildlife connectivity and undo significant recent efforts by the Tualatin National Wildlife Refuge and U.S. Fish and Wildlife Service to restore Chicken Creek's natural course and regenerate its stream, wetland, and floodplain functions.

This letter serves as TRK's formal objection to Metro's approval of Ordinance No. 24-1520, and includes the following sections: review of objection procedures, introduction, objections, remedies, conclusion, and attachments: figures 1–4.

I. Review of objection procedures

OAR 660-025-0100(2) provides that “persons who participated at the local level orally or in writing during the local process leading to the final decision may object to the local government’s submittal. To be valid, objections must:

- a. Be in writing and filed with the department’s Salem office no later than 21 days from the date the local government sent the notice;
- b. Clearly identify an alleged deficiency in the work task or adopted comprehensive plan amendment sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated;
- c. Suggest specific revisions that would resolve the objection; and
- d. Demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision. OAR 660-025-140(2)(a)-(d).”

With respect to (a), Metro’s official notice regarding its decision to approve the amendment to the UGB Metro’s was posted December 19, 2024, making the deadline of submitting this letter to DLCD January 9, 2025.

With respect to (b), this letter identifies specific alleged deficiencies and rule violations of the proposed UGB amendment.

With respect to (c), TRK suggests that the DLCD director remand the UGB amendments to Metro Council as authorized under OAR 660-025-0150(1)(b) for further consideration of the objections outlined in this letter.

With respect to (d), TRK participated in writing during Metro’s proceedings; TRK’s staff attorney Eve Goldman provided written testimony opposing the UGB expansion to the Metro Council on November 7, 2024 for consideration at its public hearings on November 21, 2024 and December 5, 2024.

II. Introduction

Under Oregon state law, Metro is charged with managing the greater Portland region's UGB, and works with citizens, elected leaders, and researchers to plan for future growth and meet the needs for housing, jobs, and transportation.¹ Every six years, Metro assesses whether there is enough land inside of the UGB for 20 years of housing and job growth. To make a determination of whether there is a regional need for expanding the UGB, Metro must provide current information regarding, among other things, development trends and estimates of buildable land inside the UGB.² In response to the Metro Council's call for city submissions for expansion proposals, on March 5th, 2024 the City of Sherwood proposed bringing the 1291 acre-Sherwood West urban reserve to support regional housing and employment needs. At Metro Council's public meeting on November 21, 2024, following a variety of public testimony including written testimony submitted by TRK, Metro staff recommended that the Metro Council expand the UGB to include the Sherwood West urban reserve to address regional land needs identified in Metro's 2024 Urban Growth Report (UGR).³ On December 5th, 2024, following another round of public comments, the Metro Council adopted Ordinance No. 24-1520 amending the existing UGB to include the Sherwood West area.

Under ORS 197.626, "a local government shall submit for review and the Land Conservation and Development Commission shall review the following final land use decisions: (b) [a]n amendment of an urban growth boundary by a city with a population of 2,500 or more within its urban growth boundary that adds more than 50 acres to the area within the urban growth boundary [...]." Additionally, under OAR 660-025-0040(2), "[...] the commission has exclusive jurisdiction for review of the following final decisions for compliance with the statewide planning goals." Under statewide planning Goal 14, "prior to expanding the UGB, a

¹ Metro, *2024 growth management decision*, <https://www.oregonmetro.gov/public-projects/2024-growth-management-decision/background> (last visited Nov. 6, 2024).

² 2024 Urban Growth Management Decision: Metro Chief Operating Officer/Staff Recommendations, Aug. 26, 2024 <https://oregonmetro.legistar.com/View.ashx?M=F&ID=13293488&GUID=72B42C03-5781-4E50-967D-7E3D223DDA32>.

³ Metro Staff Report: Ordinance Number 24-1520 for the purpose of expanding the Urban Growth Boundary to provide capacity for housing and employment to the year 2044 and amending the metro code to conform, prepared by Ted Reid, principal regional planner, Nov. 4, 2024 <https://oregonmetro.legistar.com/View.ashx?M=F&ID=13563987&GUID=C78437D1-035B-419D-9D6E-91E301D39950>.



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local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB.”⁴ Further, Goal 14 requires that “when considering a Metro UGB amendment, Metro must determine which land to add by evaluating alternative [UGB] locations.”⁵

As detailed in section III of this letter, Metro has not met these Goal 14 threshold requirements for a UGB expansion by failing to consider alternative areas for UGB expansion and failing to demonstrate that the land currently within the UGB cannot support the estimated housing and employment needs. In failing to consider practicable alternative areas, Metro Council also violates Metro Titles 3, 13, and 14 (specifically Metro Code 3.07.1425, 3.07.340(d)(3)(D)(i), and 3.07.1340(b)). The DLCD director should remand the UGB decision back to the Metro Council and require consideration of both reasonable land use alternatives within the existing UGB to meet regional need and alternative sites for the UGB expansion. Section IV of this letter outlines specific remedial measures that Metro Council should consider in its evaluation on remand.

III. Objections

A. The Metro Council failed to consider both reasonable measures to use land within the existing UGB to meet the estimated needs of the project and alternative sites for the proposed UGB expansion.

1. Metro Council failed to consider reasonable land use measures within the current UGB.

Metro Council failed to consider reasonable measures to meet regional land needs identified in its UGR using land within the existing UGB. In mid-October of 2024, Metro staff published its alternatives analysis of 27 urban reserves, considering each site’s suitability for meeting the regional housing and employment needs identified in Metro’s 2024 UGR. These 720 pages are located in appendices 7 and 7A and the accompanying attachments and are accessible on Metro’s website. However, no comparable analysis of reasonable new land use measures that would meet the estimated regional need without expanding the UGB exists. Further Metro

⁴ OAR 660-024-0050(4).

⁵ OAR 660-024-0600.

Council's failure to consider reasonable measures of land use within the existing UGB to meet the estimated needs is highlighted by comments from Metro Councilor Nolan at the Council's December 5, 2024 meeting:

[...] I've been disappointed that [...] we have not taken advantage of all that time, all that energy, all that attention to meet some basic elements of urban growth management. We are supposed to, in fact, start by asking do we need more land in the urban growth boundary or is the land we have in the urban growth boundary today sufficient to meet our need for housing and employment needs. We started instead with asking for proposals, and one could look at the process then as fitting our answer to the first question into the proposals that we got.⁶

In fact, viable land exists within the current UGB that meets the housing and job needs of the proposed expansion. While the City of Sherwood claims that UGB expansion is needed to support the development of housing and jobs for the next 20 years, a recent vacant lands capacity analysis suggests otherwise. In September 2024, West of Sherwood Farm Alliance conducted a capacity analysis of vacant land in the Sherwood Planning Area, which comprises the land inside of Sherwood's city limits, along with Brookman Addition area and Tonquin Employment area that had been previously added to the UGB.⁷ The analysis compares Sherwood West with Sherwood Planning Area's vacant lands for meeting the needs of housing and job growth development. According to the analysis, the Sherwood West proposal would result in a 41% expansion of the city's land area, support 3,117 to 5,582 new expensive low-density homes and apartments and 4,524 new jobs, and lead to a \$58-\$70 million funding shortfall for infrastructure. Alternatively, the vacant lands within the Sherwood Planning Area could support 4,572 new homes that more closely fit housing needs of the area, 5,526 new jobs, and \$58-\$70 million taxpayer and ratepayer savings saved on unneeded infrastructure.⁸ Additionally, the Sherwood Planning Area vacant lands conserves rather than develops precious farmland, forests, streams, and wildlife. Accordingly, there is viable land within the existing UGB to support long-term growth for employment and housing in the region, and therefore no need for a legislative amendment to bring in land to the current UGB.

⁶ Metro Council meeting video on 2024-12-05, 10:30am, at 1:50:15 – 1:52:10

https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=932.

⁷ West of Sherwood Farm Alliance, *Sherwood Vacant Lands Capacity Analysis*, September 2024.

⁸ *Id.*

2. Metro Council failed to evaluate alternative sites for the proposed UGB expansion.

In addition to failing to consider reasonable uses of land within the existing UGB, the timeline of Metro’s urban growth management (UGM) decision establishes conclusively that the Metro Council failed to consider Metro staff’s alternative location analysis before approving the Sherwood West Concept Plan. This analysis, provided in Appendix 7 and 7A of the UGR, was published on Metro’s website on October 18, 2024, **10 days after** Metro Council’s work session on October 8, 2024.⁹ Clearly the alternatives analysis was not presented to Metro Councilors at their work session and alternative sites were not discussed, as these analyses had not been published prior to the work session. Further, minutes from the October 8 work session imply that the majority of the Councilors had made an initial determination to approve the Sherwood West UGB expansion without ever evaluating alternative sites: “Council President Peterson summarized that the majority of Council supported introducing an ordinance to bring Sherwood West within the UGB based on a medium growth forecast.”¹⁰ The minutes from the October 8 Metro Council Work Session also suggest that, because the Council had not been presented with the staff’s alternatives analysis, Metro Council’s recommendations to staff for UGB approval conditions were uninformed: “there being no further discussion, Council President Peterson summarized the Council’s recommendations to staff for updating the conditions of approval and moved on to the next agenda item.”¹¹

Additional minutes and videos from subsequent Metro Council public hearings reinforce that alternative sites and measures were not discussed by Metro Councilors in its UGB expansion decision. For example, at Metro Council’s November 21, 2024 public hearing, while Appendix 7 and its attachments were a part of the meeting packet, Metro staff did not present any alternative sites for the Council to evaluate nor discuss alternative reasonable measures, and Metro Councilors did not discuss alternative measures.¹² Finally, at its final public hearing involving

⁹ Email correspondence between TRK Metro’s land use attorney Roger Alfred following TRK’s submission of public comments in mid November confirmed that Metro staff’s alternative location analysis under Goal 14 and the Metro Code, included in Appendix 7 and 7A of the UGR, had been posted mid October. *See Figure 4.*

¹⁰ Metro Council Work Session Minutes, October 8, 2024, at page 5, <https://oregonmetro.legistar.com/View.ashx?M=M&ID=1229709&GUID=04DF2446-80C0-4B91-B8BF-F69BCD31F608>.

¹¹ *Id.* at page 6.

¹² Metro Council Public Hearing Minutes, November 21, 2024, pages 9-12, <https://oregonmetro.legistar.com/View.ashx?M=M&ID=1239734&GUID=D89FDCC0-57CB-4EFF-9D9C-BCB910>

Ordinance No. 24-1520 on December 5, 2024, Metro Councilors failed to discuss alternative sites or measures when it approved the Sherwood West UGB Expansion.¹³

The failure to discuss alternative sites and measures, along with the fact that Metro staff's alternatives location analysis was published 10 days after Metro Council's working session call into question whether the Metro Councilors ever evaluated the alternative sites and measures analysis prior to approving the Sherwood UGB expansion. The failure to evaluate reasonable measures and alternative sites violates state regulations and local codes, and remedial measures are required to rectify these violations.

3. By failing to evaluate reasonable measures of land use within the existing UGB and alternative areas for UGB expansion Metro Council failed to comply with statewide planning Goal 14, ORS 197A.350(6)(a) & (b), and Metro Code 3.07.1425.

Metro's urban growth boundary capacity analysis must comply with requirements set forth in statewide planning Goal 14, "Urbanization", ORS 197A.350(6)(a) & (b), and Metro Code 3.07.1425 (Title 14). First, statewide planning Goal 14 provides for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside UGBs, to ensure efficient use of land, and to provide for liveable communities.¹⁴ More specifically, Goal 14 outlines the process of establishing and maintaining UGBs. Establishing and/ or changing a UGB requires a showing of land need, based on (1) a demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments, or for cities applying the simplified process under ORS chapter 197A, a 14-year forecast; and (2) a demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection.¹⁵ In determining need, the local government may specify characteristics, including parcel size, topography, or proximity,

[AD21E0](#). See also Metro Council meeting video on 2024-11-21, 10:30am, at 54:46 to 2:02:35 https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=926.

¹³ Metro Council Public Hearing Minutes, December 5, 2024, pages 7–9 <https://oregonmetro.legistar.com/View.ashx?M=M&ID=1244610&GUID=60BA3542-24F7-4621-AD30-0E9C9A37ED98>. See also Metro Council meeting video on 2024-12-05, 10:30am, at 1:44:15 – 2:13:16 https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=932.

¹⁴ OAR 660-015-0000(14): Goal.

¹⁵ OAR 660-015-0000(14): Land Need.



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necessary for land to be suitable for an identified need.¹⁶ Finally, prior to expanding a UGB requires a local government to demonstrate that needs cannot reasonably be accommodated on land already inside the UGB.¹⁷ These factors are also found in ORS 197A.350(6)(a)&(b).

Along with establishing a need that cannot be reasonably accommodated on land already inside the UGB, a local government must determine what area is best fit for changing the boundary location.¹⁸ This is determined by *evaluating alternative boundary locations* (emphasis added) consistent with ORS 197A.320 or, following 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 (ESEE) consequences; and
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.¹⁹

To implement Goal 14 objectives, the Metro Council adopted the Urban Growth Management Functional Plan (hereinafter “the UGMFP”) which incorporates the aforementioned factors in its criteria for evaluating alternative areas for UGB expansion.²⁰ The UGMFP, part of the Metro Code, contains 14 titles that provide performance standards and other requirements cities and counties must meet. Title 14 (“Urban Growth Boundary”) addresses urbanization and calls for a clear transition from rural to urban development, including maps depicting the UGB as well as urban and rural reserves. Following a periodic analysis of the capacity of the current UGB, the Council shall make legislative amendments if it determines there is a need to add land to the UGB.²¹ Legislative amendments to the UGB must meet several criteria, including an analysis of alternative areas designated as urban reserves, and a determination of which areas best meet the needs of the project.²² In evaluating which areas best meet the need to amend the existing UGB, the following factors are considered:

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ OAR 660-015-0000(14): Boundary Location.

¹⁹ *Id.*

²⁰ Metro Code 3.07.010 Purpose.

²¹ Title 14 Metro Code 3.07.1420 Legislative Amendment to UGB Procedures.

²² Title 14 Metro Code 3.07.1425(c) Legislative Amendment to the UGB: Criteria.

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*;
4. Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside UGB designated for agriculture or forestry pursuant to a statewide planning goal;
5. Equitable and efficient distribution of housing and employment opportunities throughout the region;
6. Contribution to the purposes of centers and Corridors;
7. Protection of farmland that is most important for the continuation of commercial agriculture in the region;
8. *Avoidance of conflict with regionally significant fish and wildlife habitat*; and
9. Clear transition between urban and rural lands, using natural and built features to mark the transition (emphasis added).

In order to comply with Goal 14, ORS 197.350(6)(a) & (b), and the UGMFP, Metro Council's UGB capacity analysis must consider alternative sites for a boundary expansion. In fact, there are several other areas of land designated as urban reserves that Metro Council should have analyzed that could meet the regional estimate needs of the project. For example, Sherwood South and Tonquin are other designated urban reserves, which may better meet the needs criteria, but no evaluation of this area was conducted for this UGB expansion proposal. Further, the purpose and need of the project to support the development of new homes and employment would not require one connected parcel; accordingly Metro Council may consider bringing in portions of other urban reserves that would comport with the aforementioned criteria in determining the best areas to amend the UGB. While the Metro Council is not required to make the determination that Sherwood South and Tonkin better meet the needs for a UGB expansion, they are still required to consider these alternative areas and failed to do so. Before approving bringing Sherwood West into the existing UGB, Metro should meaningfully evaluate other alternatives to determine which area best meets the needs criteria as required under Goal 14, Metro Code 3.07.1425(c).

Failure to analyze alternative sites and reasonable measures for land use within the existing UGB violates Statewide Planning Goal 14, ORS 197A.350(6)(a), and Metro Code

3.07.1425. TRK recommends that the DLCD Director remand the UGB amendment to the Metro Council to evaluate, to the extent that a UGB amendment is warranted, alternative sites that could be used to satisfy the regional needs identified by Metro staff in its 2024 UGR.

B. By approving the proposed UGB expansion without considering reasonable measures for land use within the existing UGB or alternative sites for UGB expansion, the Metro Council violated Metro Code 3.07.340(d)(3)(D)(i) and 3.07.1340(b).

Along with Title 14 of Metro’s UGMFP, Title 3 (“Water Quality and Flood Management”) and Title 13 (“Nature In Neighborhoods”) are impliedly at issue in Metro Council’s UGB amendment decision, as there are substantial Title 3 and Title 13 classified natural areas in Sherwood West. By failing to consider alternative sites for UGB expansion, Metro Council failed to follow its own policies on protecting water quality and habitat conservation as required in Metro Code Titles 3 and 13, specifically Metro Code 3.07.340(d)(3)(D)(i) and 3.07.1340(b).

For starters, Title 3 flood hazard areas and wetlands surround Chicken Creek. Title 3’s stated purpose is to protect the beneficial water uses and functions of resources within the Water Quality and Flood Management Areas.²³ Title 3 Water Quality and Flood Management Areas consist of:

- *Flood hazard areas* (e.g., FEMA “100-year” floodplains and 1996 flood inundation areas);
- *Wetlands* (e.g., from an enhanced National Wetlands Inventory and local wetlands inventories);
- Wetland areas, measured 50 feet from the edge of a wetland or up to 200 feet from the edge of wetland located adjacent to slopes greater than 25 percent; and
- Vegetated corridors between 15 feet and 200 feet in width, depending on the area drained by the water feature and the slope of the land adjacent to the water feature.²⁴

²³ Metro Code Title 3: Water Quality And Flood Management, 3.07.1310 Intent.

²⁴ Metro, Appendix 7 to Draft 2024 Urban Growth Report Goal 14 Boundary Location Factors Analysis of UGB Expansion Candidate Areas.

Title 3 Water Quality and Flood Management areas exist within Sherwood West. First, there is a defined 100-year floodplain for a portion of Chicken Creek within Sherwood West.²⁵ Additionally, there are 31 acres of wetlands within Sherwood West, mapped by the National Wetland and Metro’s inventories.²⁶ These wetlands are most prominently found along the riparian corridor of Chicken Creek and the headwaters of Goose Creek, and additional wetland areas are likely to exist within the project area.²⁷

In failing to consider practicable alternatives for the UGB expansion, Metro Council violated Title 3.07.340(d)(3)(D)(i). Under Title 3.07.340, “[a]dditions [...] and development in the Water Quality and Flood Management Area may be allowed provided that: [...] (D) [i]n determining appropriate conditions of approval, the [applicant must]: (i) [d]emonstrate that *no reasonably practicable alternative design or method of development exists* that would have a lesser impact on the Water Quality Resource Area than the one proposed.” TRK recommends that DLCDC remand the UGB amendment to Metro Council to consider alternative sites that would have less impact on Title Water Quality Resource Areas.

Additionally, Sherwood West contains substantial Title 13 areas designated as high value HCAs, which include rivers, streams, wetlands, and adjacent resource areas.²⁸ Title 13 establishes baseline requirements to protect, conserve, and restore the region’s significant riparian corridors and wildlife habitat resources, referred to as Habitat Conservation Areas (HCAs).²⁹ HCAs include rivers, streams, wetlands, and adjacent resource areas, as well as upland wildlife habitat areas.³⁰ According to the Sherwood West Concept Plan, the mapping of Title 13 habitat areas will be further refined and protections will be established as part of the comprehensive planning for Sherwood West once it is brought into the UGB.³¹

Title 13 HCAs in the Sherwood West area should be finalized in the Sherwood West Concept Plan prior to evaluating whether this area will best meet the need of a UGB expansion. Metro Title 13 habitats are present in Sherwood West and depicted in Figures 1 & 2. The

²⁵ Sherwood West Concept Plan at 26.

²⁶ *Id.*

²⁷ *Id.*

²⁸ See Figure 3 for a map of Metro’s valuation of HCAs within Sherwood West.

²⁹ Metro Code Title 13: Nature In Neighborhoods, 3.07.1310 Intent.

³⁰ Metro Code Title 13: Nature In Neighborhoods, 3.07.1310 Intent.

³¹ Sherwood West Concept Plan, page 26.

Sherwood West Concept Plan states that the mapping of Title 13 habitat areas will be further refined and protections established once Sherwood West is brought into the UGB.³² This failure to establish designated HCAs prevents an accurate evaluation of the project's environmental impacts. What's more, Metro's own MetroMap demonstrates a substantial amount of high value Title 13 HCAs in Sherwood West, particularly alongside Chicken Creek. *See Figure 3.* Under Title 13, HCAs are subject to performance standards and best management practices outlined in Metro Code 3.07.1340. Additionally, HCA maps identify which areas will be subject to habitat conservation as part of Metro Council's Title 14 consideration of ESEE consequences.³³ In order to adequately evaluate the area as best meeting the need of a UGB amendment, the Sherwood West Concept plan should finalize its designation of Title 13 HCAs in Sherwood West, inline with MetroMap, and Metro should incorporate this into its Title 14 ESEE evaluation.

Further, Metro Code 3.07.1340(b) provides that:

City and County comprehensive plans and implementing ordinances shall contain review standards applicable to development in all [HCAs] that [contain standards that meet the requirements of other sections of Metro Title 13. This includes]:

(A) Avoid Habitat Conservation Areas:

- (i) Development may occur within a [HCA] only [if it is demonstrated] that *no practicable alternatives* to the requested development exist which will not disturb the [HCA];
- (ii) When implementing this requirement to determine whether a practicable alternative exists, cities and counties shall include consideration of the type of [HCA] that will be affected by the proposed development. For example, *High Habitat Conservation Areas* have been so designated because they are areas that have been identified as having *lower urban development value and higher-valued habitat*. (emphasis added).

Bringing in Sherwood West to the existing UGB without considering practicable alternative sites violates Metro Code 3.07.1340(b). Further, failing to consider alternatives that

³² See Figure 1: Sherwood West Concept Plan Attachment H: map of expansion area, page 41 (Figure 8: Composite Concept Plan Map highlights Title 13 habitat and notes they are subject to confirmation and refinement).

³³ Metro Code 3.07.1320(b): Inventory and Habitat Conservation Areas.

would be less ecologically impactful violates Metro's own policies that establish baseline requirements to protect, conserve, and restore Washington County's Title 13 riparian corridors and wildlife habitat resources. Further, Metro Council must consider the high value of the HCAs in its determination of its adequacy for a boundary location. For Metro to accurately conduct a Title 14 ESEE consequences evaluation, the Sherwood West Concept Plan must contain the finalized designated high value HCAs. TRK's proposed remedy is for the DLCD Director to remand the UGB amendment to Metro Council to consider alternative areas for supporting the region's growth that do not result in irreparable damage to these important, Metro-designated HCAs. TRK also proposes that, in its ESEE analysis for determining alternative boundary locations, Metro Council recognizes the high value HCAs present in Sherwood West.

IV. Remedies

To address the objections raised in this letter, TRK proposes the following specific remedies. On remand Metro Council should:

1. Evaluate reasonable and alternative uses of the land within the existing UGB that would reasonably accommodate the regional housing and employment needs identified in the UGR.
2. If it is determined that alternative measures do not exist or are impracticable, evaluate and select alternative areas for boundary expansion that would satisfy regional needs.
3. Where UGB expansion is merited, prioritize alternative sites that reduce negative impacts to local ecosystems, particularly Chicken Creek and the Tualatin River National Wildlife Refuge.
4. Recognize the substantial amount of high value Title 13 HCAs in Sherwood West in its Title 14 ESEE analysis of alternative boundary locations.
5. Use the criteria outlined in Goal 14, ORS 197A.350(6), the UGMFP (specifically Titles 3, 13, and 14) in its evaluations of reasonable alternative measures and sites for UGB expansion.



11675 SW Hazelbrook Road | Tualatin, OR | 97062 | (503) 218 2580 | tualatinriverkeepers.org | info@tualatinriverkeepers.org

V. Conclusion

For the reasons outlined in Section III of this letter, TRK objects to Metro Council's approval of Ordinance No. 24-1520 to amend the UGB. TRK proposes that the DLCD Director remand the UGB amendment to the Metro Council to consider both reasonable uses within the existing UGB and alternative sites to expand the UGB as specified in Section VI of this letter. Thank you for the opportunity to participate in this proceeding. Please do not hesitate to contact me if you have any questions regarding this testimony. Please provide the director's decision electronically to eve@tualatinriverkeepers.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Eve Goldman", written over a light gray horizontal line.

Eve Goldman (she/her)

Staff Attorney

Oregon Bar No. 244201

eve@tualatinriverkeepers.org

Figure 4. Natural Resources Existing Conditions

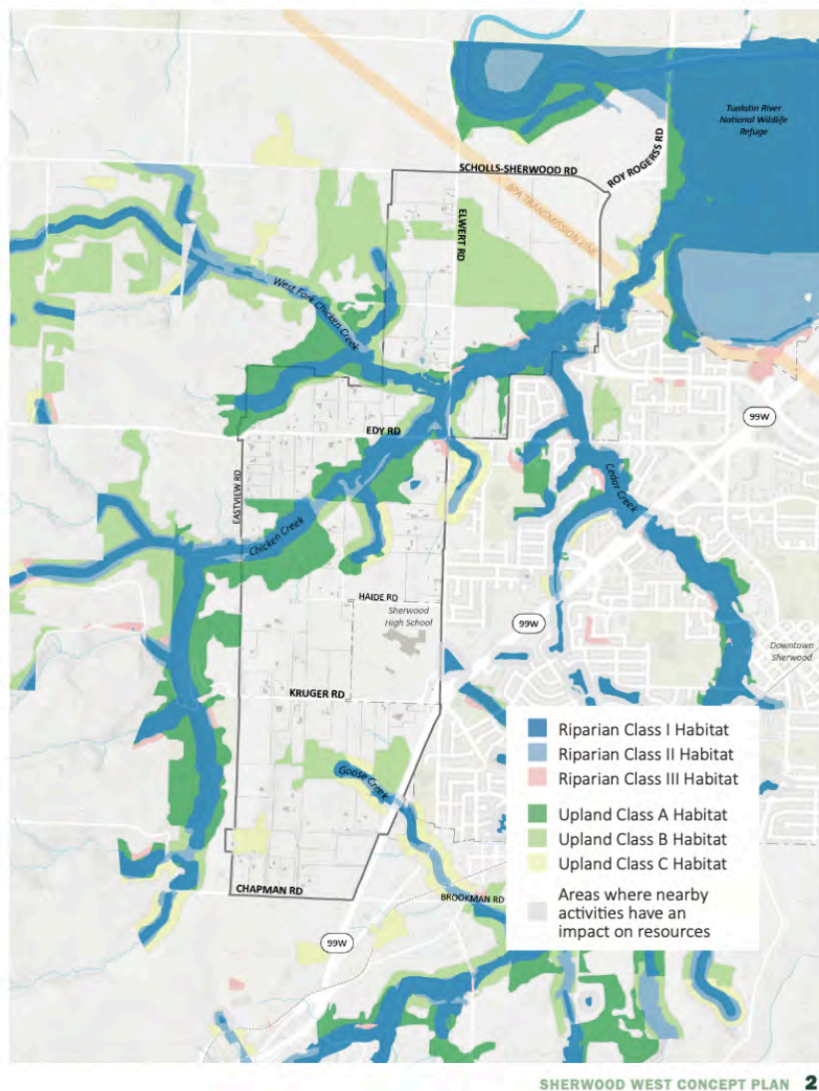


FIGURE 2: Sherwood West Concept Plan: Natural Resources Existing Condition

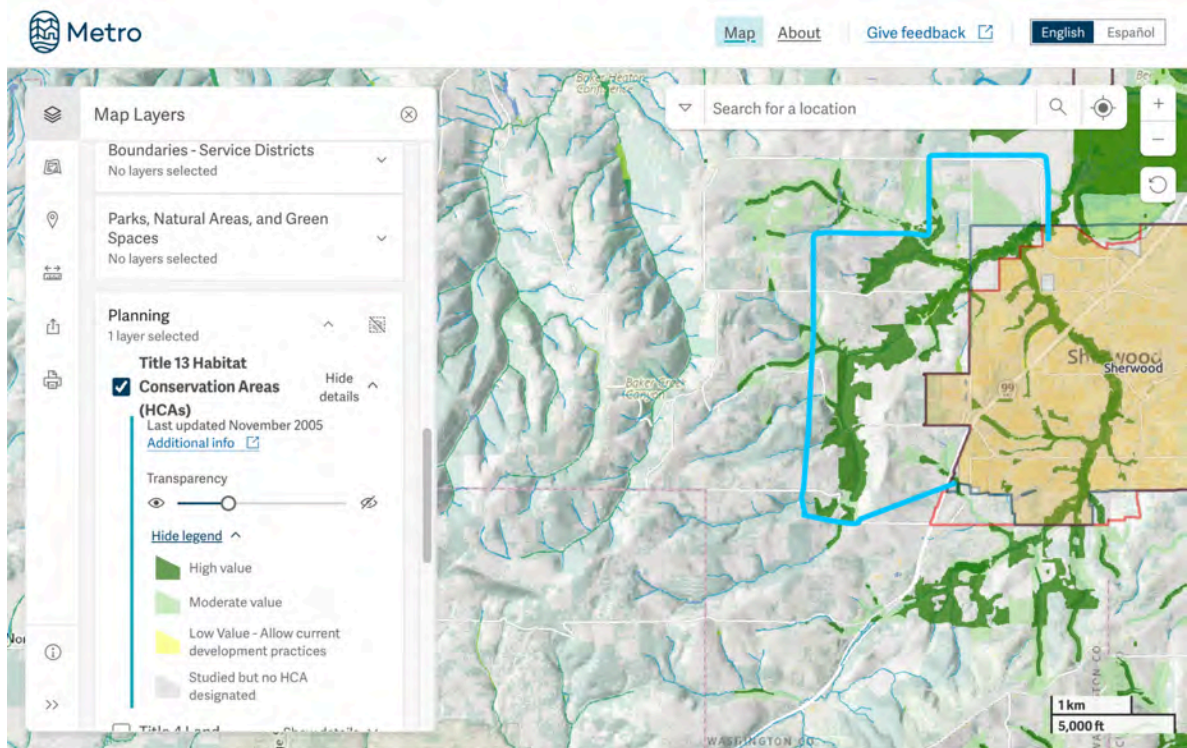


FIGURE 3: MetroMap highlighting Title 13 HCAs (dark green) in Sherwood West (blue).



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1/8/25, 12:03 PM

Tualatin Riverkeepers Mail - RE: 11/11 Testimony



Eve Goldman <eve@tualatinriverkeepers.org>

RE: 11/11 Testimony

3 messages

Roger Alfred <Roger.Alfred@oregonmetro.gov>
To: "eve@tualatinriverkeepers.org" <eve@tualatinriverkeepers.org>

Tue, Nov 12, 2024 at 12:00 PM

Hello – I'm not sure if we've met, I'm the Metro land use attorney. I was forwarded your letter and wanted to make sure you are aware that Metro staff's alternative location analysis under Goal 14 and the Metro Code is included in Appendix 7 and 7A of the UGR, which has been up on our website for a few weeks. Here is a link:

<https://www.oregonmetro.gov/public-projects/2024-growth-management-decision>

Thanks, please let me know if any questions.

Roger

From: Georgia Langer <Georgia.Langer@oregonmetro.gov>
Sent: Monday, November 11, 2024 10:22 AM
To: Metro Councilors <MetroCon@metro-region.org>; Carrie MacLaren <Carrie.MacLaren@oregonmetro.gov>; Marissa Madrigal <Marissa.Madrigal@oregonmetro.gov>
Cc: Council Office Staff <CouncilOfficeStaff@metro-region.org>
Subject: 11/11 Testimony

Councilors and Staff,

We have received the attached written testimony. Please let me know if you have any questions.

<< File: Tualatin Riverkeepers Testimony.pdf >> << File: Sukhjinder Singh Deo Testimony.pdf >>

Kind regards,

Georgia Langer (she/they)
Legislative and Engagement Coordinator

Metro Council Office
600 NE Grand Avenue
Portland, OR 97232-2736
503-813-7591
www.oregonmetro.gov

<https://mail.google.com/mail/u/0/?ik=1dbf1a3a24&view=pt&search=all&permthid=thread-f:1815548156677209379&simpl=msg-f:1815548156677209379&simpl=...> 1/2

FIGURE 4: Email correspondence between TRK and Metro's land use attorney Roger Alfred regarding Appendix 7 and 7A publication date on Metro's website.



4145 NE Cully Blvd. Portland, OR 97218

www.verdenw.org

ATTN: Periodic Review Specialist
 Department of Land Conservation and Development
 635 Capitol Street NE, Suite 150
 Salem, Oregon 97301
 Email: DLCD.PR-UGB@dlcd.oregon.gov

Thursday, January 9, 2025

Re: Objections to Metro Urban Growth Boundary Amendment, Metro Council Ordinance No. 24-1520

Verde is a community-based 501(c)3 non-profit organization by and of Black, Indigenous, and other people of color. We are rooted in the Cully neighborhood of Northeast Portland. Our mission is to serve environmental justice communities like our own by building environmental wealth through social enterprise, outreach, and advocacy. Verde engages in advocacy at the intersection of transportation, housing, and land use to advance our mission through policies that promote the safe, clean, affordable, and abundant transportation and housing options that have often passed our communities by.

Consequently, Verde must respectfully object to Metro's Ordinance No. 24-1520, which expands the regional UGB into the Sherwood West planning area. We do so on the grounds that this amendment failed to meet requirements to compare and analyze alternative sites and strategies established in Statewide Land Use Planning Goal 14 and in Metro's Urban Growth Management Functional Plan with consideration of factors including climate and equity.

I. Objection Procedures

OAR 660-025-0100(2) provides that "persons who participated at the local level orally or in writing during the local process leading to the final decision may object to the local government's submittal. To be valid, objections must:

- (a) Be in writing and filed with the department's Salem office no later than 21 days from the date the local government sent the notice;
- (b) Clearly identify an alleged deficiency in the work task or adopted comprehensive plan amendment sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated;
- (c) Suggest specific revisions that would resolve the objection; and
- (d) Demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision. OAR 660-025-140(2)(a)-(d)."

Regarding (a), Metro's notice regarding its decision to approve the amendment to the UGB Metro's was posted December 19, 2024, making the deadline for submittal of this letter to DLCD January 9, 2025.



Regarding (b), Section III of this letter details alleged deficiencies and rule violations of the proposed UGB amendment.

Regarding (c), Section IV of this letter suggests that LCDC remand this decision back to Metro Council for further consideration of these objections.

Regarding (d), Section II of this letter details Verde's participation in Metro's proceedings leading to the Council decision on Ordinance No. 24-1520.

II. Verde's Participation in Metro's Urban Growth Report and Sherwood West UGB Expansion Proceedings

Verde staff member Indi Namkoong participated as an invited stakeholder in the Metro urban growth stakeholder roundtable, which met monthly from November 2023 to July 2024.

Verde staff member Indi Namkoong also provided oral testimony at the September 26, 2024 Metro Council meeting in response to the draft urban growth report and Sherwood West expansion proposal.

III. Objections

Metro Council considered neither alternative sites for expansion nor alternatives to expansion to meet regional needs as part of this UGB expansion decision. Statewide Planning Goal 14 and Metro's Urban Growth Management Functional Plan require evaluation of both such alternatives in determining changes to the urban growth boundary.

Oregon's Statewide Planning Goal 14, regarding urbanization, states (emphasis added):

"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."

Metro's Urban Growth Management Functional Plan (Section 3.07 of the Metro Code) further states at 3.07.1425 (emphasis added):

- (a) This section sets forth the factors and criteria for amendment of the UGB from state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) and the Regional Framework Plan.



(b) The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:...

...(3) A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.

(c) If the Council determines there is a need to amend the UGB, **the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need** considering 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 land outside the UGB designated for agriculture or forestry pursuant to a statewide planning goal.
- (5) **Equitable and efficient distribution of housing and employment opportunities throughout the region;**...

The Sherwood West concept plan was the only site of potential expansion presented to the Metro urban growth stakeholder roundtable and in the public comment period for the 2024 draft Urban Growth Report. No specifics of alternative sites nor alternative measures to meet identified regional needs were discussed in either of these settings where Verde was a participant. We are not aware of an analysis of alternative sites or measures being discussed by Metro Council prior to or coincident with their public hearing and decision on December 5, 2024.¹

In the absence of a comparative analysis of alternatives, the concerns raised by Verde staff in the roundtable and at the Metro Council public hearing held on September 26th, 2024² remain unaddressed and unmitigated in Metro Council's decision. Those concerns include:

- (1) **The additional burdens that infrastructure costs in the expansion area may place on already-strained infrastructure budgets in our region, with transportation budgets of particular concern to Verde.** The state of Oregon faces an annual shortfall of at least \$1.3 billion in road infrastructure maintenance funding alone.³ Metro's 2023 Regional Transportation Plan update identified \$2.18 billion in unfunded operations and

¹ Metro Council Public Hearing Minutes, December 5, 2024, at page 7–9
<https://oregonmetro.legistar.com/View.ashx?M=M&ID=1244610&GUID=60BA3542-24F7-4621-AD30-0E9C9A37ED98>

² 9/26/24 Metro Council meeting video at 2:20:15
https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=890

³ Oregon Department of Transportation Transportation Funding Needs report, July 2024,
<https://www.oregon.gov/odot/About/Documents/Transportation%20Funding%20Needs.pdf>

maintenance needs in our region through the time period of the plan.⁴ In a resource-constrained environment, it is difficult to reconcile our regional goals of efficiency with the choice to proceed with a generally higher-cost development strategy⁵ on new lands without consideration of alternatives that would make use of land already inside the UGB.

- (2) **The subsequent risk to the provision of adequate public facilities and services to sustain affordable, complete, and climate-friendly communities both in Sherwood West and in communities already inside the UGB.** Cully, East Portland, east Multnomah County and other lower income, more racially diverse neighborhoods already inside our UGB have faced decades of unsafe and incomplete street, sidewalk, and bike networks due in part to the chronic challenges that our state and local governments have faced with infrastructure costs outpacing revenue. In resource-constrained environments, environmental justice communities in our region have historically borne the brunt of disinvestment.⁶ Without a thorough analysis of alternative sites and strategies, we are not aware that these effects have been fully considered and mitigated against.
- (3) **The climate, environmental, and social consequences of pursuing expansion in an area not currently served by public transit and where planned density may not support future transit service.** Without plans and funding to connect this expansion area to public transit, residents will still need to drive - or ask for help from someone who can - to access anything the neighborhood can't provide, from jobs to medical care. This establishes a higher "floor" for transportation costs for residents of the expansion area, impacting cost of living and affordability of those housing options.⁷ risk inducing more vehicle miles traveled at a time when our region is trying to reduce them rapidly in service of Metro's Climate Smart Strategy.⁸

A thorough alternatives analysis would allow Metro Council to fully understand and weigh these factors against one another in their decision. In the absence of such analysis, Metro's responsibilities under Goal 14 and its own policies are not met.

IV. Suggested remedies

Verde respectfully requests that DLCD remand this decision back to Metro Council with direction to evaluate and compare alternative sites for expansion as well as alternatives to expansion that make better use of lands within the UGB, with attention to the following factors:

⁴ Oregon Metro, 2023 Regional Transportation Plan, at 5-33

<https://www.oregonmetro.gov/sites/default/files/2023/12/21/2023-RTP-Ordinance-No-23-1496-adopted-package-exhibit-A.pdf>

⁵ 1000 Friends of Oregon report, January 2013,

<https://friends.org/sites/default/files/2019-04/More%20Extensive%20Is%20More%20Expensive%202013.pdf>

⁶ Goodling, Green, McClintock, Uneven Development of the Sustainable City:

Shifting Capital in Portland, Oregon, 2015,

https://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1106&context=usp_fac

⁷ Oregon Metro, True housing affordability in Portland: Beyond the rent, October 2015

<https://www.oregonmetro.gov/news/true-housing-affordability-portland-beyond-rent>

⁸ Oregon Metro, Climate Smart Strategy, 2014

<https://www.oregonmetro.gov/sites/default/files/2015/05/29/ClimateSmartStrategy-FinalVersion-2014.PDF>



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www.verdenw.org

- (1) Impacts of various alternatives on regional capacity to provide and equitably distribute housing-supportive infrastructure, including transportation networks, within the existing UGB and any expansion area
- (2) Climate and environmental impacts of induced VMT associated with various alternatives, and
- (3) Impacts of planned density and feasibility of serving various alternative sites with safe, multimodal transportation infrastructure on outcomes of housing affordability and accessibility.

Verde deeply appreciates DLCD's consideration of our concerns, objections, and suggested remedies in reviewing Metro Council Ordinance No. 24-1520, the UGB expansion into Sherwood West. Please do not hesitate to contact me if you have any questions regarding this submittal. Please provide any questions and DLCD's decision electronically to indinamkoong@verdenw.org.

Sincerely,

Indi Namkoong
Transportation Justice Coordinator
Verde
indinamkoong@verdenw.org

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—
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January 9, 2025

Via Hand Delivery

Barbara Bateman, Director
Oregon Department of Land Conservation and Development
635 Capitol Street Northeast Suite 150
Salem, Oregon 97310

Re: Metro Council Ordinance 24-1520, Sherwood Urban Growth Boundary Amendment

Dear Director Bateman,

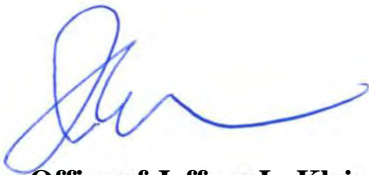
This letter presents the Objections pursuant to OAR 660-025-140 of the **West of Sherwood Farm Alliance, David Nemarnik, Claudio Ponte and Juliet Ponte**, to the Metro Urban Growth Boundary Amendment Decision, Metro Council Ordinance No. 24-1520.

The original Objections are hereby handed to the Department and/or its legal counsel today, the choice being dependent upon accessibility and front desk staffing. An electronic copy has been or will be transmitted as a courtesy for the Department.

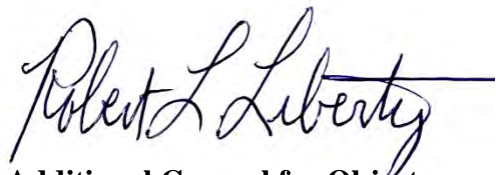
A copy has also been transmitted to Roger Alfred, Metro's legal counsel.

For the Department and the Commission's convenience, we have provided a table of contents on the following page.

Respectfully submitted,



Law Office of Jeffrey L. Kleinman
Jeffrey L. Kleinman, OSB No. 743726
Attorney at Law
1207 SW Sixth Av.
Portland, Oregon 97204



Additional Counsel for Objectors:
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RobertLiberty9425@comcast.net

Copy: Roger Alfred, Metro Legal Counsel

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The Statewide Importance of This Proceeding

The decisions the Department of Land Conservation and Development (DLCD) and the Land Conservation and Development Commission (LCDC) will make on the parties' objections to the Metro Council's approval of this 1,291-acre UGB expansion at the southwestern edge of the Metro regional UGB, will have statewide, not just regional importance. The Department and Commission will set statewide precedents when you answer the questions before you:

- What is a sound factual basis for a UGB expansion?
- In making the decision about whether and where to expand a UGB, do Metro and other local governments have to consider whether the housing which would be built, whether in proposed UGB expansion areas or through infill and redevelopment, will be made available at prices and rents affordable to most Oregonians (households earning 120% or less of median income)?
- Do elected officials have the responsibility to carry out the planning duties assigned to them by law? For example, must they actually consider, discuss and choose among alternative approaches and locations for meeting urban land needs? Or can they rely on a legal fiction—a putative fig leaf—that they fulfilled those responsibilities through their staff's creation of a post-hearing report that those officials in turn never reviewed or discussed?
- Does *Clark v. Clackamas County* stand for the proposition that Metro or any other local government can limit its review of alternative measures and alternative locations to meet a regional need for land for housing and employment to a single urban reserve?
- Do Goal 14, the Goal 14 Administrative Rule and the UGB provisions in ORS Chapters 197 and 197A require the consideration of alternative lands, parcels or areas to meet an urban land need? Or do they allow local government to compare and choose only *entire* urban reserve areas?
- Do any parts of LCDC's Climate Smart and Equitable Communities program apply to decisions on whether to expand a UGB?
- Does Metro's Urban Growth Management Functional Plan, acknowledged by LCDC, require it to consider the importance of farmland in its urban reserve areas when choosing between alternative UGB expansion areas?
- Does Oregon's compact urban growth policy have the force of law, or not?
- Can landowners eliminate Goal 5 protections of upland habitat and exempt themselves from Metro's LCDC-acknowledged Title 13 regulations, simply by clearcutting their land?
- What does Goal 1 mean and require in terms of providing citizens with a fair and transparent opportunity to participate in land use proceedings, as compared to more

powerful government officials and development interests who contribute heavily to local officials' campaigns?

Metro's Decision-Making Process

The objections presented by the West of Sherwood Farm Alliance (Alliance) are voluminous. This is not an instance of simply overdoing it, or lawyers with too much time on their hands. The number and nature of the Alliance's objections reflect the actual process and politics of the Metro Council's decision making. That reality may be obscured by the volume of decision points and the length of the record. Thus, we need to be clear at the outset.

In 2023 the Metro staff and Council decided that they would focus their UGB review process on any submitted concept plans for UGB expansions in the urban reserves around the region. They did not create a parallel process to consider how urban land needs might be met through better use of land already inside the UGB.

In late 2023, Sherwood presented a version of its Sherwood West Concept Plan UGB expansion proposal to Metro. Within a month, at the very end of 2023 and beginning of 2024, Sherwood's staff began making presentations to Metro's various advisory committees and meeting with Metro staff and Councilors. This process was aided by the fact that Sherwood's mayor was an active member of the Metro Policy Advisory Committee (MPAC), speaking up consistently for actions that would result in the endorsement of Sherwood's expansion.

This advocacy proceeded concurrently with the drafting of Metro's Urban Growth Report (UGR) and a refinement to the Sherwood West Concept Plan. Metro provided grants to help fund the changes to the Concept Plan.

On April 3, 2024, Sherwood formally submitted its revised Sherwood West Concept Plan to Metro. This turned out to be the only UGB expansion concept plan Metro received. Metro nonetheless continued to adhere to its original approach. Thus, this single proposal would be the sole focus of its deliberations.

Thereafter, the Sherwood West proposal proceeded in tandem with and in coordination with Metro staff's analyses and recommendations. On the very day the draft Urban Growth Report (UGR) was released for public comment, a Metro Councilor announced his strong endorsement of the Sherwood UGB expansion. He had received tens of thousands of dollars of campaign contributions from development interests.

Thereafter, the UGR was revised to closely fit and justify the Sherwood West Concept Plan.

On August 26, 2024, Metro's Chief Operating Officer announced her endorsements of the Sherwood West UGB expansion.

After a public hearing on that recommendation on September 26 (at which Metro's Committee of Racial Equity excoriated Metro for marginalizing them and revealing an indifference to their own racial equity commitments) the Metro Council tentatively endorsed the COO recommendation by a 6 to 1 vote on October 8.

It was not until 10 days after the Council's October 8 deliberation that Metro staff published on its website 720 pages of analysis of alternative urban reserves. This only took place after a representative of a Stafford property owner had objected to the way Metro had confined itself to reviewing only the Sherwood West expansion proposal.

After the final public hearing on November 21, Metro staff, working with Sherwood staff, submitted additional material to the record to rebut statements made by opponents at the September hearing. Once again, this highlighted the nature of the work of Metro Council and staff; Metro was not a neutral judge of the merits of the Sherwood UGB expansion, but an advocate for it, reflecting a top-down decision made long before.

The final Council vote to approve this expansion, on December 5, 2024, was a mere formality.

Metro Council's decision was more the result of a political process than the result of an objective planning process based upon Oregon law and Metro's own requirements. This in turn colored its proceedings and provides the backdrop for the Alliance's objections.

West of Sherwood Farm Alliance and Supporters' Participation in Metro's Proceedings

OAR 660-025-140(2)(d) requires persons filing objections to Metro's decision to "[d]emonstrate that the objecting party participated orally or in writing in the local process leading to the final decision."

The minutes of the [May 22, 2024 Metro Policy Advisory Committee meeting](#) record oral testimony in opposition to the Sherwood West Concept Plan (agenda item "6.3 Presentation of City UGB Expansion Proposals") by persons affiliated with, supporting or in agreement with the West of Sherwood Farm Alliance:

"Jeff Kleinman, attorney representing West of Sherwood Farm Allianace [sic]"

"David Nemarnik, Sherwood resident"

"Leif Hanson, resident of Sherwood"

"San Inouye, resident of Sherwood"

The [minutes of the June 26, 2024 Metro Policy Advisory Committee meeting](#) record testimony in opposition to the Sherwood West UGB expansion by:

David Nemarnik, Sherwood, read testimony from Jeffert [sic] Kleinman, the attorney representing the West of Sherwood Farm alliance.

Emily de Hayr, Sherwood

Juliet Ponte, Sherwood

Steven A Gotter, Sherwood Farm Alliance

Brian Fields, Sherwood

The [minutes of the July 24, 2024 Metro Policy Advisory Committee](#) record oral testimony in opposition to the Sherwood West UGB expansion by:

Julie Horowitz, Sherwood resident

Al Pearson

Peter Dinsdale, Sherwood resident

The minutes of the September 26, 2024 Metro Council meeting record oral testimony in opposition to the proposed Sherwood West UGB expansion from:

David Nemarnik

Diane Jarvis

Todd Christiansen

The [minutes of the November 21, 2024 Metro Council meeting](#) record testimony on Metro Ordinance 24-1520 by:

“Jeffery Kleinman, MRC: Testified in opposition to the Sherwood West expansion”

Written, including emailed testimony, was submitted by:

Claudio Ponte, November 20, 2024, email to Roger Alfred and Ted Reid

Laurie Marsh, November 20, 2024, email to Roger Alfred and Ted Reid

Alan and Jo Pearson, November 20, 2024, email to Roger Alfred and Ted Reid

George and Jean Schroeder, November 20, 2024, email to Roger Alfred and Ted Reid

Karla Bauer, November 21, 2024, email to Roger Alfred and Ted Reid

Brad Allan, November 21, 2024 and November 26, 2024, emails to Roger Alfred and Ted Reid

This list is not necessarily comprehensive but is sufficient to demonstrate party status of the West of Sherwood Farm Alliance and its supporters.

In these objections the West of Sherwood Farm Alliance and the individual objectors will be referred to as “the West of Sherwood Farm Alliance” or “the Alliance.”

Objections to Metro's UGB Expansion Decision

Objection A

The Metro Council itself did not evaluate alternative sites or consider reasonable alternative measures to use land already in the boundary to meet identified regional needs as required by state statutes, Goal 14 and appellate court precedent.

1. State statutes, statewide Planning Goal 14, "Urbanization," as interpreted by LCDC and the Court of Appeals, Metro's Urban Growth Management Functional Plan require the evaluation of alternative boundary locations and reasonable measures to use land inside the UGB.

Metro's urban growth boundary capacity analysis must comply with statewide planning Goal 14, "Urbanization" (emphasis added):

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.*

Goal 14 also requires a showing of:

- (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local for cities applying the simplified process under ORS chapter 197A, a 14-year forecast;*
- (2) In determining need, local governments may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary."*

The same need factors are found at ORS 197A.350(6)(a) and (b.)

Metro incorporates these requirements into its LCDC-approved Urban Growth Management Functional Plan (a part of the Metro Code):

*Urban Growth Management Functional Plan
Metro Code 3.07.1425 Legislative Amendment to the UGB - Criteria*

(a) This section sets forth the factors and criteria for amendment of the UGB from state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) and the Regional Framework Plan.

....

(c) If the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need considering the following factors...

(Emphases added.)

The Metro Council has stated in this and prior proceedings, that it gives great weight to concept plans based on its experience with the Damascus urban growth boundary area, as was discussed in *Clark v. LCDC* 327 Or App 708 (2023). But in that case LCDC also confirmed that Metro is still required consider alternative locations in other urban reserve areas for meeting the need on land inside the UGB. *Clark v. LCDC* 327 Or App at 715 (2023). It is worth noting that the Clark case concerned the evaluation and comparison of four different UGB expansion areas.

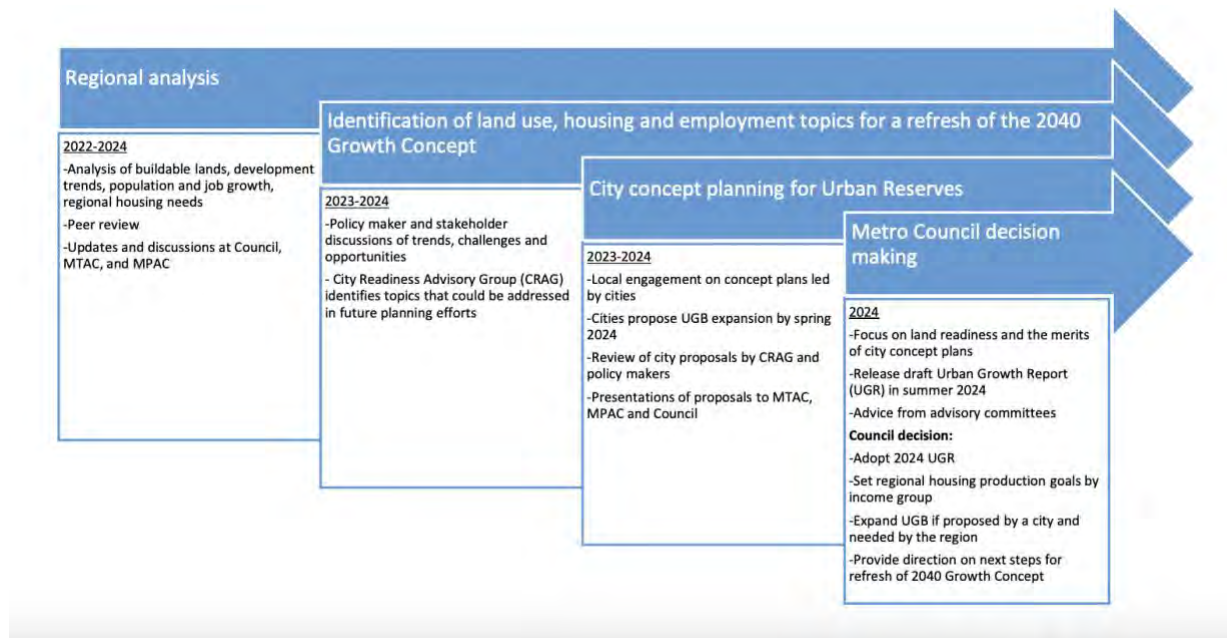
2. The Metro Council itself never evaluated alternative sites, nor did it consider reasonable measures to meet the regional needs identified in the UGR on land within the existing UGB.

The agendas, minutes, video recordings and timeline of Metro's UGM decisions leaves no doubt that the Metro Council never evaluated alternative sites under the Goal 14 or its own Urban Growth Management Functional Plan locational factors in other urban reserves or considered reasonable measures to make better use of land already inside the UGB, before approving the Sherwood West Concept Plan.

As detailed below, there was never any Metro Council discussion and evaluation of alternative sites and measures at its prior meetings, nor at the meetings of its many advisory committees.

There were, however, multiple presentations of the Sherwood West Concept Plan, which was submitted to Metro in November of 2023. That was followed by multiple presentations to the Metro Council and its advisory committees starting in December 2023, one year before the Metro Council's approval of that proposal. (See timeline.)

On, February 22, 2023 Metro staff presented to MPAC a summary of the process that would be used in the 2024 urban growth management (UGM) decision. It included this flow chart:



Under the heading “City concept planning for Urban Reserves” it notes “Cities propose UGB expansion by spring 2024” followed by, not preceded by, “Release of draft Urban Growth Report (UGR) in summer of 2024.”

That document also stated “staff proposes that this process is centered on city readiness. As such, there will be a heavy emphasis on the merits of city proposals for concept planned UGB expansions.” *Id.*, at page 3.

The flowchart does not include any reference to consideration of measures to more efficiently use land inside the UGB or to any consideration of a range of alternative sites for locational adjustments, only the presentation and consideration of city expansion proposals.

Metro’s decision in 2023 to limit its consideration of how to meet regional need to submitted applications (concept plans) which was described in the August 26, 2024 Metro Chief Operating Officer/Staff Recommendations, which preceded the publication of the alternative analysis by about 9 weeks:

....in 2010 the Metro Council adopted a policy to only expand the UGB into urban reserve areas that have been concept planned by a local government and that demonstrate readiness to be developed. In the current 2024 UGB cycle, the City of Sherwood is the only city that has prepared a concept plan and proposed a UGB expansion, and they have shown that these elements are in place. Sherwood’s readiness for new urban growth provides an opportunity to address the regional land needs identified in the draft 2024 Urban Growth Report (UGR).

In November 2023, Sherwood transmitted its Sherwood West Concept Plan to Metro.

On December 13, 2023, a year before Metro’s approved the Sherwood West UGB expansion proposal, Sherwood’s planning director presented the Sherwood West Concept Plan to MPAC.

There is no discussion of alternative sites or measures.

On April 3, 2024, Sherwood submitted a revised Sherwood West Concept Plan to Metro,. It is the only proposal submitted before the May 31, 2024 deadline and the only alternative for meeting any land needs to be later identified in the Urban Growth Report.

All subsequent presentations and deliberations were focused on how the Sherwood West Concept Plan could meet the region’s land needs.

On July 9, 2024, Metro staff released the draft Urban Growth Report (UGR) and opened public testimony on it, but not on any alternatives. This was after seven months of various hearings and presentations on the Sherwood West Concept Plan.

The draft UGR contained this list of Appendices, which indicated that the analysis of “Goal 14 UGB candidate expansion areas” and “Metro code analysis of UGB candidate expansion areas” were both “pending.” 2024 Draft Urban Grow Report at page iv.

LIST OF APPENDICES

- Appendix 1: Regional population, household, and employment forecast
- Appendix 1A: Summary of expert panel review of regional forecast
- Appendix 2: UGB capacity estimation methods and results
- Appendix 3: Employment land demand methods and results
- Appendix 4: Employment and economic trends
- Appendix 5A: Residential development indicators
- Appendix 5B: Demographic indicators
- Appendix 6: Employment site characteristics
- Appendix 7: Goal 14 analysis of UGB expansion candidate areas [pending]
- Appendix 7A: Metro code analysis of UGB expansion candidate areas [pending]
- Appendix 8: Regional housing needs analysis
- Appendix 8A: Regional analysis of existing housing needs
- Appendix 9: Sherwood West employment area analysis
- Appendix 10: Housing market filtering assessment

On August 26, 2024, Metro’s Chief Operation Officer (“COO”) published her recommendation supporting adding the Sherwood West Concept Plan area to the UGB. That recommendation did not include any discussion of any alternatives to the Sherwood West Concept Plan.

On September 26, 2024, the Metro Council held its “Public Hearing for 2024 Urban Growth Management: Chief Operating Officer Recommendations.” No alternative sites or infill and redevelopment measures to meet regional need were presented to the public in the staff report and COO recommendation, no alternative sites were presented for public comment.

On October 8, 2024, the Metro Council held a work session show that a majority of the Council made a preliminary decision to approve the Sherwood West UGB expansion, without ever evaluating alternative sites or measures:

Council President Peterson summarized that the majority of Council supported introducing an ordinance to bring Sherwood West within the UGB based on a medium growth forecast. Council President Peterson then requested that the councilors share their thoughts on the conditions of approval.

Council work session [Minutes October 8, 2024](#) at page 5.

On October 18, 2024, about a month after the public hearing, and ten days after the Metro Council’s work session on October 8, 2024 and almost two months after the COO’s recommendation, Metro staff posted on Metro’s website “Appendix 7 to Draft 2024 Urban Growth Report Goal 14 Boundary Location Factors Analysis of UGB Expansion Candidate Areas” and Appendix 7A “Appendix 7A to Draft 2024 Urban Growth Report Metro Code Factors Analysis of UGB Expansion Candidate Areas.” These appendices include the following parts

- Introduction and Methodology
- Attachment 1: Map of Urban and Rural Reserves
- Attachment 2: Goal 14 Boundary Location Factors Analysis Narratives (27, with maps)
- Attachment 3: Goal 14 Boundary Location Factors Analysis Results
- Attachment 4: Mackenzie Utility Analysis Report “2024 UGR Decision Appendix
- Attachment 2 Part 1 Goal 14 Locational Factors”

Appendix 7 and its attachments and Appendix 7A are more than 700 pages in length.

Obviously, the alternatives analysis was not presented to the Councilors at their work session and there was no discussion of alternative sites or measures, because it hadn’t been published.

At the Council at Metro’s November 21, 2024, public hearing Appendix 7 was part of the meeting packet, but Metro staff did not present any alternative sites for evaluation by the Metro Council, did not discuss alternative measures and the Metro Council never discussed any alternative sites or measures. “[Minutes, Thursday, November 21, 2024](#)” pages 9-12, [Metro Council hearing video recording](#) at 54:46 to 2:02:35.

The Metro Councilors did not discuss alternative sites or measures at its December 5, 2024 deliberations when it approved the Sherwood West UGB expansion. [Minutes, Thursday December 5, 2024](#) at pages 7-9; [Video recording of December 5, 2024 Metro Council meeting](#) at 1:44:15 to 2:13:16.

On December 5, 2024, the Metro Council met to deliberate and take action on the draft UGM ordinance endorsing the Sherwood West Concept Plan UGB expansion. There was no staff presentation on alternative sites or measures and no discussion by any of the six Councilors voting in favor about alternative sites or measures. [Video recording of the December 5, 2024 Metro Council meeting](#) 1:44:15 to 2:13:15

The basic error in the Metro Council's decision making was described by Metro Councilor Nolan at the Council's December 5, 2024, meeting:

We are supposed to start by asking do we need more land in the urban growth boundary or is the land we have in the urban growth boundary sufficient to meet our need for housing and employment needs. We started instead with asking for proposals, and one could look at the process then as fitting our answer to the first question into the proposals that we got.¹

[December 5, 2024 Metro Council meeting video](#) at 1:51:37 - 1:52:09

She described how the Metro Council made its decision without consideration of any alternatives:

On our own process made it impossible for this Council to give any authentic consideration or deliberation to alternative opportunities for expansion if there was a need. We said, we put in place a process that we would invite proposals from cities and limit ourselves to consideration of only concept plans submitted by cities making it impossible for us to look at alternatives. Umm. . . We never had a presentation about alternatives here, we never had deliberations, alternatives were never on the agenda for this Council, we never deliberated about them, we never considered it,....

[December 5, 2024, Metro Council meeting video](#) at 1:57:19 – 1:58:15

DLCD and LCDC should not accept the legal fiction, contradicted by all the evidence, that the Metro Council somehow evaluated various alternative measures and sites because their ordinances references documents they never discussed. To accept that fiction would encourage (or more accurately reinforce) the practice of local officials making land use decisions unrelated to the laws, regulations, criteria, standards and policies which should govern them,

3. Proposed remedy.

¹ That remark is supported by this excerpt from Metro's findings of fact and law in support of its decision: "The outcome is a regional capacity deficit for single unit detached and middle housing that totals approximately 3,100 units. The concept plan adopted by the Sherwood City Council for Sherwood West indicates that it can provide a total of 3,120 single family, middle housing, and multifamily units." Exhibit F to Ordinance No. 24-1520 page 10. As noted above, Sherwood proposed that number of housing units in its draft concept plan in December 2023, which is later revised and submitted on in May 2024, two months before the draft UGR was released.

LCDC should remand Metro’s decision and direct Metro staff, advisory committees and the Metro Council to consider sites in alternative Urban Reserves, or various other measures to meet regional needs inside the existing UGB, to the extent LCDC finds those needs have been properly determined by Metro.

The Metro Council’s decision should be remanded to the Metro Council to:

- Identify and evaluate alternative measures that will accommodate all or some of the regional needs (for additional housing and employment identified in the UGR) on land within the UGB.
- Correct the methodology for selecting or eliminating sites within urban reserves for evaluation.
- Apply the criteria used to implement the standards in Goal 14, the Goal 14 Administrative Rule, ORS 197A.350(6) and the Urban Growth Management Functional Plan.
- To the extent a UGB expansion is merited (because of limitations on the effectiveness of alternative measures) to evaluate and select the alternative lands that can be used to satisfy regional needs.

Objections B.1, B.2, B.3., B.4

Accepting (for the sake of argument) the legal fiction that the Metro Council considered the alternatives, Metro’s alternatives analysis is fundamentally flawed.

As described in a prior objection, and as a matter of fact shown in the video recordings of the Council, the Metro Council never considered both alternative sites or alternative measures to meet the regional needs identified in the Urban Growth Report.

However, if for the sake of argument, we accept the legal fiction that the Metro Council “considered” these alternatives sometime after October 18, 2024 by adopting them at their December 5, 2024 final meeting, then what they considered and adopted was fundamentally flawed.

Objection B.1.

Metro failed to consider reasonable measures that would meet regional needs for housing and employment inside the existing UGB.

ORS Chapter 197A.350(6) states:

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

(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. Etc.

(b) Amend its regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. If Metro takes this action, Metro shall adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197A.348 (2) and data in subsection (5)(a) of this section. Etc.

The same requirements are found ORS 197.296(6)(a) and (b) and LCDC's Goal 14 Administrative Rule.

As described previously, in mid-October Metro staff released 720 pages of “analysis” of 27 Urban Reserves considering their suitability to meet the regional housing and employment need staff had identified months earlier. (Appendices 7 and 7A and attachments.)

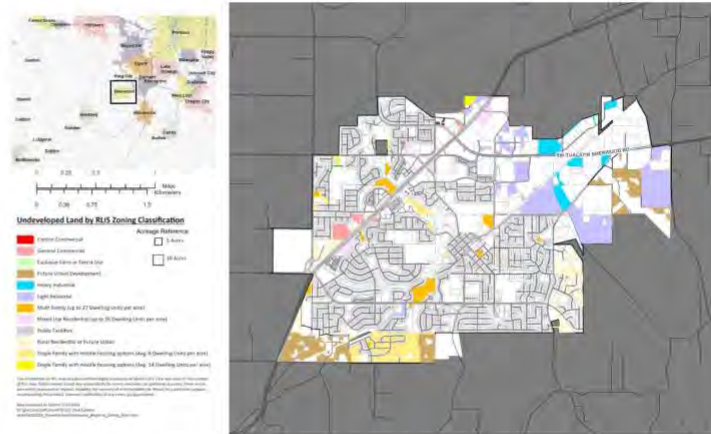
However, there is no comparable analysis of “new measures” that would meet this need without expanding the UGB.

The potential and advantages of meeting these regional needs within the existing UGB are illustrated by the following five examples.

- Example 1: The Alliance's capacity analysis of vacant land already inside the Sherwood city limits and adjacent UGB expansion areas.

The Alliance commissioned a map of vacant land inside the Sherwood City limits and the Brookman annexation area and Tonquin Employment Area (areas Metro previously added to the UGB next to Sherwood.)

Metro Resource Center Map of Vacant Land in Sherwood Planning Area Prepared August 2024



The Sherwood Planning Area is the land inside Sherwood city limits, the Brookman UGB expansion concept area and Tonquin Employment Area

Vacant Land Available for Housing In Sherwood Planning Area

Metro Generalized RLIS Zoning	Acres
Mixed Use Residential	22.53
Multi Family Residential	36.07
Single Family Residential	146.76
Total Residential	205.35
Future Urban Development	111.43
Rural	18.16
Total Vacant Land Available for Housing	334.94

Based on that information the Alliance prepared a housing and employment capacity analysis of those lands, which it presented to Metro in September.

That analysis used actual housing types built in Sherwood and the region, including affordable housing projects built using Metro housing bond measures, and examples of cottage housing published by DLCD. The analysis adjusted for gross to net acres in picking densities by assuming only 75% of gross acres would become net, developed acres.

Here are the summary tables for how that existing vacant land inside Sherwood and adjoining unincorporated areas inside the UGB could satisfy the regional need for additional housing, and in types of housing that better meet regional household incomes:

Middle Housing Vacant Land Capacity

Home type	acres	homes
100 ADUs with 2% of existing 5000 sf homes; 50 (4%) with 1,234 new SF homes	0	150
Cottage clusters at 24 homes/acre gross density	10	240
Duplexes on 6,000 sf lots homes/acre gross density	15	174
Three-plexes on 7,200sf lots at gross density	15	272
Four-plexes on 7,200 sf lots at gross density	10	116
Total Middle Housing	50	953

Sherwood Vacant Land Capacity for Housing

Home type	Acres	Homes	Share
Single-family detached	200	1,859	41%
Single-family attached	20	460	10%
Middle housing homes	50	953	21%
Market Rate Multi-family homes	50	1,300	28%
Affordable MF homes for farmworkers, teachers, clerks	9	410	9%
Totals	329	4,572	100%

DLCD should review the details of the capacity analysis to confirm that the examples and assumptions were reasonable.

Obviously, there is no need to assume all regional need could be met within Sherwood and adjacent areas inside the UGB. But it does illustrate what modest amount of land and reasonable changes to zoning and incentives for infill and redevelopment could meet the region's needs.

- Example 2: The analysis of the results of the first year of implementation of Portland's Residential Infill Project (RIP) showed dramatic shifts in the volumes, type, prices and densities of housing built under those regulations.

In 2023 Portland commissioned a report on the effects of its comprehensive zoning reform effort, the Residential Infill Project (RIP.) The RIP incorporates many of the same residential zoning reform requirements adopted by the 2019 legislature, so these results have relevance to all other cities in the region.

The report titled "RESIDENTIAL INFILL PROJECT Year-One Report" was published June 27, 2023, about six months before Metro officially began its urban growth management decision process.

The report, which the Alliance shared with Metro, showed how liberalization of Portland's residential zoning yielded dramatic shifts in the volume, type, prices and densities of housing built under the new regulations.

The "key takeaways" are reproduced here:

Critical Takeaways

- Excluding ADUs, the **majority of housing units** permitted in the R2.5, R5, and R7 zones in the first year since adoption of RIP were in Middle Housing projects.
- **Fourplexes** accounted for more than ¾ of middle housing units in these zones.
- Middle housing uses land nearly **three times more efficiently** than single houses.
- **ADUs are still an important part of the housing mix**, producing an equal number of units as middle housing.
- But unlike ADU's, **over 99% of middle housing units had 2 or more bedrooms**, enabling growing or multigenerational households.
- Building size limits imposed by RIP have **prevented very large, and more expensive single dwelling homes** from being built.



Image Source: Zillow

4

The table below shows that during the first year of the program Portland issued permits for 646 housing units, of which 53% (342) units were for the type of housing units not allowed under prior zoning.

RIP PERMIT DATA ANALYSIS

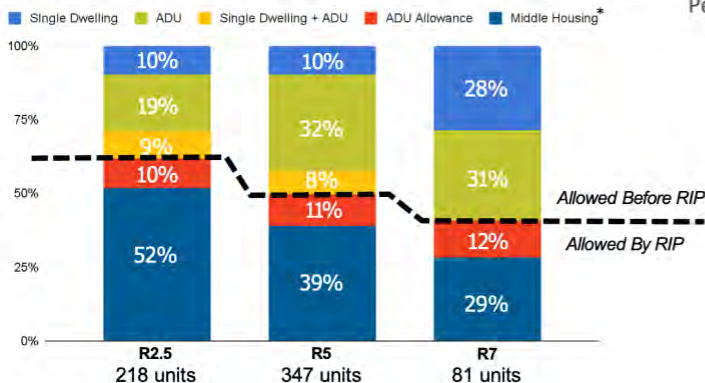
RIP Permits at a Glance



Key Finding #3

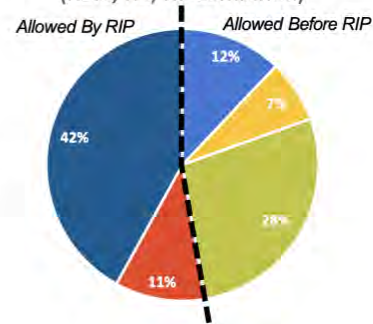
Units allowed by RIP represent the majority of permitted units

Percent of Units Permitted by Housing Type in RIP Zones



*Middle Housing category includes corner duplexes

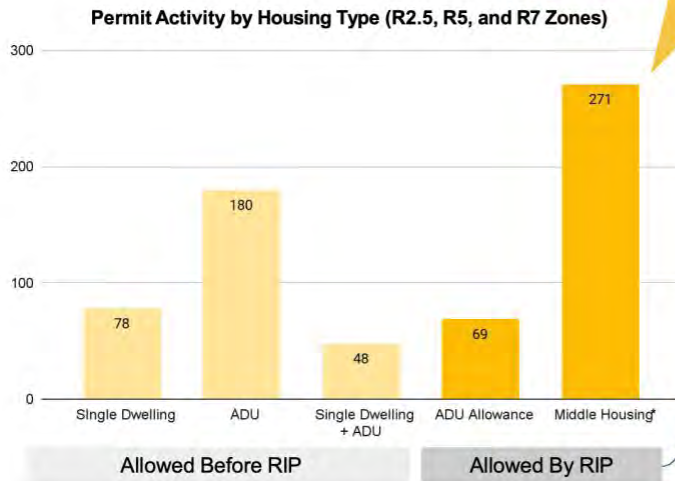
Percent of Units Permitted by Housing Type (R2.5, R5, R7 combined)



18

Three-quarters of the permitted middle housing units were for four-plexes.

Permit Activity Overview



Key Finding
Three quarters of permitted middle housing units were in fourplexes

RIP-Enabled Units Permitted by Housing Type

Aug 1, 2021- July 31, 2022

ADU Allowances	69
Duplex	34
Triplex	27
Fourplex	204
Sixplex	2

*Middle Housing category includes 4 corner duplexes
Source: City of Portland Building Permit Data R2.5-R7 Zones, 8/21-7/22

5

Regarding the cost of market provided housing, the following finding is directly relevant to Sherwood and Metro's failure to consider how limits on floor area ratio maximums could reduce market prices for the single family detached homes Metro concluded were needed in the region:

PRE-RIP CONTEXT ANALYSIS

FAR Limits and Impacts to Home Sales Prices

Key Finding #2

Detached single-family homes with high FARs tend to sell for higher prices due to their size. By limiting the largest of these detached single-family homes, RIP prevents more expensive homes from being built and makes Middle Housing more competitive.

Detached single-family homes over the current FAR limit sold for substantially more than those below the limit. On average, the difference in sales price was over \$117,000.



Metro should have considered Portland's experience with the RIP, as part of an analysis of alternative measures that would meet Metro's finding of the need for 2,700 single family homes and 400 middle housing units. That research should also have informed Metro's analysis of the capacity of existing land supplies in the region, which brings us to the next example,

- Example 3: Portland’s housing capacity analysis showed it can meet the entire region’s housing needs within its boundaries.

In December 2023 Portland adopted its “Residential Buildable Lands Inventory: Methodology and Summary Results” as adopted in Ordinance 191547.

That analysis, as required by law, was based on consideration of constraints on development of individual parcels and pro forma feasibility analysis and actual sale prices and rents. The summary appears on page 20 of the document:

Net Residential Development Capacity

The results of the Buildable Lands Inventory show an estimated capacity for an additional 236,977 housing units in the City of Portland.

Table 8. Residential Capacity by District

District	Capacity (Dwelling Units)
Central City	67,052
East	38,527
North	22,621
Northeast	27,400
Southeast	47,785
West	33,593
Total	236,977

Source: BPS analysis

This housing capacity for one city inside the UGB is in sharp contrast with “Table 15: Capacity deficits or surpluses for current and future housing needs under the assumed scenario (2024-2044)” on page 41 of the Urban Growth Report:

	UGB Housing Need (Scenario 3)			
	single-detached	middle housing	multifamily	Total
Future need: baseline forecast (see Table 13)	57,400	33,250	60,450	151,100
Units lost to 2 nd and vacation homes	1,072	1,769	443	3,285
Historic underproduction	726	2,089	12,160	14,975
Households experiencing homelessness	-	40	8,653	8,693
Total Housing Need (rounded)	59,200	37,100	81,700	178,000
Needed housing mix	33%	21%	46%	100%
Total UGB capacity (rounded; see Table 9)	56,500	36,700	82,300	175,500
Deficits (rounded)	(2,700)	(400)	600	

Note: numbers are rounded to avoid implying too much precision

How can the region as a whole have a deficit, when one city demonstrates a housing capacity of 237,000 units and the region has a need for 178,000 units?

That was followed in August 2024, two months before Metro published its alternatives analysis, by the “City of Portland 2024 Housing Production Strategy As-Adopted Resolution No. 37673.” (Both documents were submitted to Metro by the Alliance.).

Ted Reid from Metro, who helped draft the UGR, served on the Technical Advisory Committee for the document as did several representatives from DLCD. (page 3.)

It includes a section titled “A. Promote Affordable Housing (0-80% AMI)” which identified strategies for meeting the housing needs of households with incomes at or below 80% of Median Area Income, strategies which Metro never considered as alternative measures.

The Alliance also provided Metro with other housing capacity analyses from Hillsboro, and Gresham to consider as sources of additional capacity for housing.

- Example 4: Metro itself demonstrated how it could meet regional needs on lands inside the UGB simply by assuming that over one-half of the commercial land need would be supplied by using surplus industrial lands.

Page 61 of the Urban Growth Report describes Metro’s method for addressing the 286 acre regional shortfall in commercial lands:

Commercial land options

Informed by this analysis, the Metro Council has indicated its intention to plan for the baseline forecast and find a need for a UGB expansion:

- *Add the 135-net-acre commercial employment portions of Sherwood West urban reserve to the UGB; and,*
- *Consistent with observed development trends, assume that a small portion (about 150 acres) of the region's industrial land surplus is available for commercial employment uses, thereby addressing any remaining commercial capacity gap.*

Metro could have used identical reasoning to assume that all or some of the residential land needs could also be met on the 3,931 acres of surplus industrial lands in the region shown on Table 19 on page 55.

- Example 5: Metro's failure to consider whether or how to avoid asking taxpayers and fee payers to spend \$334 million on new "catalyst infrastructure" for the 538 acres of regionally needed land for homes, commercial development and high tech manufacturing.

Goal 11 and the locational factors in Goal 14 and the Metro Code require consideration of the "orderly and economic provision of public facilities and services"

Appendix O of Sherwood's UGB expansion proposal to Metro, the city's "Preliminary Infrastructure Funding Strategy." includes the memo "Sherwood West Concept Plan: Preliminary4 Infrastructure Funding Strategy" dated February 13, 2024, prepared by the Leland Consulting Group. Page 2 includes this text and a table:

Catalyst Projects

Based on City priorities and existing infrastructure availability, it is anticipated that the North, West, and Southwest districts will develop first. Through public investment and private development, attention in these districts will help lay the foundation for the long-term evolution of Sherwood West. This analysis, therefore, takes a close look at the infrastructure that will help these areas serve as catalysts for subsequent development elsewhere in Sherwood West.

Table 1. Estimated Infrastructure Costs by District and Category

	Water		Sanitary Sewer		Storm		Parks		Transportation		Total District Costs
	Costs	%	Costs	%	Costs	%	Costs	%	Costs	%	
North	\$10,745,000	8%	\$18,162,500	13%	\$10,932,500	8%	\$23,428,890	17%	\$72,850,000	54%	\$136,118,890
Far West	\$8,367,000	20%	\$4,801,500	11%	\$2,775,000	6%	\$0	0%	\$26,920,000	63%	\$42,863,500
West/Southwest	\$29,164,800	19%	\$10,099,350	7%	\$6,177,500	4%	\$23,815,610	15%	\$85,787,301	55%	\$155,044,561

Those costs total \$3334,026,951, a third of a billion dollars.

Metro never considered how much taxpayer money might be saved by finding a few ways to provide an additional 3,100 homes (which Sherwood would locate on 340 acres), 135 acres of

commercial land and 100 acres of land for high tech manufacturing, inside the UGB at sites that already have water supplies, stormwater treatment, sewers, roads and parks.

Objection B.2.

The alternatives analysis should have considered how the different regional needs could be met on alternative lands in various urban reserves, not considered and compared entire urban reserves.

1. The Metro staff alternatives compared entire alternative Urban Reserve areas with the Sherwood West concept plan urban reserve.

Appendix 7, Introduction and Methodology, pages 6-21, describe how the Metro staff analyzed and compared entire urban reserves, not “parcels”, “lands”, “locations”, or areas” to the Sherwood West urban reserve.

This led to comparison of urban reserve areas in their entirety, as shown in Table 3 in Attachment 3.

This is confirmed by this statement on page 21 of Appendix 7:

The analysis clearly identifies the following seven urban reserves as unsuitable for urbanization in the short term:

- *Boring*
- *Boring – Highway 26*
- *Damascus*
- *Norwood*
- *Rosemont*
- *Stafford*
- *Tonquin*

These urban reserves are therefore not further evaluated for possible inclusion in the UGB in the Metro Code Factors analysis in Appendix 7A.

2. The governing legal authorities do not direct Metro to compare alternative urban reserves to each other, but rather to consider alternative “locations”, “parcels” “lands” and “areas” that will meet regional needs and that best satisfy the locational factors.

Metro’s urban growth boundary capacity analysis must comply with statewide planning Goal 14, “Urbanization” (emphasis added):

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*

ORS 197A.350 “Determination of housing capacity and accommodation of needed housing by Metro” includes (6)(a):

- (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, Metro shall take one or both of the following actions to accommodate the additional housing need:*
 - (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, Metro shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. . . .*

The statutes refers to sufficient buildable lands, not sufficient urban reserves.

ORS 197A.355 specifies the priority of land to be included within Metro urban growth boundary if Metro establishes that a regional need cannot be satisfied by land already in the UGB:

- (1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary of Metro except under the following priorities:*
 - (a) First priority is land that is designated urban reserve land under ORS 197A.245, rule or Metro action plan.*

Again, the priority is for “land,” not “urban reserves.”

LCDC’s Administrative Rules are very clear that Metro is required to considered alternative “land” not alternative urban reserves:

[660-024-0060](#)

Metro Boundary Location Alternatives Analysis

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

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

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

Metro incorporates these requirements into its LCDC-approved Urban Growth Management Functional Plan (a part of the Metro Code):

Urban Growth Management Functional Plan

Metro Code 3.07.1425 Legislative Amendment to the UGB - Criteria

(a) This section sets forth the factors and criteria for amendment of the UGB from state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) and the Regional Framework Plan.

. . . .

(c) If the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need considering the following factors...

Metro staff made the leap that the consideration of alternative urban reserve areas meant choosing between entire urban reserves, instead of areas within urban reserves. But that is not what the statutes and Goal 14 require. Nor is it what logic requires, as shown in the next section.

3. The regional needs for which alternative locations and parcels needed to be found.

The Urban Growth Report adopted by the Metro Council found the following regional housing need (page 41):

Housing capacity gap results

Metro is relying on Scenario 3 as the basis for its growth management decision since it represents the most likely conditions for population growth, growth capacity, and housing mix. Table 15 summarizes this scenario and the resulting housing capacity deficits.

Table 15: Capacity deficits or surpluses for current and future housing needs under the assumed scenario (2024-2044)

	UGB Housing Need (Scenario 3)			
	single-detached	middle housing	multifamily	Total
Future need: baseline forecast (see Table 13)	57,400	33,250	60,450	151,100
Units lost to 2 nd and vacation homes	1,072	1,769	443	3,285
Historic underproduction	726	2,089	12,160	14,975
Households experiencing houselessness	-	40	8,653	8,693
Total Housing Need (rounded)	59,200	37,100	81,700	178,000
Needed housing mix	33%	21%	46%	100%
Total UGB capacity (rounded; see Table 9)	56,500	36,700	82,300	175,500
Deficits (rounded)	(2,700)	(400)	600	

Note: numbers are rounded to avoid implying too much precision

As shown, under the assumed scenario there is a regional capacity deficit for single-unit detached and middle housing that totals 3,100 units.

Metro concluded that this regional need would be met by the Sherwood West Concept Plan residential land supplies, based on their density assumptions:

Table 4. Sherwood West Housing Estimates

	Density Range (Net)	Total Acres (Net)	% of Residential Acres	Total Housing Units (with % of Middle Housing in Neighborhood areas)			
				0% MH	10% MH	20% MH	50% MH
Multi-Family	16.8 to 24	33	10%	798	798	798	798
Middle Housing	5.5 to 11	16	5%	173	173	173	173
Cottage Cluster	12.8 to 16	23	7%	362	362	362	362
Med/High Density Nbhd	5.5 to 11	23	7%	248	279	311	406
Medium-Density Nbhd	5.6 to 8	102	30%	816	990	1,163	1,683
Low-Density Nbhd	3.5 to 5	144	42%	720	1,008	1,296	2,160
TOTAL		340	100%	3,117	3,610	4,103	5,582
Total Average Density				9.2	10.6	12.1	16.4
Total Average Density with Open Space				7.8	9.0	10.3	13.9

SHERWOOD WEST CONCEPT PLAN **46**

The Metro Council did not explain how or why it requires 340 net acres of land to build 3,100 homes, at an average net density of 9.2 units per acre when Sherwood's own concept plan

indicated that this land could accommodate 5,582 housing units, assuming 50% of the homes are middle housing with an average density of 16.4 units per acre.

In conducting its analysis of alternative locational urban reserve areas, Metro assumed average residential densities of 20 units per acre, not 9.2 or 16.4. See e.g. Appendix 7 Attachment 2 page 4, also described in Attachment 4.)

Those densities are substantially lower than the density of cottage cluster housing that LCDC uses in its informational materials (part of the Alliance's analysis of capacity of land already inside Sherwood's UGB.)

In addition, Metro found a regional need for:

- 135 acres of commercial land (Urban Growth Report page 61)
- 2 sites of 50 or more acres for high tech manufacturing (Urban Growth Report pages 59-60)

The question Metro should have addressed was what sites in the 27 urban reserve areas could meet these regional needs while better satisfying the location criteria.

4. A cursory review of lands inside the urban reserves shows many potential sites that meet these regional needs while better satisfying the locational criteria.

The Alliance believes no UGB expansion is justified or needed and that land already inside the UGB, indeed land already inside Sherwood's own boundary, is sufficient to meet regional needs. Thus, the following arguments are offered to illustrate the error in Metro's analysis, not to support a UGB expansion elsewhere.

Consider the Bendemeer Urban Reserve area, as summarized and shown in Appendix 7 Attachments 1 (Goal 14 locational factors analysis of urban reserves) and Appendix 7A (Metro locational factors analysis of urban reserves):

The Bendemeer Urban Reserve is comprised of 73 contiguous tax lots, all but four of which are entirely within the reserve. Of those tax lots entirely within the reserve, nearly 60 percent are less than two acres, more than 80 percent are less than five acres, four are larger than 40 acres, and one is nearly 120 acres.... Access to the reserve is provided by NW West Union Road, NW Cornelius Pass Road, and NW 185th Avenue."

BENDEMEER URBAN RESERVE

Total Reserve Area	573 acres
Total Tax Lot Area in Reserve (without Right-of-Way)	545 acres
Gross Vacant Buildable Area	318 acres
Net Vacant Buildable Area	237 acres

DLCD staff can examine the data presented for the other 26 urban reserves and can find many, many, more lands, parcels and areas that could be used to meet various elements of the regional need.

5. Proposed Remedy.

LCDC should remand the decision back to the Metro Council for the Council to consider how various lands within urban reserves could be used to meet regional needs, while best meeting the locational factors in Goal 14, state statute and Metro's Urban Growth Management Functional Plan.

Objection B.3.

Metro wrongly assumed that because farm and forestlands were included in Urban Reserves there was no need to apply its own locational factor calling for it to consider the relative value of the farm and forest lands in different urban reserve areas when choosing whether or where to expand the UGB.

Metro Code section 3.07.1425(c) states:

If the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need considering the following factors:

(7) Protection of farmland that is most important for the continuation of commercial agriculture in the region;

By its own admission, Metro staff did not consider this factor in evaluating alternative urban reserves, because:

The urban and rural reserves adoption process designated the most important land for commercial agriculture as rural reserves, and the most suitable land for urbanization as urban reserves. Designation of an area as an urban reserve means farmland within this reserve area is not the most important for the continuation of commercial agriculture in the region compared to farmland located elsewhere. Therefore, protection of farmland within in 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. Each reserve fully satisfies (i.e., scores highly on) this factor.

If the urban reserve designation settled that question, why did Metro include factor (c)(7)? Metro is attempting to ignore one of its own factors, which expressly requires it to compare the farmland in different urban reserves to identify and protect the "farmland that is most important for the continuation of commercial agriculture in the region."

The West of Sherwood Farm Alliance provided testimony that lands in the expansion area are highly productive, growing crops that cannot be grown in other places in the US. In addition, the

loss of these lands reduces the land base needed to sustain the economic base and services required to maintain a farm economy.

Proposed remedy:

LCDC should make a finding that Metro erred in assuming that it did not need to apply the farmland protection factor in Metro Code .07.1425(c) to its consideration of alternative boundary adjustment locations and remand the decision to the Metro Council with direction that, if it finds a UGB expansion is needed, it must *protect the lands most important for the continuation of commercial agriculture in the region.*

Objection B.4.

The analysis of areas in Appendix 7A under Metro's locational factors contains additional legal errors, contradictions and unsupported conclusions under the other locational factors.

The Alliance offered these critiques of Metro's analysis of alternative urban reserves in its comments to the Metro Council, organized by the factors to it requires itself to consider when analyzing alternative boundary adjustment locations, in Metro's Urban Growth Management Functional Plan:

3.07.1425(c) (1) Efficient accommodation of identified land needs;

Metro concludes that adding 1,291 acres of farmland, forestland, wildlife habitat and low-density residential development over mostly hilly land in the Sherwood urban reserve is more efficient to meet 575 acres of need (340 acres residential, 135 acres commercial, 100 acres of high-tech manufacturing sites), than any possible combination of other lands. A review of the parcel maps and other information about the urban reserves contradicts rather than supports that conclusion.

3.07.1425(c)(2) Orderly and economic provision of public facilities and services;

Appendix O of Sherwood's UGB expansion proposal to Metro, the city's "Preliminary Infrastructure Funding Strategy," includes the memo "Sherwood West Concept Plan: Preliminary4 Infrastructure Funding Strategy" of February 13, 2024, prepared by the Leland Consulting Group. At page 2, the memo includes the following text and a table:

Catalyst Projects

Based on City priorities and existing infrastructure availability, it is anticipated that the North, West, and Southwest districts will develop first. Through public investment and private development, attention in these districts will help lay the foundation for the long-term evolution of Sherwood West. This analysis, therefore, takes a close look at the infrastructure that will help these areas serve as catalysts for subsequent development elsewhere in Sherwood West.

Table 1. Estimated Infrastructure Costs by District and Category

	Water		Sanitary Sewer		Storm		Parks		Transportation		Total District Costs
	Costs	%	Costs	%	Costs	%	Costs	%	Costs	%	
North	\$10,745,000	8%	\$18,162,500	13%	\$10,932,500	8%	\$23,428,890	17%	\$72,850,000	54%	\$136,118,890
Far West	\$8,367,000	20%	\$4,801,500	11%	\$2,775,000	6%	\$0	0%	\$26,920,000	63%	\$42,863,500
West/Southwest	\$29,164,800	19%	\$10,099,350	7%	\$6,177,500	4%	\$23,815,610	15%	\$85,787,301	55%	\$155,044,561

These “catalyst” project costs total is about \$334 million. That is about \$7 million per acre (partial costs) to meet a regional need on 583.3 acres (assuming for the sake of argument that Sherwood’s land need estimates are appropriate.)

Before the Metro Council, for the purpose of both this argument and the preceding one, we incorporated by reference the infrastructure analysis prepared and filed by Ron Bunch. Mr. Bunch’s analysis establishes that the above cost estimates are low.

Where and when did Metro compare the total of Sherwood’s estimated catalyst costs with the infrastructure costs per acre of the alternate sites in the reserves?

Last spring, the West of Sherwood Farm Alliance submitted testimony to Metro staff and MPAC showing that Metro expanded the UGB in 2017 to include an 82-acre site for Sherwood’s new \$250,000,000 high school based on the Sherwood School District’s projected increases in enrollment. Those increases did not materialize. Instead, enrollment is forecasted to begin falling in 2027. This illustrates the very high cost to taxpayers of poorly justified UGB expansions.

3.07.1425(c)(3) Comparative environmental, energy, economic and social consequences;

To address this factor, Metro should have explained why supporting high-cost housing development plus jobs and commercial development at the edge of the UGB would satisfy its own and LCDC’s climate change policy and strategy, considering how it would increase automobile commuting to jobs in Sherwood with resultant production in climate-changing pollutants, impacts on Chicken Creek and other wildlife habitat, and what effect it might have in worsening economic, racial and ethnic geographic segregation which Metro has quantified and reported on its own website.

Any argument that locating additional jobs at the edge of the region will help achieve a better jobs-housing balance and therefore reduce environmental impacts from commuting is utterly without merit. It is contradicted by evidence we have submitted based on Census data showing no correlation between a balance of jobs and housing and commute lengths. The explanation is simple - working people change jobs every few years and for the most part do not move to be closer to their new jobs, especially given that many households have two members who are working.

(See also the separate objection based on differential race, ethnicity and class equity impacts which is relevant to this factor.)

3.07.1425(c) (4) Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside the UGB designated for agriculture or forestry pursuant to a statewide planning goal.

Metro did not identify the nature of conflicts and compatibility of commercial agriculture in the vicinity of Sherwood with the proposed development in the Concept Plan and compare them with other sites in other urban reserves. Maps of those reserves show areas without any existing agriculture or forestry. These tend to be rural residential areas, and areas buffered by rural residential areas.

Road widenings required for the development of the Sherwood West UGB expansion would generate additional adverse impacts on adjoining farmland of the type documented in “Effect of Widening the Urban Link Segment of Roy Rogers Road on Farm Practices and Cost,” from Washington County, dated June 24, 2016 (in the submitted materials.)

3.07.1425(c) (5) Equitable and efficient distribution of housing and employment opportunities throughout the region;

Concentrating new housing and jobs at the very edge of the region in a very expensive housing market (discussed elsewhere in this letter and supporting documents and in written testimony from Housing Land Advocates) cannot represent an equitable and efficient distribution of housing and employment opportunities, as simple logic dictates and was shown by the remarkably emphatic testimony of Metro’s own Committee on Racial Equity.

3.07.1425(c) (6) Contribution to the purposes of Centers and Corridors;

The proximity to centers and corridors criteria in 3.07.1425(c)(6) are applied in a way that excludes some Urban Reserve areas, despite their greater proximity to a corridor than Sherwood West, because those corridors are already partially developed with low density uses. But that is the same situation as in Sherwood. All Metro centers and corridors have existing development. In fact that is a major reason why they were given their designation in the first place. This means infill and redevelopment are a primary strategy for development in centers and corridors.

(7) Protection of farmland that is most important for the continuation of commercial agriculture in the region;

The Alliance makes a separate objection based on this criterion.

(8) Avoidance of conflict with regionally significant fish and wildlife habitat; and

There are many alternate sites among the urban reserves that have less important regionally significant fish and wildlife habitat than the riparian and upland areas of Chicken Creek, the major tributary to a nationally recognized wildlife habitat, the Tualatin River National Wildlife Refuge. A review of the maps and narratives in Appendix 7A shows the obvious, that there are

other lands not near a National Wildlife Refuge or a critical tributary to a refuge.

In support of this argument, the Alliance submitted information about the national significance of the Tualatin River National Wildlife Refuge, which is fed by Chicken Creek and very close to the proposed UGB expansion area. The US Fish and Wildlife Service Tualatin River National Wildlife Refuge *Comprehensive Conservation Plan* and other background information were submitted as to Chicken Creek.

We also adopted by reference the arguments, testimony and evidence that Tualatin River Keepers presented to Metro and have reiterated in their objections to DLCD and LCDC. We do so again here.

3.07.1425(c) (9) Clear transition between urban and rural lands, using natural and built features to mark the transition.

The Concept Plan UGB expansion area will be divided from the rest of Sherwood by State Highway 99 West and the ravines and riparian areas of Chicken Creek. In fact Sherwood proposes building a very expensive pedestrian overpass in order for pedestrians to cross the highway. These facts cannot be reconciled with a conclusion that this expansion area provides the requisite clear transition. It simply does not.

The defects in the alternative sites analysis demonstrate parallel violations of Statewide Planning Goals:

Goal 1 Citizen Involvement (inadequate opportunity for citizens to review the alternatives analysis)

Goal 2 Land Use Planning

Goal 3 Agricultural Lands

Goal 4 Forest Lands

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces

Goal 11 Public Facilities and Services

Goal 12 Transportation

Goal 13 Energy Conservation

Goal 14 Urbanization

Proposed remedy.

LCDC should remand the Metro Council's decision and direct the Council to conduct an appropriate, unbiased analysis of the lands within Metro's Urban Reserves, directly comparing them to lands contained in the proposed Sherwood West expansion area. The Council should be directed to adequately address the locational factors, using realistic and internally consistent assumptions about infrastructure costs, the value of environmentally sensitive lands, and the other factors, all with adequate time for review and comment by the public.

Objection C

The Metro Council's failure to consider whether housing built in the Sherwood West UGB expansion area would be affordable to households that are not affluent, violates Goal 10, the Goal 10 Administrative Rules, multiple statutes and Metro's Urban Growth Management Functional Plan.

1. Multiple legal authorities require Metro to consider how a UGB expansion will satisfy housing needs of different income groups in the region.

Goal 10, the Goal 10 Administrative Rules, the Metro Regional Framework Plan and Urban Growth Management Functional Plan that require a consideration of the *affordability* of the housing for different income levels.

Statewide Planning Goal 10 OAR 660-015-0000(10) (emphasis added.)

To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and 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.

. . . .

Needed Housing Units -- means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing units" also includes government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, "needed housing units" also includes (but is not limited to) attached and detached single-family housing, multiple-family housing, and manufactured homes, whether occupied by owners or renters.

GUIDELINES A. PLANNING 1. In addition to inventories of buildable lands, housing elements of a comprehensive plan should, at a minimum, include: (1) a comparison of the distribution of the existing population by income with the distribution of available housing units by cost;

Metro Regional Framework Plan:

1.3 Housing Choices and Opportunities

It is the policy of the Metro Council to:

1.3.1. Provide housing choices in the region, including single family, multi-family, ownership and rental housing, and housing offered by the private, public and nonprofit sectors, paying special attention to those households with fewest housing choices.

1.3.2. As part of the effort to provide housing choices, encourage local governments to ensure that their land use regulations: a. Allow a diverse range of housing types; b. Make housing choices available to households of all income levels; and c. Allow affordable housing, particularly in Centers and Corridors and other areas well-served with public services and frequent transit service.

1.3.3. Reduce the percentage of the region's households that are cost-burdened, meaning those households paying more than 50 percent of their incomes on housing and transportation.

Metro Urban Growth Management Functional Plan (emphases added):

3.07.1110 Planning for Areas Designated Urban Reserve

(a) The county responsible for land use planning for an urban reserve and any city likely to provide governance or an urban service for the area, shall, in conjunction with Metro and appropriate service districts, develop a concept plan for the urban reserve prior to its addition to the UGB pursuant to sections . . .

(b) A local government, in creating a concept plan to comply with this section, shall consider actions necessary to achieve the following outcomes:

(1) If the plan proposes a mix of residential and employment uses:

(C) A range of housing of different types, tenure and prices addressing the housing needs in the prospective UGB expansion area in the context of the housing needs of the governing city, the county, and the region if data on regional housing needs are available, in order to help create economically and socially vital and complete neighborhoods and cities and avoiding the concentration of poverty and the isolation of families and people of modest means;

Metro's Code and policy documents refer to "housing needs" and "needed housing which should conform to statutory definitions of "needed housing":

ORS 197A.018 Definition of "needed housing."

(1) As used in ORS chapter 197A, and except as provided in subsection (2) of this section:

(a) "Needed housing" means housing by affordability level, as described in ORS 184.453 (4), type, characteristics and location that is necessary to accommodate the city's allocated housing need over the 20-year planning period in effect when the city's housing capacity is determined.

(b) "Needed housing" includes the following housing types:

(A) Detached single-family housing, middle housing types as described in ORS 197A.420 and multifamily housing that is owned or rented;

- (B) Government assisted housing;
- (C) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.493;
- (D) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions;
- (E) Housing for agricultural workers;
- (F) Housing for individuals with a variety of disabilities, related to mobility or communications that require accessibility features;
- (G) Housing for older persons, as defined in ORS 659A.421;
- (H) Housing for college or university students, if relevant to the region; and
- (I) Single room occupancies as defined in ORS 197A.430.

ORS 197A.348 Definition of “needed housing.”

- (1) *As used in ORS 197A.350 and this section, “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:*
 - (a) *Attached and detached single-family housing, middle housing types as described in ORS 197A.420 and multiple family housing for both owner and renter occupancy;*
 - (b) Government assisted housing;
 - (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.493;
 - (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions;
 - (e) Agriculture workforce housing; and
 - (f) Single room occupancies as defined in ORS 197A.430.

ORS 197A.350 Determination of housing capacity and accommodation of needed housing by Metro.

- (2)(a) *Metro shall demonstrate that its regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years:*

- (3) *In performing the duties under subsection (2) of this section, Metro shall:*

- (a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and*
- (b) Conduct an analysis of existing and projected housing need by type and density range, in accordance with all factors under ORS 197A.348 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.*

These statutes, Goal 10 and the Goal 10 Rule and Metro’s own Regional Framework Plan and Urban Growth Management Functional Plan required Metro to determine whether the housing built according to the Sherwood West Concept Plan will address regional needs housing affordable to households of different income levels.

2. The Oregon Department of Administrative Services, Metro and Sherwood have identified housing needed at specific income levels.

At its May 22, 2024, meeting MPAC heard a presentation on the draft Oregon Housing Needs Analysis methodology from Sean Edging, a staff member at DLCD. [According to the minutes of that meeting:](#)

He shared the methodology process for determining the Oregon Housing Needs Analysis (OHNA) methodology and discussed House Bill 2001/2889. He shared that Metro has a different approach in state law and discussed the OHNA policy implications. The presenter discussed Goal 10 for Housing, which is to provide for the housing needs of citizens of the state. He also explained the Housing Acceleration Program and OHNA Rulemaking.

.....

Edging highlighted the development of the comprehensive toolkit comprising various policies, actions, tools, and investments aimed at supporting and facilitating housing production at the city level. He underscored the ongoing refinement of this toolkit, emphasizing the importance of providing tangible policies that local governments can readily implement. Edging stated that they would share these resources after the meeting.

The next item MPAC discussed was a presentation of the Sherwood West Concept Plan.

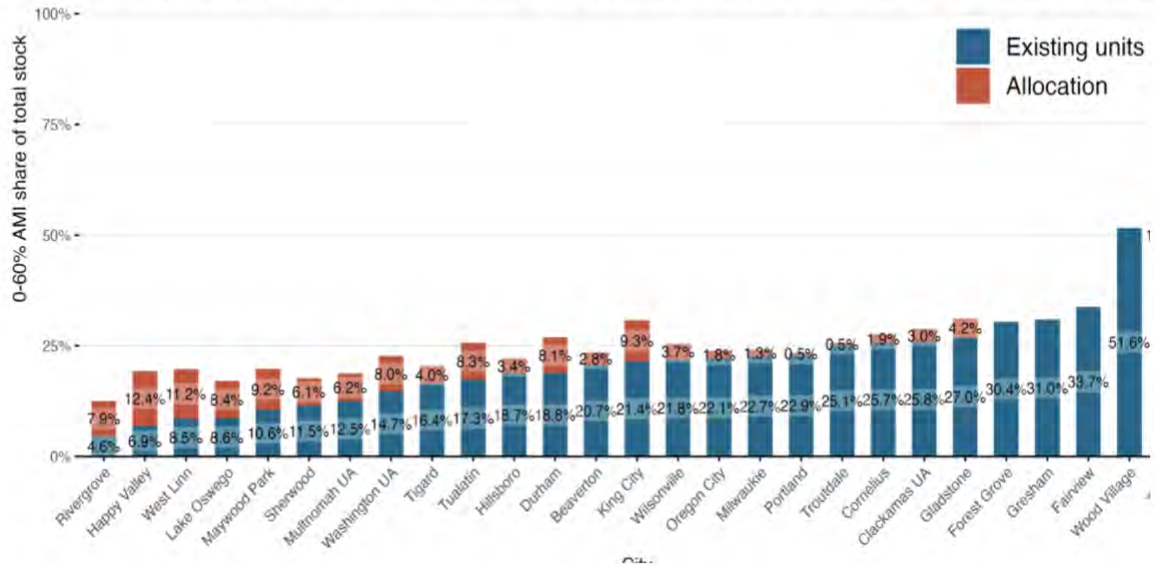
The Oregon Department of Administrative Services published the “Oregon Housing Needs Analysis: Interim Methodology” in July 2024, (around the same time Metro published its draft Urban Growth Report.) It includes this table summarizing the housing needs in the Portland metro region:

Figure 18. Metro Region 20-Year Needed Housing Units by Income Level and Component

Income Level	Current Need		Future Need			Total Need
	Underproduction	Units for Homelessness	Second & Vacation Homes	Demographic Units	Pop. Growth Units	
0-30%	4,274	9,806	-	6,569	11,837	32,486
31-60%	5,391	881	-	8,893	16,025	31,190
61-80%	2,738	331	-	6,221	11,210	20,499
81-120%	2,254	-	2,297	10,879	19,605	35,035
120%+	703	-	1,107	24,193	43,597	69,600
Metro	15,360	11,018	3,404	56,754	102,273	188,810

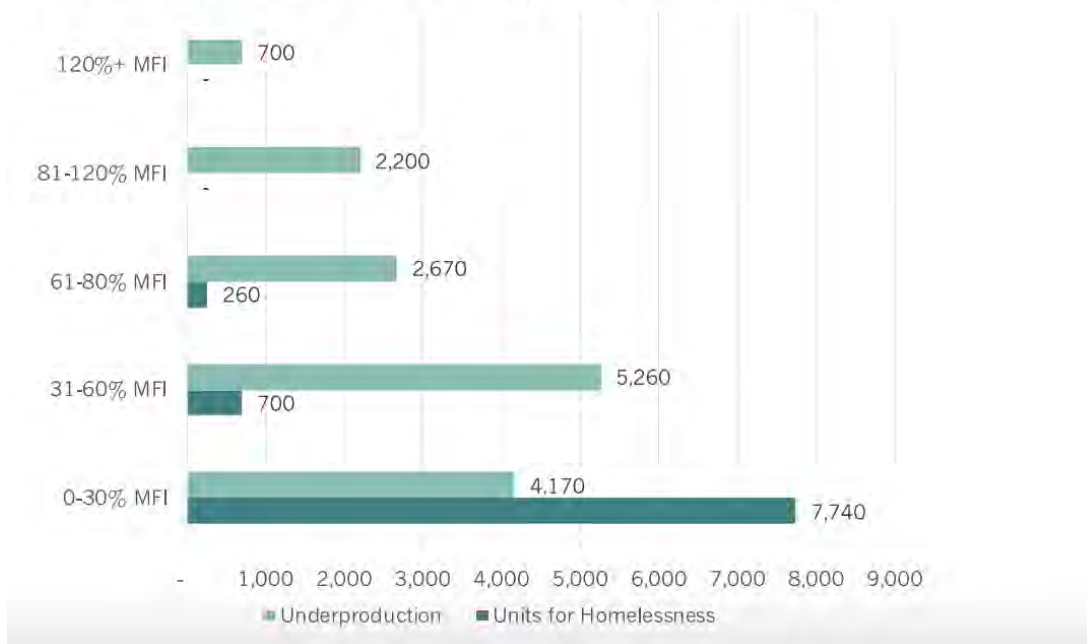
Figure 13 in the DAS report presented Sherwood’s proportional share of needed housing for incomes at or below 60% median family income:

Figure 13. Distribution of Units Affordable at Less Than 60% AMI by City– Current vs After Target Met



Metro quantified the region’s “existing housing need” in Figure 2 Appendix 8A of the Urban Growth Report:

Figure 2. Metro Existing Housing Need by Income Level (Rounded)



As part of its decision the Metro Council referenced the UGR’s finding about the type of housing the region needed:

WHEREAS, the 2024 UGR estimates that approximately 60 percent of the region’s new renter households and 33 percent of new owner households will have incomes below \$60,000 and, depending on household size, households in this income bracket are classified by the U.S. Department of Housing and Urban Development as low income or very low income;

Metro Ordinance No. 24-1520, page 2.

However, it never connected that need determination to what Sherwood proposed for housing in its Concept Plan for the UGB expansion area,

Sherwood’s 2019 Housing Need Analysis includes this estimate of housing need by income level, but that table is based on median family income that is over a decade out of date.²

² “The analysis in Table 4 based on American Community Survey data about income levels in Sherwood, using income information shown in Table B- 17. Income is categorized into market segments consistent with HUD income level categories, using the Portland Region’s 2014 Median Family Income (MFI) of \$69,400.” Sherwood Housing Needs Analysis (2019) page 29, Exhibit F of Sherwood’s Concept Plan submittal. Other parts of Sherwood’s HNA rely on data from 2009-2013. Sherwood HNA at page 25

Table 4. Estimate of needed new dwelling units by income level, Sherwood, 2019-2039

Commonly Financially Attainable Housing Products						
Market Segment by Income Portland MSA MFI: \$69,400	Income Range	Number of New Households in Sherwood	Percent of Households in Sherwood (currently)	Owner-occupied	Renter-occupied	
High (120% or more of MFI)	\$83,280 or more	725	42%	All housing types; higher	All housing types; higher	↑ Primarily New Housing Primarily Used Housing ↓
Upper Middle (80%-120% of MFI)	\$55,520 to \$83,280	467	27%	All housing types; lower	All housing types; lower	
Lower Middle (50%-80% of MFI)	\$34,700 to \$55,520	232	13%	Single-family attached;	Single-family attached;	
Lower (30%-50% of less of MFI)	\$20,820 to \$34,700	117	7%	Manufactured in parks	Apartments; manufactured	
Very Low (Less than 30% of MFI)	Less than \$20,820	188	11%	None	Apartments; new and used	

Source: ECONorthwest
MFI is Median Family Income

3. The housing proposed in the Sherwood West Concept Plan.

This how the housing to be built in the Sherwood West UGB expansion area was described on page 45 of the Concept Plan.

Housing

Planning for a variety of housing options that will meet the needs of a wide range of Sherwood West residents was a key objective of the concept planning process. Providing housing opportunities for first-time home buyers, seniors who may prefer to age in place or downsize their housing, and moderate-income households will require a wider range of housing types than has typically been provided in Sherwood. Examples of housing types that have designated places in Sherwood West include: single detached homes on smaller lots, cottage clusters, townhomes, duplexes, triplexes, fourplexes, garden apartments, and mid-rise apartments. These types will be in addition to the standard single detached housing that has typified Sherwood's development so far.

Table 4 summarizes the housing proposed in the Sherwood West Concept Plan by type, density range and acreage:

Table 4. Sherwood West Housing Estimates

	Density Range (Net)	Total Acres (Net)	% of Residential Acres	Total Housing Units (with % of Middle Housing in Neighborhood areas)			
				0% MH	10% MH	20% MH	50% MH
Multi-Family	16.8 to 24	33	10%	798	798	798	798
Middle Housing	5.5 to 11	16	5%	173	173	173	173
Cottage Cluster	12.8 to 16	23	7%	362	362	362	362
Med/High Density Nbhd	5.5 to 11	23	7%	248	279	311	406
Medium-Density Nbhd	5.6 to 8	102	30%	816	990	1,163	1,683
Low-Density Nbhd	3.5 to 5	144	42%	720	1,008	1,296	2,160
TOTAL		340	100%	3,117	3,610	4,103	5,582
<i>Total Average Density</i>				<i>9.2</i>	<i>10.6</i>	<i>12.1</i>	<i>16.4</i>
<i>Total Average Density with Open Space</i>				<i>7.8</i>	<i>9.0</i>	<i>10.3</i>	<i>13.9</i>

SHERWOOD WEST CONCEPT PLAN **46**

There is nothing in Sherwood’s Concept Plan explaining how the housing built in the expansion area will meet the needs of different income categories identified in Sherwood’s own Housing Needs Analysis, the Urban Growth Report or the Department of Administrative Services draft regional housing needs report. There is no mention of other forms of “needed housing” including farmworker housing, subsidized rent-restricted public, private and nonprofit housing or manufactured homes and manufactured home parks and single room occupancy units.

According to Metro’s most recent report on the regional affordable housing bond measure there is no affordable housing project that has been built nor any application to build one in Sherwood, using the regional bond measure.

The Alliance’s attorney Jeff Kleinman submitted written testimony that Sherwood officials expressed their determination that there will be no apartments built in Sherwood West and that they hoped to the UGB expansion approved before there are further density requirements imposed by Metro of the Legislature.

This sentiment was also expressed by Sherwood’s Planning Director in a presentation to the Metro Technical Advisory Committee at its August 2024 meeting.

There is nothing in the materials presented by Sherwood that would support a conclusion that the market rate housing built there would address any of the existing housing need for household income at or below the median household income.

4. Information on home prices and rents in Sherwood compared to the rest of the region.

The Alliance submitted to Metro readily available information about home prices and rents in Sherwood, compared to the rest of the region, summarized in this table:

Home Sale Prices

City	Median Sale Price for Homes Redfin 11/14/2024
Sherwood	\$731,500
Beaverton	\$530,000
Gresham	\$481,900
Hillsboro	\$523,480
Milwaukie	\$523,115
Oregon City	\$585,000
Portland	\$509,900
Tigard	\$615,000
Tualatin	\$575,000
Wilsonville	\$635,495
City	Average Sale Price of Homes Zillow 11/14/2024
Sherwood	\$632,013
Beaverton	\$540,803
Gresham	\$460,310
Hillsboro	\$532,909
Milwaukie	\$506,086
Oregon City	\$599,441
Portland	\$524,402
Tigard	\$610,989
Tualatin	\$639,154
Wilsonville	\$637,718

Apartment Rents

City	Average Rent Apartments.com Nov. 2024	Median Rent Zillow Rentals Nov. 2024
Sherwood	\$1,797	\$2,395
Beaverton	\$1,519	\$2,113
Gresham	\$1,362	\$1,647
Hillsboro	\$1,681	\$2,395
Milwaukie	\$1,461	\$1,795
Oregon City	\$1,513	\$1,725
Portland	\$1,508	\$1,795
Tigard	\$1,569	\$2,290
Tualatin	\$1,586	\$2,087
Wilsonville	\$1,582	\$2,500



\$1,980 ± \$157

Median Gross Rent in Sherwood city, Oregon

\$1,370 ± \$18

Median Gross Rent in Oregon

DP04 | 2022 American Community Survey 5-Year Estimates

5. Remedies: Options for remand for consideration of how to meet regional housing needs as defined by income groups.

LCDC should remand the Metro Council's decision back to the Council to address the needs of housing by median household income ranges, stated by DAS and in its own UGR and consider whether and how they could best be met in the Sherwood UGB expansion area, or in whole or in part, in other parts of the region.

LCDC may chose to remand the decision until Metro's work can be based on the final Oregon Housing Needs Assessment.

In considering affordability, LCDC should direct Metro to measures promoting adaptive reuse of existing homes and structures, prefabricated structures, the potential supply of other types of needed housing including single room occupancy units, income restricted units, cooperative housing, sites for manufactured home parks. Metro should be directed to consider commuting costs as a constraint on income available for housing and its own information on which programs and incentives have proven effective in offsetting higher housing costs with lower household transportation costs.

Objection D

In determining regional land needs for housing and employment, Metro failed to consider and address the potential contribution to the supply of housing and employment land, including commercial land and land for high tech manufacturing, in the North Plains UGB expansion.

As part of its Urban Growth Report Metro examines the demand for and supply of land for housing and employment in the seven-County region and then makes an allocation of the demand, and thus the supply of land to the Metro UGB.

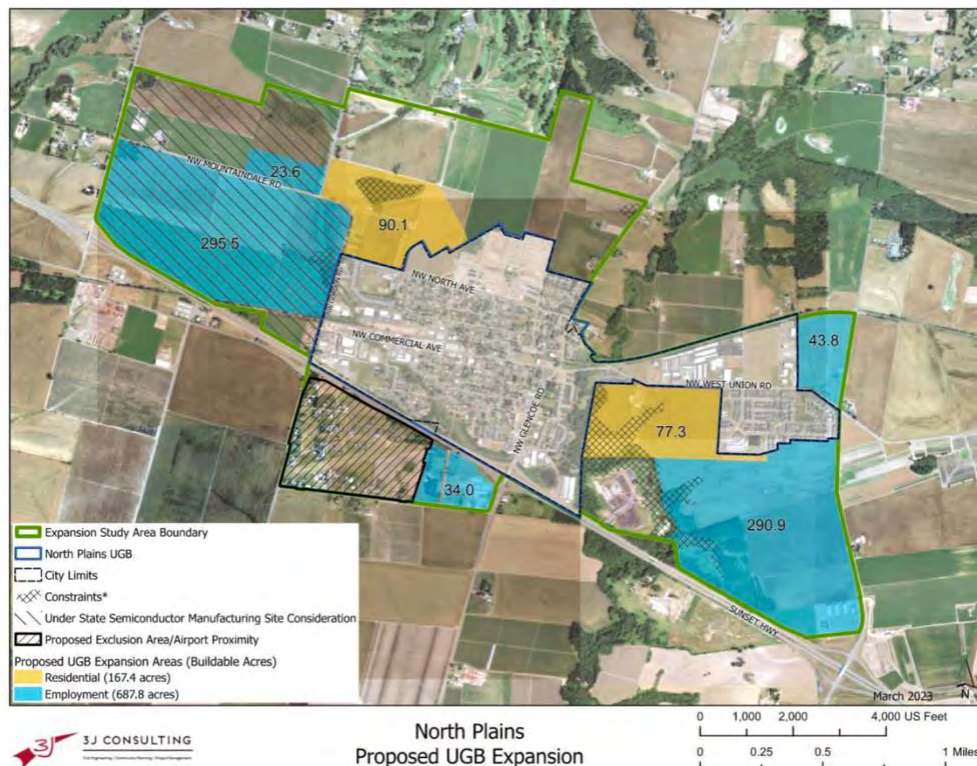
However, Metro's UGR did not discuss the land need and supply relationship between its approval of the Sherwood West UGB expansion and the North Plains UGB expansion, a city just a few miles from the Metro UGB, even though the Alliance called that question before Metro's

advisory committees and the Metro Council on November 21, 2024, (when it submitted the approved UGB expansion report to the Council.³)

That expansion is not endorsed by the Alliance.

The expansion has been and is being contested at the ballot box and in the courts.

But if there is a possibility that it might be approved in whole or part, Metro was obliged to consider its impacts on regional land supplies.



The North Plains UGB expansion, like Sherwood’s proposed UGB expansion was designed to provide land for commercial and industrial employment:

In addition to the amount of land needed, the 2020 EOA also identified target services and industries for future economic growth consistent with City Council’s Vision directive that export-oriented employers need to be pursued and recruited to broaden and strengthen its economy and employment opportunities. These services and industries include:

³ Ordinance NO. 490 “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, AMENDING THE URBAN GROWTH BOUNDARY AND APPROVING ASSOCIATED COMPREHENSIVE PLAN TEXT AMENDMENTS” and “North Plains Urban Growth Boundary Expansion: Final Report” June 2023 Exhibit A to Ordinance 490.

- *Export-oriented employers*
 - o *Computer & Electronic (C&E) Mfg.54 (5-100+ acres typical site range)*

Table 6. Employment Land Need (Recommended by PAC in May 2021)

Land Use	Acres
Commercial	172.4
Office	91.5
Institutional	21.2
Retail	72.3
Industrial	515.4
Flex/Business Park	167.6
General Industrial	324.5
Warehouse	52.9
Total Employment Land Need	687.8

The employment lands include seven parcels of 50 acres or more in the North and East Subareas. Like Site A5 and A6 in Sherwood, they are flat and unserved by infrastructure. However, unlike Sherwood's sites, they are very short distances away from Highway 26 and closer to the existing tech cluster in Hillsboro.

The North Plain UGB expansion was also intended to serve regional needs for housing of types and at densities very similar to those which the Sherwood West Concept Plan is supposed to address:

North Plains UGB Expansion Report

Table 4 UGB Expansion Area Residential Densities

Zoning Designation	Average Density	Acres	Dwelling Units
R-7.5 (Low Density)	5.5 dwelling units per net acre	84.5	464
R-5 (Medium Density)	8.0 dwelling units per net acre	14.0	112
R-2.5 (High Density)	17.4 dwelling units per net acre	12.3	214
Total	7.1 dwelling units per net acre	110.8	790

North Plain UGB Expansion Final Report page 6.

The failure to consider the inconsistent and contradictory facts and plans means Metro's decision does not have the adequate factual base required by Goal 2 and violates multiple coordination requirements in statute, administrative rules, and as interpreted by LUBA.

The supporting materials for this argument also support the argument about the inadequacy of Metro's October 2024 alternatives analysis.

Finally, recent legislation requires Metro to develop a regional housing coordination strategy. I have not determined when this strategy is required or what its status is today, but if it has been adopted or is in process as Metro should be directly addressing this coordination requirement:

ORS 197A.365 “(1) Metro shall develop and adopt a housing coordination strategy under this section no later than one year after the deadline for completing a housing capacity determination under ORS 197A.350.”

Proposed remedies:

LCDC should either remand Metro’s UGR determinations directing the Council to coordinate and achieve factual consistency between Metro’s and North Plains’ assumptions about regional land needs and supplies for housing, commercial development and 50-acre high tech manufacturing sites, or direct your staff to carry out that reconciliation itself in consultation with the two governments, pending on the outcome of current litigation or reconsideration by the new city council in North Plain.

Introduction to Objections E.1, E.2, E.3, E.4, E.5

1. Metro found the region had a surplus of 3,931 acres of industrial land in excess of what was needed by 2044.

Below is the summary of the industrial lands need analysis in the Urban Growth Report adopted by the Metro Council on December 5, 2024, at page 55:

Industrial land gap analysis results

Industrial lands support uses like industrial, flex/business parks, and warehousing. This analysis found that, in aggregate, there is a surplus of industrial lands inside the UGB for meeting expected industrial employment growth. This is true even under the high growth forecast.

Table 19: Industrial land capacity gap for Metro UGB 2024-2044

	Capacity (acres)	Demand (acres)	Surplus or deficit (acres)
Low growth forecast	5,331	-1,500	+6,831
Baseline growth forecast	5,331	1,400	+3,931
High growth forecast	5,331	5,200	+131

The Metro Council deliberated about which growth forecast to direct the Chief Operating Officer to use as the basis of its decision and by consensus chose the baseline growth forecast. This means the Metro Council found there was a surplus of 3,931 acres of industrial land in the current UGB.

2. The Metro Council justified adding the 227.1 acres of employment land to the UGB in the Sherwood West Concept Plan North District because it would meet a regional need for two 50-acre flat sites with various “unique characteristics.”

Despite its conclusion that the region had a surplus of industrial land overall, the Metro Council found that the region had a need for two additional 50-acre parcels for high tech manufacturing, based on various studies referenced in its findings.

In its findings in Exhibit F at page 12, Metro relied on a report by the Semiconductor Task Force:

The report identifies a short-term need for four sites of 50-100 acres that would be suitable for integrated device manufacturers or major semiconductor equipment manufacturers. The Metro Council concurs with and adopts these conclusions.

As described in the 2024 UGR, there are currently only six available sites within the UGB that are 50 acres or larger with slopes under seven percent that could be available for industrial uses of the type identified by the Semiconductor Task Force.

Metro also relied on a report by ECONorthwest, that concluded:

. . . the Sherwood West employment area provides specific site characteristics that would meet the regional need for large 50-acre parcels with slopes under seven percent, minimal need for site aggregation, and proximity to transportation facilities and existing semiconductor companies. This assessment indicates that Sherwood West has characteristics that are more suitable for needed high-tech industrial growth than other lands inside the existing UGB. Making the two 50-acre sites in Sherwood West available for high-tech manufacturing use would help address the existing shortage of such sites for regional economic development.

Exhibit F page 12.

Metro found that two such sites (50 acres or larger with less than 7% slopes and the other characteristics suitable for high tech manufacturing were available in the 130 acres of land in the Sherwood West Concept Plan North District:

The City of Sherwood's concept plan for Sherwood West proposes to provide 130 net acres of land on the north end of the expansion area that will be designated for employment uses and would be available to accommodate the type of high-tech industrial and flex building uses identified by the Task Force. That 130-acre area includes two potential sites that are larger than 50 acres, nearly flat, and proximate to high-tech clusters on the west side.

Exhibit F page 12.

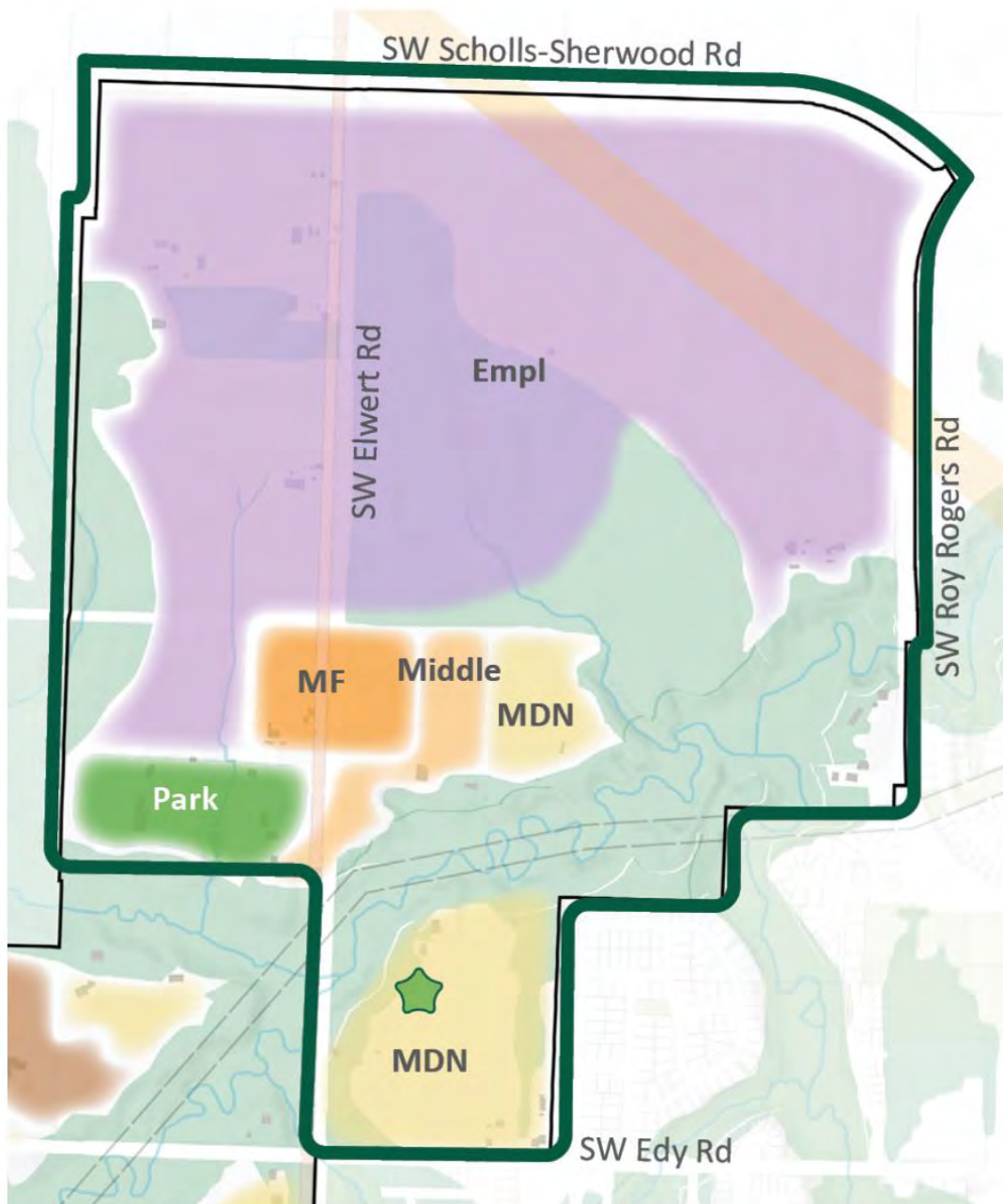
3. Identifying the “130-acre area” that “includes two potential sites that are larger than 50 acres.”

The Alliance has not been able to find a map of the 130 net acre site which could provide the two allegedly needed 50 acre or large parcels. Exhibit D to the decision is a map of regional employment and manufacturing areas, that does not even include the Sherwood West UGB expansion area.

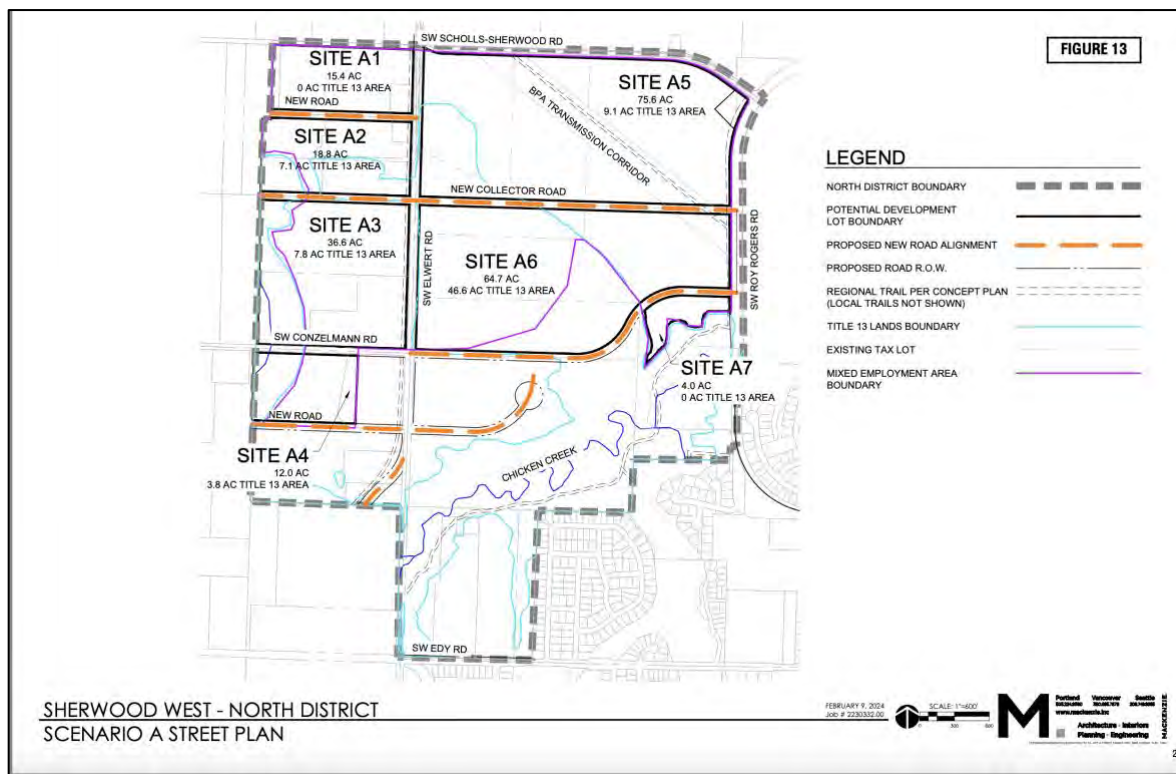
However, this 130 net acre area can be deduced from other documents.

The north end employment area described by Metro is the North District of the Sherwood West Concept Plan, shown here as Figure 9 on page 42 of the Sherwood West Concept Plan:

Figure 9. North District



The Concept Plan supporting materials identified seven employment sites in the North District employment area:



The acreage of each site and the share of each site which is upland and riparian protected by Metro Title 13 “Nature in Neighborhoods” (discussed in one of the following objections) is presented in this table:

Site	East or West of SW Elwert Road	Gross Area (acres)	Title 13 Area (acres)	Area outside Title 13 Area (acres)
A1	West	15.4	0	15.4
A2	West	18.8	7.1	11.7
A3	West	36.6	7.8	28.8
A4	West	12.0	3.8	8.2
Total (West)	West	82.8	18.7	64.1
A5	East	75.6	9.1	66.5
A6	East	64.7	46.6	18.1
A7	East	4.0	0	4.0
Total (East)	East	144.3	55.7	88.6
Total		227.1	74.4	152.7

No combination of sites total 130 acres, but Sites A5 and A6 are the only sites larger than 50 acres. They have a combined area of 140.3 “gross” acres and which would could contain 130 net acres making up the “130-acre area” that “includes two potential sites that are larger than 50 acres, nearly flat, and proximate to high-tech clusters on the west side.”

Objection E.1.

Metro approved a UGB expansion for 227.1 acres of industrial land in excess of the 130-acre sites it justified to create two 50-acre high tech manufacturing sites.

As described previously, Metro found a regional need for the 130 acres, apparently in Sites A5 and A6 in the North District mixed employment area, justified by their potential to provide two 50-acre high tech manufacturing sites.

That leaves no justification for the Mixed Employment land in the North District in excess of 130 acres. That excess could be 97.1 acres (227.1 acres in Table 1 less 130 acres) or it could be combined acreage of Sites A1, A2, A3, A4 and A7, 86.8 acres.

Proposed remedy:

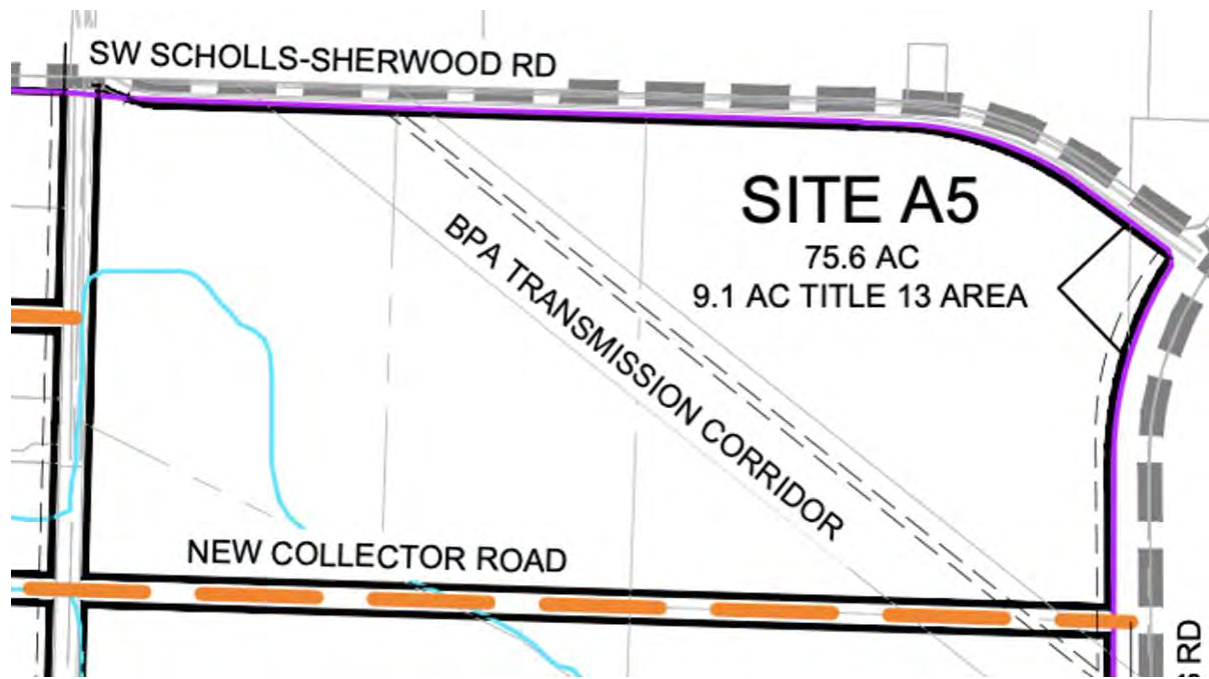
If the Sherwood West UGB expansion area will remain under consideration by the Metro Council, LCDC should instruct Metro to remove the mixed-use employment lands in the North District in excess of those identified as the potential high-tech manufacturing sites, along with all other lands in excess of those identified to meet regional needs,

Objection E.2.

The undisputed facts in the record contradict the conclusion that the Sherwood West Concept Plan Site A5 contains a potential site of 50 acres or more suitable for high tech manufacturing because of a BPA powerline bisects the site, in addition to the area with Title 13 habitat.

Site A5 is 75.6 acres and is made up of four parcels ranging in size from 0.5 acres to 36.3 acres, and part of another 12.9 acre parcel. These parcels are in three ownerships. Of the 75.6 acres, 66.5 acres do not have any Title 13 habitat.

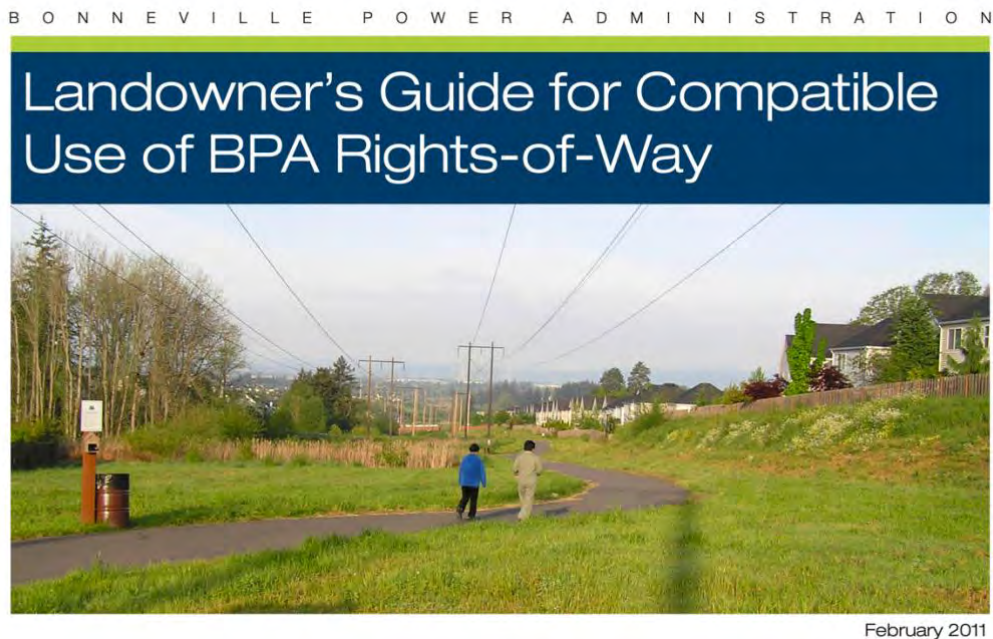
However, Site A5 is bisected by a Bonneville Power Administration high-capacity electricity transmission line corridor, clearly shown in Figure 13:



This is the view in Google Earth of the transmission line where they cross SW Scholls-Sherwood Road looking east-southeast, which the Alliance submitted to the Metro Council:



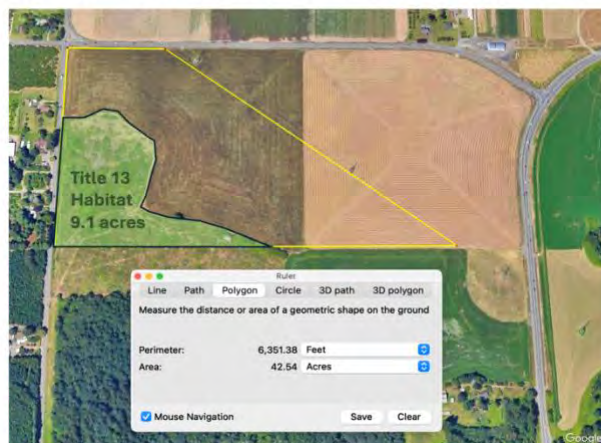
The BPA Landowners Guide for Compatible Use of BPA Right-of-Way (submitted to Metro by the Alliance) to illustrates what BPA considers compatible uses of land under high capacity transmission lines:



Neither Sherwood nor Metro demonstrated how industrial manufacturing buildings could be built under BPA powerlines on Site A5, given that BPA's guidelines call for "at least 50 feet of clearance from BPA's poles, structures or guy wires, whether it be vegetation, roads, fences, utilities, pipelines, or any other improvements.

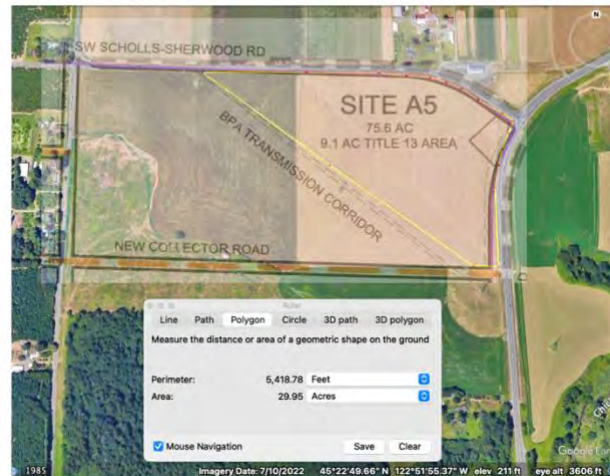
In materials submitted to the Metro Council, the Alliance showed how it estimated the corridor would cut Site A5 into two development sites. One is east of the power lines right-of-way and is estimated to be 29.95 acres:

Site A5 with Google Earth estimate of acreage southwest of BPA corridor and Title 13 Habitat acreage from Figure 13. Total usable acres is 33.44 acres.



The other portion, west of the power lines right-of-way, would be 42.54 acres, of which 7.74 acres (85% of 9.1 acres) is protected from disturbance by Metro's Title 13, leaving a usable parcel of 33.44 to 34.8 acres.

Overlay showing Figure 13 site A5 layout with acreage northeast of BPA corridor:
Note the mapped BPA transmission corridor slightly out of alignment with actual corridor.



The facts show that Metro's conclusion that Site A5 provides a 50-acre site suitable for high tech manufacturing are contradicted by the facts. This is a violation of Goal 2 which requires a sound factual foundation for planning decision.

Proposed remedy:

LCDC should find that Metro staff's findings on the suitability of Site A.5 are contradicted by undisputed facts in the record and direct the Metro Council to consider alternate measures to find such sites within the UGB or other sites in other Urban Reserves that could satisfy the specified regional need. LCDC should also require the Metro Council to reconsider its conclusion on a regional need for additional high-tech manufacturing in the light of recent circumstances and the Governor's decision not to site additional land under SB 4.

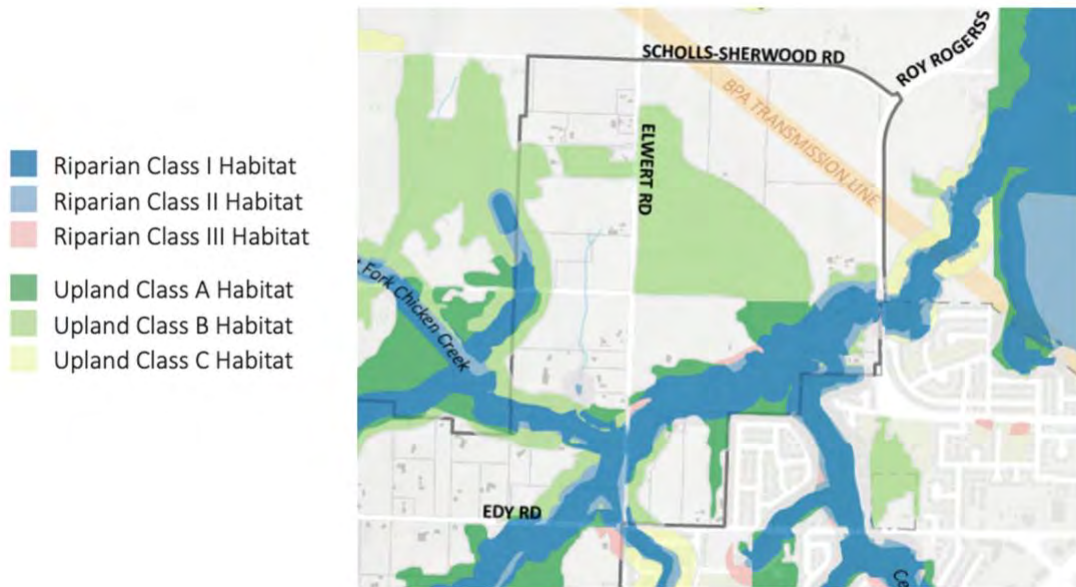
Objection E.3.

The undisputed facts in the record contradict the conclusion that Sherwood West Concept Plan Site A6 contain a potential site 50 acres suitable for high tech manufacturing because 85% of it is habitat that must be protected from disturbance by Metro's Title 13, acknowledged by LCDC as part of Metro's compliance with Goal 5.

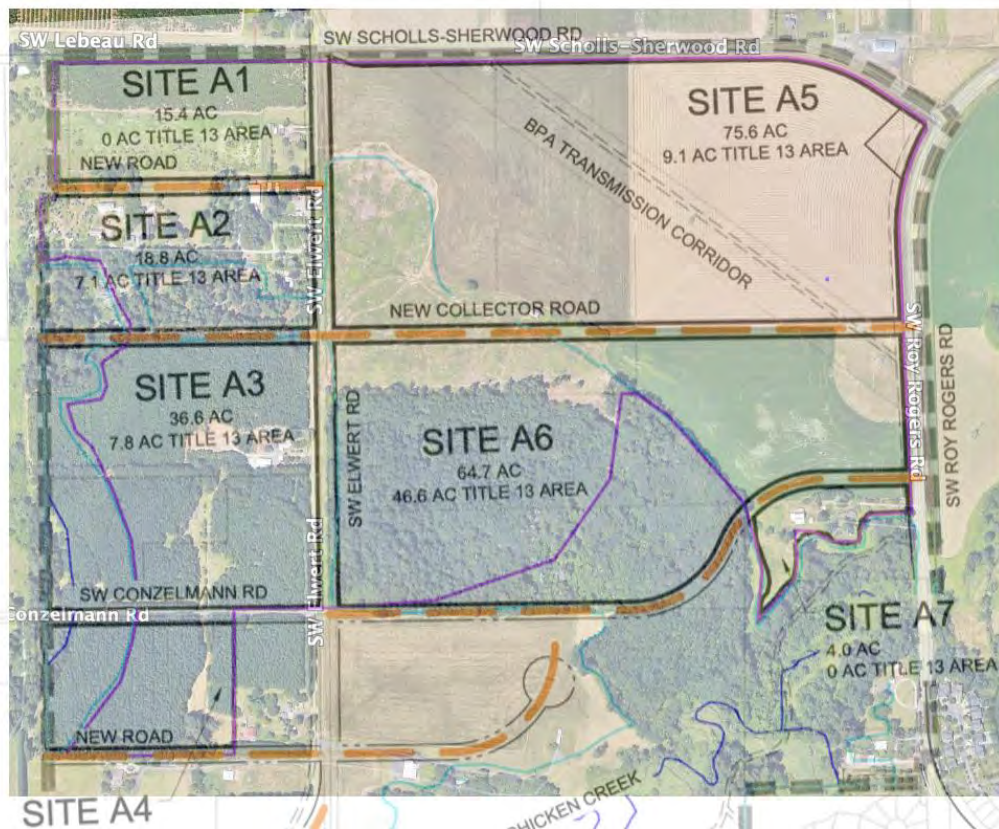
1. Relevant facts in the record about Site A6.

Metro designated Upland and Riparian habitat areas in the North District are shown in Figure 4 on page 27 of the Sherwood West Concept Plan. Below is a section of that map showing habitat in the North District:

Figure 4. Natural Resources Existing Conditions



In the material submitted to Metro on November 21, the Alliance provided the Metro Council with this image overlaying the employment sites on a July 10, 2022, Google Earth image of the North District, which provides some context for uses on the ground currently.



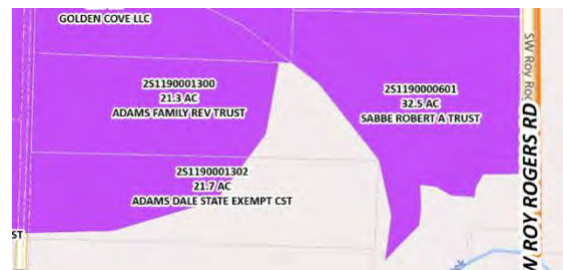
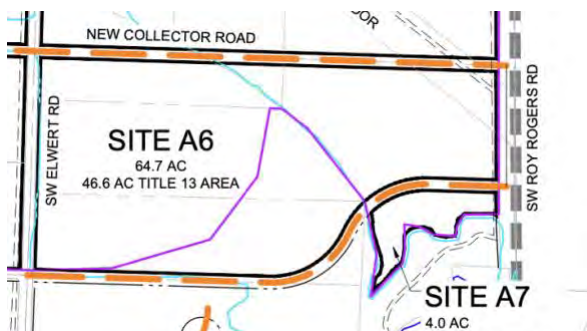
The Alliance also showed that as of a 2016 Google Earth image there was an intact upland forest on other parts of Sites A5 and A6 that correspond to the northern lobe of mapped habitat:



As shown in both Figure 13 and Table 1 from Sherwood’s consultants’ analysis Site A6 is 64.7 gross acres of which 46.6 acres, 72%, is Title 13 habitat and only 18.1 acres is outside Title 13 habitat protections.

2. Site A6 does not contain 50 or more acres of employment land so it is logically impossible to conclude that it is site of 50 or more acres.

A comparison of Figure 7 with Figure 13 clarifies what is indicated by the violet line in the site map, that a large portion of A6 is not designated an employment area at all, a triangle nearly bisecting the site, between about one quarter or one third of it:



Therefore, Site A6 almost certainly does not contain 50 acres of designated employment land. Neither Metro nor Sherwood explained how an employment site of this shape could be efficiently developed.

Proposed remedy:

LCDC should find that Metro staff's findings on the suitability of Site A.6. are contradicted by undisputed facts in the record and direct the Metro Council to consider alternate measures to find such sites within the UGB or other sites in other Urban Reserves that could satisfy the specified regional need. LCDC should also require the Metro Council to reconsider its conclusion on a regional need for additional high-tech manufacturing in the light of recent circumstances and the Governor's decision not to site additional land under SB 4.

Objection E.4.

Application of the LCDC-acknowledged provision of Metro's Title 13 and the Tualatin Basin Natural Resource Conservation Program limits the buildable land on Site A6 to considerably less than 50 acres, contradicting Metro's conclusion that Site A6 contains a developable parcel of at least 50 acres.

Title 13 "Nature in Neighborhoods" is a subsection of Metro Code section 3.07, Metro's Urban Growth Management Functional Plan, 3.07.1310 through 3.07.1370.

Subsection 3.07.1370 "Future Urban Growth Boundary Expansion Areas"

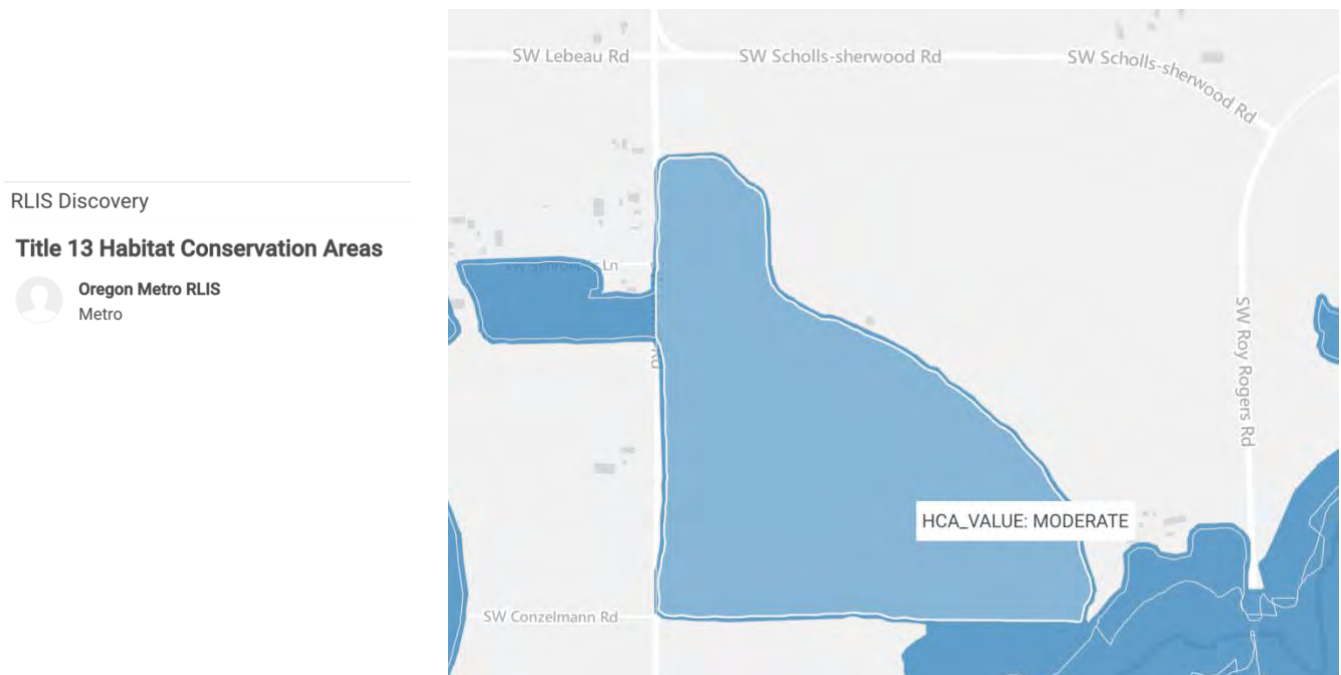
In addition, the Metro Council has also determined that the regionally significant fish and wildlife habitat identified as upland wildlife Class A and B habitat that is currently outside of the Metro UGB shall be designated as Habitat Conservation Areas at such time that those area are brought with the Metro UGB.

3.07.1330(b)(5) of Title 13, "Implementation Alternatives for Cities and Counties" specifies that Sherwood must demonstrate:

its existing or amended comprehensive plan and amended or new implementing ordinances substantially comply with the performance standards and best management practices described in Metro Code Section 3.07.1430 and that maps that it has adopted and uses substantially comply with the Metro Habitat Conservation Areas map and that its plan and implementing measures will "achieve protection and enhancement of Class I and II riparian habitat areas, and of Class A and B upland wildlife habitat areas in territory added to the Metro UGB after December 28, 2005 substantially comparable with the protection and restoration that would result from the application of a program that complied with Metro Code Sections 3.07.133(b)(1) or (b)(2).

In addition, Title 13 requires Sherwood to “amend its comprehensive plan and implementing ordinances to comply with the maps and provisions of the TBNRCC [Tualatin Basin Natural Resources Coordinating Committee] Goal 5 Program] adopted by the TBNRCC on April 4, 2005” and which was adopted by Metro/acknowledged by LCDC on XXX 2007.

Those provisions use habitat conservation protection levels of low, moderate and high, to mapped habitat areas. According to [Metro’s adopted Habitat Conservation Areas map](#), the Class B Upland Habitat in Sites A6 and A5 is classified as “moderate”:



According to the Title 13 Model Ordinance only 15% of a Moderate HCA area within one lot can be “disturbed” as of right Assuming that the separate ownerships and parcels of Site A⁴ could be assembled and combined into a single parcel⁴ then only 15% of 46.6 acres of moderate class habitat on Site A6 could be disturbed by development, about 7 acres.

That would provide a total of about 25 acres for development of a manufacturing facility, far less than the 50 acre site Metro used to justify its decision.

In its locational factor analysis in Appendix 7A, Metro staff stated that the boundaries of upland habitat could be adjusted to reflect logging, making more of the site available for development.

⁴ Information in Sherwood’s submittal, presented in the next objection, shows Area 5A is made up of all or parts of four different parcels that are in three or four different ownerships. Title 13 applies the percentage of allowable disturbance to the lot. For purpose of simplicity of argument, the Alliance will treat Site A6 as a single “lot.” Additional complication, which the Alliance does not need to address, arises from the lack of information about the size of the triangular area outside the employment designation for Site A6.

This is also being proposed in amendments to Title 13 for the Tualatin Basin.

If so, and if approved by LCDC, it will allow, in fact encourage, any landowner to negate the protection of forested upland habitat under Goal 5 and Title 13 by clearcutting the forest. And as noted in a prior objection, in its buildable land methodology set out in Appendix 7, Title 13 lands were classified largely as unbuildable, subject to potential reconsideration, including as a result of logging.

Metro or Sherwood may argue that Title 13's and the Tualatin Basin Natural Resource Program allow for at least two-thirds of the moderate class upland habitat to be destroyed (not just disturbed) for industrial development, in order to create a 50-acre development site.⁵

It is questionable whether the 2006 Metro Council or LCDC would have approved Title 13 if that had been the understanding of its level of protection and if logging would have been admitted as a way of evading Goal 5 protections.

Proposed remedy:

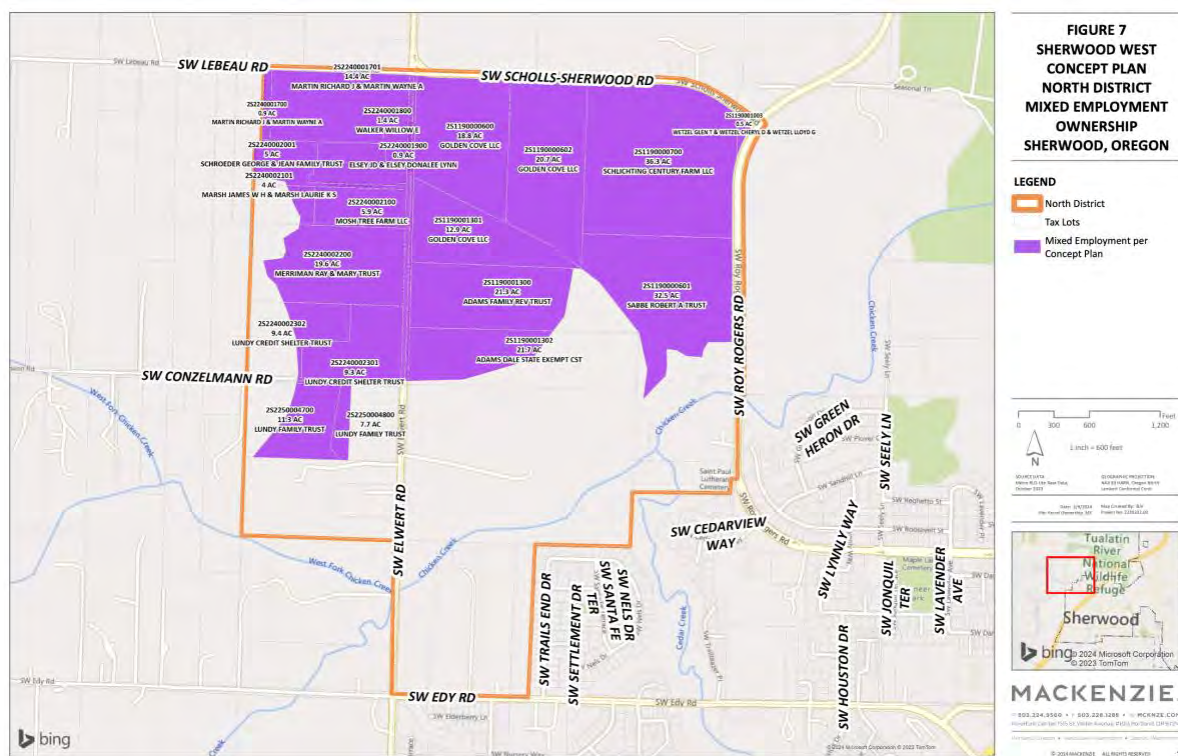
LCDC should find that Metro staff's findings on the suitability of Site A.6. are contradicted by undisputed facts in the record and direct the Metro Council to consider alternate measures to find such sites within the UGB or other sites in other Urban Reserves that could satisfy the specified regional need. LCDC should also require the Metro Council to reconsider its conclusion on a regional need for additional high-tech manufacturing in the light of recent circumstances and the Governor's decision not to site additional land under SB 4.

Objection E.5

Metro's conclusion that Site A5 and A6 are justified as supplying suitable regionally needed sites for high tech manufacturing are contradicted by its rejection of the suitability of similarly parcelized sites with Title 13 habitat protection in other urban reserves.

The employment area in the North District is divided up into many parcels in different ownerships as shown in this map in Sherwood's submittal materials, with the violet area indicated the employment area:

⁵ Site A6 according to Table 1, Site A6 has 18.1 acres of land outside Title 13 and 46.4 acres of Title 13 lands. It would require converting 31.9 acres of Title 13 land to create 50 developable acres, which is 68.75% of 46.4 acres.



According to Figure 7 and Table 1, Site A5 is made up of all or parts of five parcels, ranging in size from 0.5 acres to 36.3 acres, making the average parcel size 15.12 acres and Site A6 is made up of all or parts of five parcels, ranging in size from 12.9 to 32.5 acres, with the average parcel size being 12.94 acres.

As previously discussed, site A5 and A6 have substantial proportions of land with Title 13 habitat protected resources on them.

Yet these lands were considered suitable, even though similar sites, such as larger parcels in the Bendemeer Urban Reserve were considered unsuitable.

The Metro staff's alternative Urban Reserve analysis contradicts its conclusion that Sites A5 and A6 are appropriate and developable locations for high tech manufacturing.

Proposed remedy:

LCDC should find that Metro staff's findings on the suitability of Sites A.5 and A.6. are contradicted by undisputed facts in the record and direct the Metro Council to consider alternate measures to find such sites within the UGB or other sites in other Urban Reserves that could satisfy the specified regional need. LCDC should also require the Metro Council to reconsider its conclusion on a regional need for additional high-tech manufacturing in the light of recent circumstances and the Governor's decision not to site additional land under SB 4.

Objection F

Metro's conditions of approval do not prevent Sherwood from using Sites A5 and A6 for uses other than the high-tech manufacturing that was the justification adding these lands to the UGB.

The Metro Council imposed the following condition intended to limit the uses in the 130-acre area it believed had the potential to provide two 50 acre or larger high tech manufacturing sites:⁶

Industrial areas: The City shall plan the area depicted in Exhibit D as a Title 4 Industrial area in compliance with requirements in Metro code 3.07.430. City land use regulations, annexation procedures, or other means shall provide for creation of at least two sites of 50 gross acres or larger. The resulting sites shall be protected from division. Data centers, storage facilities, and warehousing, distribution, and fulfillment centers shall be prohibited as the primary use on these large sites.

Exhibit B to Ordinance Number 24-1520, page 1. (Note: Exhibit D is a map of the region's employment, industrial and regional significant industrial lands that does not show any of the employment lands in the Sherwood West Concept Plan UGB expansion area.)

However, the Council mistakenly erred by prohibiting "Data centers, storage facilities, and warehousing, distribution, and fulfillment centers" instead of limiting it to the kind of high-tech manufacturing that was the justification for the parcels' addition to the UGB; silicon chip manufacturing and similar high tech manufacturing,

This will allow Sherwood to approve a range of other uses of the type the Sherwood West Concept Plan lists as appropriate for its Mixed Use employment area:

Mixed Employment, which involves a mix of office, light industrial, and flex space uses within the same development or area of the city, emerged as an important theme of the Concept Plan. The economic opportunities study (Appendix G) identified mixed employment as a key economic development and job creation opportunity for Sherwood West.

Sherwood West Concept Plan at page 47.

Appendix G, "Sherwood West Concept Plan: Economic Opportunities and Challenges" (page 2) identified these target tenants in the mixed employment area:

- **Target tenants** are wide-ranging, including service providers, contractors, tech companies, logistics, light manufacturers, designers, healthcare users, etc. Other users in the City's target industry list—including advanced manufacturing, life

⁶ Assuming, without conceding that Metro has the authority, capacity or legal means of enforcing these conditions when Sherwood is considering an application for a land use permit.

sciences, R&D, software/media design, professional and business services, food products, outdoor wear design, etc.—are also appropriate.

Proposed remedy:

The various other objections and remedies presented by the Alliance should eliminate these sites from consideration for inclusion in the UGB. However, LCDC should instruct Metro that should they be included Metro must specify the authorized uses on the property that they referenced in their findings, that is, a very limited range of high tech manufacturing.

Objection G

The Metro Council’s decision violated state and regional policies favoring compact and efficient urban development favoring infill and redevelopment.

The Metro Council’s approval of a 1,291 acre UGB expansion at the outermost edge of the regional UGB in order to provide less than 600 acres of supposedly needed land, including low-density residential development of detached single-family homes, contradicts state and Metro policies favoring compact and efficient urban development.

ORS 197.012 “Compact urban development” provides:

In areas of the state that are growing rapidly, state agencies, as defined in ORS 171.133, cities and counties should, within constraints of applicable federal law and regulations, state law and rules and local ordinances:

(1) Consider directing major public infrastructure investments, including major transportation investments, to reinforce compact urban development; and

(2) Consider giving priority to investments that promote infill or redevelopment of existing urban areas to encourage the density necessary to support alternative modes of transportation.

Statewide Planning Goal 14 “Urbanization” provides (emphasis added):

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

Boundary Location The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 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; etc. 2)

Goal 11, Public Facilities and Services contains a complementary policy.

Metro's Regional Framework Plan explains that it is part of Metro's compliance with the statewide planning goals:

State law provides that the Regional Framework Plan must comply with statewide land use planning goals. The Oregon Land Conservation and Development Commission acknowledged the Regional Framework Plan and its implementing ordinances on December 8, 2000. Under the Metro Charter and state law, cities and counties within Metro's boundaries are required to comply and be consistent with Metro's adopted Urban Growth Management Functional Plans and the Regional Framework Plan. . . .

Chapter 1 "Land Use" of Metro's Regional Framework Plan contains Metro's policies on urban form:

1.1 Compact Urban Form

It is the policy of the Metro Council to:

1.1.1. Ensure and maintain a compact urban form within the UGB.

1.1.2 Adopt and implement a strategy of investments and incentives to use land within the UGB more efficiently and to create a compact urban form.

1.1.3 Facilitate infill and re-development, particularly within Centers, Corridors, Station

Communities, Main Streets and Employment Areas, to use land and urban services efficiently, to support public transit, to promote successful, walkable communities and to create equitable and vibrant communities.

. . . .

1.1.8 Promote a compact urban form as a key climate action strategy to reduce greenhouse gas emissions.

Metro's 2014 *Climate smart strategy* expressed and confirmed this commitment to compact urbanization because of its obvious benefits to reducing emissions from commuting within the region (page 11):

The 2040 Growth Concept includes land use and transportation building blocks that express the region's aspiration to incorporate population growth within existing urban areas as much as possible and expand the urban growth boundary only when necessary

Remedy:

LCDC should find that Metro Council's UGB expansion does not comply with the state's nor its own policies favoring compact and efficient urban development and infill and redevelopment within the UGB. LCDC should remand this expansion to the Metro Council for reconsideration of alternative measures promoting infill and redevelopment that comply with those policies

Objection H.

The Metro Council's decision to expand the UGB in one of the most affluent parts of the region and to endorse the use of taxpayer money from less affluent areas to support development in that area violates Metro's policies on racial equity and its Strategic Plan for Racial Equity, Diversity and Inclusion.

1. The Metro Council's policy on the equitable distribution of benefits and burdens of growth and its Strategic Plan for Racial Equity, Diversity and Inclusion.

Metro's Regional Framework Plan include six desired outcomes for the region which are to govern the exercise of its powers:

Chapter 1 Land Use

It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

. . . .

6. The benefits and burdens of growth and change are distributed equitably.

In June 2016 the Metro Council adopted its *Strategic plan to advance racial equity, diversity and inclusion* which includes this commitment:

Metro is committed to arriving at an equitable and prosperous Portland region where everyone has opportunities to enjoy a good quality of life. Taking a racial equity approach by removing barriers and increasing equitable outcomes for people of color in the region is the most intentional and effective path to get there.

It is not possible to reconcile the substance of the Metro Council's decision with this

2. Sherwood is one of the most affluent and least diverse parts of the Metro region.

The Alliance's objections to the Metro Council's approval of the development of unaffordable detached single family dwellings at low densities in the Sherwood West UGB expansions area. Including information showing that home prices and rents in Sherwood were among the highest in the region, higher even than neighboring suburbs of Tigard, Tualatin and Wilsonville.

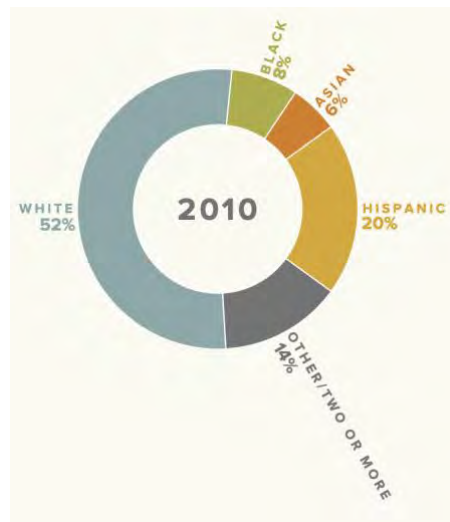
US Census data also shows that Sherwood is among the least diverse cities in the region:

Race and Ethnicity in Sherwood



White alone (not Hispanic or Latino)	16,334	80%
Hispanic or Latino	2,014	10%
Asian	974	5%
Some other race	659	3%
American Indian and Alaska Native	171	0.8%
Black or African American	141	0.7%
Native Hawai'ian and Other Pacific Islander	8	0.04%

Compare this to the ethnic diversity of the region in 2010, 15 years ago, included in the introduction to Metro's *Climate Smart Strategy*:



Perhaps the most stark statistical expression of the difference between Sherwood and other cities in the region is the demographic composition of Sherwood High School, compared to other high schools across the region, taken from the Oregon Department of Education's "Oregon At-A-Glance School Profiles" for 2022-23 academic year (provided to the Metro Council by the Alliance.) Here is a distillation of that demographic information⁷:

⁷ Even more than the above statistics, DLCD and LCDC may find the images and information submitted to Metro by the Alliance regarding the sumptuous new \$250 million High School built on the 82 acres Metro added to the Sherwood UGB on the other side of Highway 99 West, to provide the most compelling evidence of the inequity of the challenged expansion.

High School	% Nonhispanic White	Qualify for free or reduced price lunch	Ever English Learners	Attending college
Sherwood	78%	14%	6%	70%
Beaverton	41%	56%	44%	64%
David Douglas	30%	95%	48%	55%
Franklin	52%	46%	24%	68
Gresham	36%	95%	38%	51%
Hillsboro	31%	95%	46%	54%
Lake Oswego	66%	8%	6%	88%
McDaniel	37%	95%	33%	54%
Wilsonville	64%	22%	15%	76%

Employment in the high-tech sector, which was used by the Metro Council to justify the addition of industrial land to the UGB in the Sherwood Concept Plan North District, is notable for its lack of diversity.



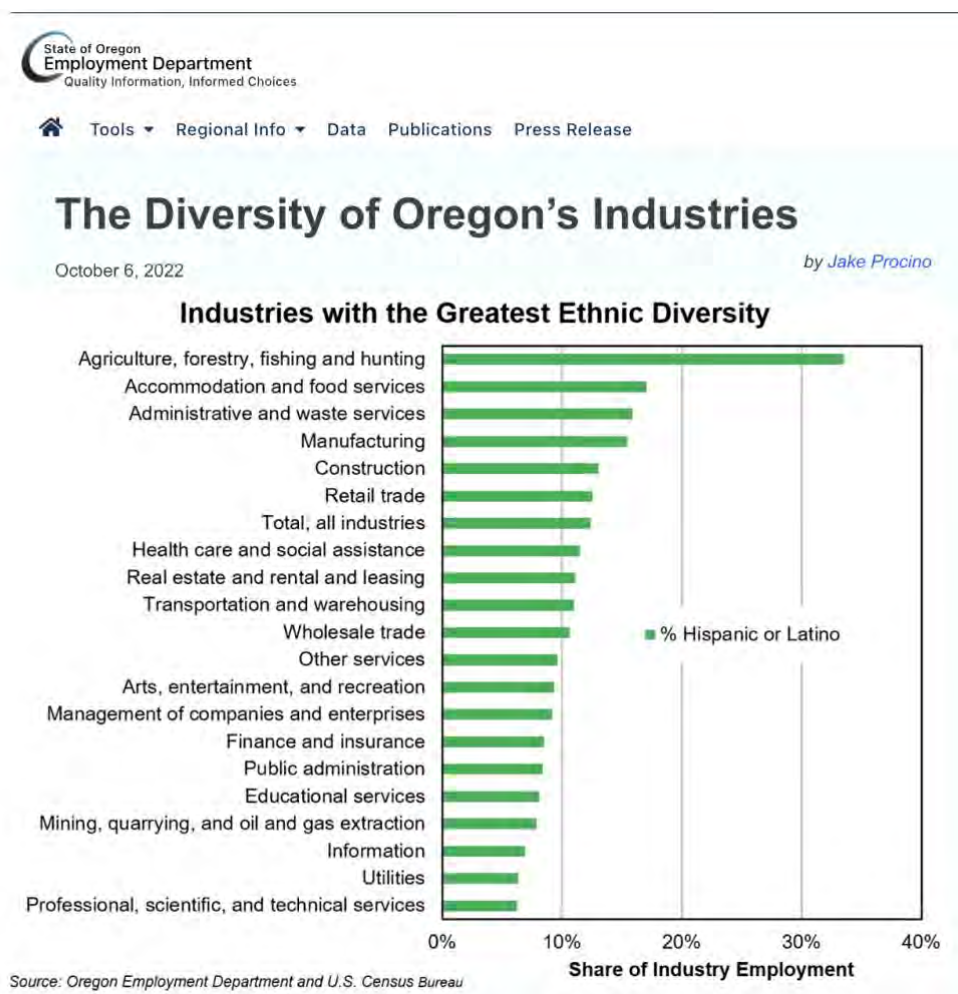
U.S. Equal Employment Opportunity Commission

DIVERSITY IN HIGH TECH

Excerpt from Executive Summary

- Compared to overall private industry, the high tech sector employed a larger share of whites (63.5 percent to 68.5 percent), Asian Americans (5.8 percent to 14 percent) and men (52 percent to 64 percent), and a smaller share of African Americans (14.4 percent to 7.4 percent), Hispanics (13.9 percent to 8 percent), and women (48 percent to 36 percent).
- In the tech sector nationwide, whites are represented at a higher rate in the Executives category (83.3 percent), which typically encompasses the highest level jobs in the organization. This is roughly over 15 percentage points higher than their representation in the Professionals category (68 percent), which includes jobs such as computer programming. However, other groups are represented at significantly lower rates in the Executives category than in the Professionals category; African Americans (2 percent to 5.3 percent), Hispanics (3.1 percent to 5.3 percent), and Asian Americans (10.6 percent to 19.5 percent).

Source: US Equal Opportunity Commission *High Tech, Low Inclusion: Diversity in the High Tech Workforce and Sector 2014 – 2022*.



- Metro’s own Committee on Racial Equity testified to the Metro Council that the UGB expansion process “tokenized” the Committee and that “that there was little to no connection between the UGB process and Metro’s Strategic Plan to Advance Racial Equity, Diversity and Inclusion and the Climate Smart Strategy.”**

Three members of Metro’s Committee on Racial Equity (CORE) testified at the Metro Council’s hearing on September 26, 2024, on the Chief Operating Officer’s UGB recommendations. The subject matter of their lengthy testimony was the way in which their views were disregarded in their “consultation” on the Sherwood UGB expansion. CORE Co-Chair Saerom Yoo began their testimony with important reflections about the UGB amendment process:

And so, while we have submitted recommended conditions of approval in writing for the ... for your consideration for the Sherwood proposal, we also wanted to

step back because we have a lot of reflections and observations about the process that you all could benefit from hearing about

The first take-away is that the UGB process tokenized CORE and other people of color.

While we are grateful that CORE was invited to weigh in on the UGB process, it was immediately clear that racial equity was an afterthought. As volunteers who meet for one two-hour meeting per month, we felt rushed to properly understand the topic, Sherwood's plan, and realize its racial equity impacts.

CORE members and other people of color who were invited to the roundtable felt unwelcome and dismissed. They immediately noted a lack of data justice but their questions and concerns were disregarded.

CORE feels strongly that without data justice we cannot make data-based decisions on racial equity.

....

Our next take-away is that there was little to no connection between the UGB process and Metro's Strategic Plan to Advance Racial Equity, Diversity and Inclusion and the Climate Smart Strategy.

CORE members and other volunteers felt as though there was a large and substantial gap between Metro's codified 106-page commitment to the implementation of racial equity and how we experienced the UGB process....

Metro staff presenting on the subject also did not articulate any sort of incorporation of [the goals of the Strategic Plan.]

In CORE's interaction with the City of Sherwood's staff, we were again surprised to observe such little consideration for racial equity, diversity and inclusion.

[Video recording of September 26, 2024 Metro Council hearing on items 6.1 "2024 Urban Growth Management: Public Hearing on Chief Operating Officer Recommendations"](#) at 1:21:50 to 1:24:42.

The reactions of Metro councilors to such frank talk about their process, and to the shining of a bright clear light upon this expansion effort, made for a rare display in such a usually scripted setting. (And the Council's review was otherwise *very* tightly scripted.)

4. Proposed Remedy

LCDC should find that the Metro Council's UGB expansion decision is inconsistent with Metro's own policies on regional and racial equity and remand the decision back to the Council for reconsideration of that decision based on the recommendations of the Committee on Racial Equity. These in particular include the need for production and dissemination of data on equity.

Objection I.

The Metro Council's Sherwood UGB Expansion is inconsistent with its policies on climate change.

One of the Metro Council's six outcomes for a successful region (part of the Regional Framework Plan) addresses climate change:

It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

The region is a leader on climate change, on minimizing contributions to global warming.

In 2015, the Metro Council adopted its *Climate Smart Strategy for the Portland metropolitan region* which articulated goals and strategies for reducing climate-changing pollution from car and truck emissions.

Nonetheless, it approved a UGB expansion at the very out edge of the region, which will draw commuters to the employment areas west of Highway 99 in the Sherwood West Concept Plan UGB expansion area. And residents in the new residential areas will be obliged to commute to jobs in other parts of the region, especially since transit service in Sherwood is very limited compared to other parts of the region.

The assumption that a jobs-housing balance will result in reduced driving is contradicted by common sense. People changes jobs far more frequently than they change houses, especially given high housing costs. It is rare for both spouses to have jobs near their home.

The data show this lack of relationship between job and housing and commuting in cities in the region. The Alliance prepared the following table for the Metro Council:

What difference does the balance of jobs to housing have on commute time?					Comments
	From 2020 Metro #		From US Census		
	Households	Jobs	Jobs/HH	Commute Time	
Clack, Mult, Wa. Counties	732,937	1,026,032	1.40		
Beaverton	39,895	63,500	1.59	24.9	Has close to regional jobs/household average. Commutes 48 seconds less than Sherwood
Gresham	41,195	40,562	0.98	28.6	Gresham has almost the same jobs/household ratio as Sherwood and 2.9 minute longer commuter
Hillsboro	42,338	84,623	2.00	23.1	
Happy Valley	6,893	7,823	1.13	28.0	
Lake Oswego	17,257	21,525	1.25	23.2	Commute is only six seconds longer than Hillsboro which has many more jobs/household
Oregon City	13,557	17,112	1.26	26.4	Better ratio of jobs to households than Sherwood and has a slightly longer commute time.
Portland	280,708	480,904	1.71	25.5	
Sherwood	6,567	6,546	1.01	25.7	Almost identical to Portland which many more jobs per household
Tigard	21,617	45,109	2.09	23.5	
Tualatin	10,995	34,115	3.10	22.9	
West Linn	9,855	4,982	0.50	27.3	West Linn has less one quarter as many jobs/household as Wilsonville and commute is 1 minute, 4%, to
Wilsonville	9,778	20,539	2.10	26.3	Wilsonville has many more jobs/household than Lake Oswego but a 3 minute longer commute

If the reader is looking for a pattern, they will fail. The point of the table is to show that no relationship can be discerned between the ratio of jobs to housing, and commute length..

At the Metro Council hearing on its draft decision to expand the UGB, the Alliance adopted by reference the arguments and supporting data offered by Joe Cortwright challenging Metro's decision as being in contradiction to its climate change policies and legal obligations. We reaffirm the incorporated objections here.

DLCD staff and LCDC will want to evaluate the Metro Council's decision based on their own work on the Climate Smart and Equitable Communities program.

Proposed remedy: Adopt a finding that the Metro Council's decision does not comply with state and Metro policies to reduce climate changing auto emissions, and remand the decision to the Council to evaluate alternative measures and sites to meet housing and employment land needs that do address these policies.

Objection J.

The Metro Council's decision violated its public participation and ethics standards.

1. Metro's Code of Ethics, Statewide Planning Goal 1, Metro's Public Engagement Principles

The following are excerpts from the Metro Code and Metro Executive Order establishing Metro's code of ethics:

Metro Code

CHAPTER 2.17 CODE OF ETHICS

2.17.010 Purpose and Policy

(b) In adopting this Chapter, the Metro Council intends:

(2) To require Metro officials to operate under high ethical standards;

(3) To require Metro officials to treat their offices and positions as a public trust whose powers and resources are to be used for the benefit of the public and not for any personal benefit;

Metro EXECUTIVE ORDER 66 (1997) excerpts:

PURPOSE The purpose of this Executive Order is to provide a statement of ethical principles that shall serve as guideposts for Metro officials.

TRUST

The purpose of Metro is to serve the public. Metro officials should treat their office as a public trust.

1. Metro's powers and resources are used for the benefit of the public rather than any official's personal benefit.
2. Metro officials ensure public respect by avoiding even the appearance of impropriety.
3. Policymakers place long-term benefit to the public as a whole above all other considerations, including important individuals and special interests. The public interest includes protecting the rights of under-represented minorities.
6. Citizens have a fair and equal opportunity to express their views to Metro officials.

OBJECTIVITY

Metro decisions are based on the merits of the issues. Judgment is independent and objective.

1. Metro officials avoid financial conflict of interest and do not accept benefits from people wanting to affect decisions.

....

Avoid the appearance that the personal, political or social agenda of non-elected officials is a substitute for Metro's policy decision process. . . . Personal involvement with political or social activities by Metro officials is acceptable. However, all Metro officials should avoid taking actions on behalf of Metro that create the impression that their own personal agendas are guiding their official actions at Metro, rather than being subject to Metro's policymaking procedures.

This is Statewide Planning Goal 1: Citizen Involvement:

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 1 is implemented by Metro in part by its "Public Engagement Guide" adopted February 29, 2024, with Councilor Gonzalez seconding the motion and voting in favor. Here is the key provisions (emphasis added.)

Desired outcomes:

- *People have accessible information and meaningful opportunities to participate in programs, services, or decision-making processes at Metro.*
- *Metro creates welcoming spaces that encourage civic leadership and connection through community-led activities and building capacity for ongoing engagement.*
- *The Metro Council makes decisions that are well-informed and responsive to the needs and perspectives of the diverse communities of greater Portland.*

Metro's guiding principles for meaningful public engagement are:

- 1. Public participation is an essential part of Metro's decision-making.*
 - 2. Transparency about decision-making is fundamental to successful public service and includes communicating about project outcomes and the impact of community contributions to the process.*
 - 3. Meaningful public engagement processes apply equity, diversity and inclusion strategies and tools to help identify and address the needs of impacted, underserved, and historically excluded communities.*
- 2. Metro Councilor Gonzalez announced his support for the Sherwood UGB expansion prior to receiving any public testimony on the Urban Growth Report and after receiving a substantial share of his campaign contributions from persons, businesses and organizations having a significant financial stake in the proposed Sherwood UGB expansion, in violation of Metro's Code of Ethics and the spirit of Goal 1 and Metro's Public Engagement Guide.**

On July 11, 2024, when Metro's draft Urban Growth Report was issued, Councilor Gonzalez [posted this comment on his facebook page](#) (two key sections excerpted and reproduced here):



Juan Carlos González is 😊 feeling optimistic.

July 11, 2024 · 🌐



Hey folks,

The draft 2024 Urban Growth Report has been released by Metro this week (and is open for comment until mid August!!!!) and I want to make sure I get your attention for at least a few minutes to explain why this is important and why I support Sherwood's request for expansion.

You can find the link to the newsletter by following the linktree in my bio. Or you can read on!

The City of Sherwood's Urban Growth Request

The City of Sherwood has offered up a proposal that encompasses 1,291 acres of land (605 acres of which are developable), located on the northwestern corner that borders Highway 99W. The concept plan estimates between 3,100 to 5,500 units depending on the housing mix types and Sherwood is making strides to ensure pockets of density and opportunities for middle housing. I commend their work on this.

My verdict: I support Sherwood's request

Bringing in precious farmland is a decision our region must take seriously. I support the City's request for expansion. As the region grows, we need to make bold decisions that maximize the limited resources we have – I will be working closely with Metro staff to work through conditions of approval that help the final version of the City's proposal build more housing and attract more living wage, quality jobs in technology and semiconductors.

Thanks for taking the time to read my thoughts,

Juan Carlos Gonzalez

Metro Councilor - District 4

On the same day that Councilor Gonzalez invited public comment on the Urban Growth Report, he announced that he had already made up his mind, before hearing anything from the public.

He did not hear from citizens or wait for the the facts and analysis that show the rental and ownership housing that will be built will only be affordable to high income households.

He did not consider the results of online public surveys that recorded very high levels of opposition to the idea of a Sherwood UGB expansion by residents of Sherwood and nearby areas:

He did not consider the information as to how an erroneous forecast of population growth and surging enrollment at Sherwood High School led Metro to expand the UGB by 82 acres for a new \$248 million high school campus, only to then receive updated forecasts of falling enrollment beginning in just three years.

He did not hear from the citizens about taxes, infrastructure, traffic, vacant industrial land in Sherwood, the loss of valuable agricultural and timberland, threats to the Chicken Creek riparian area or other matters before he made up his mind.

Councilor Gonzalez has been lobbied by the City of Sherwood about this proposal for months (which he celebrates on social media), something that city officials and staff and various development lobbyists have both the time and money to do, but average residents do not. The citizens did not have “a fair and equal opportunity to express their views to Metro officials “

Nor did he reveal or consider the ethical implications of his receipt of tens of thousands of dollars in campaign contributions from the Home Builders Political Action Committee, the Portland Metropolitan Association of Realtors, the partners in the Metropolitan Land Group and other development interests.

On the following page is a list of Councilor Gonzalez’ campaign contributions coming from persons, businesses and organizations that are on record as supporting the Sherwood UGB expansion or have known business interest in planning for and development in UGB expansions. It was derived from the data posted on the Secretary of State’s ORESTAR website and was referenced in a letter of complaint sent to LCDC’s Citizen Involvement Advisory Committee and copied to LCDC and the Metro Council:

Campaign Contributions to Gonzalez for Oregon Juan Carlos Gonzalez for Metro Council campaign committee for 2020 and 2024 elections				
Contributor	Amount	Date	Transaction ID	Notes
Robert Walsh	\$1,500.00	4/18/22	4119960	Walsh is CEO of Walsh Construction - at the address on the contribution
Sean Tyler Keys	\$5,000.00	1/1/18	2737782	Partner/Managing Member Metropolitan Land Groupd
Hillsboro Chamber of Commerce	\$500.00	3/1/18	2767163	
NAIOP	\$500.00	3/5/18	2779667	National Association of Industrial and Office Parks
Portland Metropolitan Association of Realtors	\$3,000.00	3/15/18	2780864	
Oregonians for Affordable Housing PAC	\$2,500.00	3/19/18	2800507	This is an Oregon Homebuilders Association affiliated PAC
The Crandall Group	\$5,000.00	4/9/18	2808410	The Crandall Group is a full-service real estate and land acquisition firm located in Beaverton, Oregon"
John G. O'Neil	\$2,500.00	4/24/18	2822818	Managing Partner, Metropolitan Land Group
Beaverton Area Chamber of Commerce	\$1,000.00	4/30/18	2826178	
Roy Kim	\$1,000.00	3/25/18	2800362	Real Estate Investor, Central Bethany Development
Beaverton Area Chamber of Commerce	\$1,500.00	2/218	2756850	
Portland Metropolitan Association of Realtors	\$10,000.00	2/22/22	4048089	
MF MLG LLC	\$2,500.00	1/7/22	3998045	Formerly Metropolitan Land Group
Oregon Laborers Political Action Committee	\$2,500.00	6/15/22	4184156	Construction trades union
MF MLG LLC	\$2,500.00	8/2/24	4988257	Formerly Metropolitan Land Group
Stefanie Kondor	\$250.00	5/18/22	4166087	Real Estate VP of Development Related Northwest Hillsboro OR
Robert Shanks	\$500.00	5/5/22	4152592	Business Owner in Construction
Pacific Northwest Regional Council of Carpent	\$1,000.00	4/28/22	4133638	
Seth Henderson	\$500.00	4/27/22	4132320	Occupation: "Land developer"
	\$43,750.00			

Clearly Councilor Gonzalez did not attempt to comply with Metro's Code of Ethics by receiving these campaign contributions, up to August of 2024, and then voting in favor of the expansion that benefits the contributors, a clear violation of Metro's Code of Ethics.

3. Proposed remedy.

Remand its decision to the Metro Council with the instruction to require all Metro Councilors to reconsider its decision using procedures, disclosures, Councilor recusals and equal opportunities for public participation, that comply with their Code of Ethics, Goal 1 and Public Engagement Guidelines.

Incorporation of the Objections of 1000 Friends of Oregon, Housing Land Advocates, Verde, Tualatin River Keepers, Ron Bunch

The arguments presented to Metro and objections made to DLCD and LCDC by 1000 Friends of Oregon, Housing Land Advocates, Verde, Ron Bunch and Tualatin River Keepers that are in concurrence with those presented and made by the Alliance, are adopted by the Alliance and individual objectors, along with the supporting evidence,