



Growing McMinnville
MINDFULLY

**McMinnville Growth Management and
Urbanization Plan, 2003 – 2023**

City of McMinnville
Remand Order 12-WKTASK-001814
PERTINENT LEGAL DOCUMENTS
December, 2020
Attachment 1

- LCDC Remand Order
- Court of Appeals Decision
- Ordinance No. 4961
- Ordinance No. 4841
- Ordinance No. 4840
- Ordinance No. 4796
- Court of Appeals Record ([link](#))

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

IN THE MATTER OF PERIODIC REVIEW)	
TASK 1 AND THE AMENDMENT OF)	REMAND ORDER
THE URBAN GROWTH BOUNDARY)	12-WKTASK-001814
FOR THE CITY OF MCMINNVILLE)	

This matter came before the Land Conservation and Development Commission (Commission) on February 28, 2012, on partial reversal and remand of the Commission's Order on Reconsideration of Approval Order 08-WKTASK-001760 from the Court of Appeals, pursuant to ORS 183.482 and ORS 197.650(1).

History and Summary of Task 1 and UGB amendment

The Department of Land Conservation and Development (department) approved the City of McMinnville's (city) periodic review work program on August 26, 1994. The city submitted Task 1, "Inventory of Commercial Lands", of its approved work program to the department for review pursuant to ORS 197.633 and OAR chapter 660, division 25. The city also submitted the amendment of its urban growth boundary (UGB) to the department for review pursuant to ORS 197.626, OAR 660-025-0040(1)(a), and OAR 660-025-0175(1). The Commission partially approved and partially remanded the submittal on December 6, 2004 by order 04-WKTASK-001645. In response to the remand, the city submitted Ordinances 4840 and 4841, the subject of the present matter.

Recitals

1. On January 17, 2006, the department received Ordinance 4840 from the city and on January 31, 2006, the department received Ordinance 4841 from the city in response to partial approval and remand order 04-WKTASK-001645. The department considered the submittal complete on January 31, 2006.
2. On January 23, 2006, the department received an objection from Mark Davis. On February 3 and February 17, 2006, the department received objections from 1000 Friends of Oregon, Friends of Yamhill County, and Ilsa Perse. The objections were timely filed.
3. On May 31, 2006, the department approved Task 1 and the UGB amendment by order 001696 and notified the city and the objectors.
4. On June 22, 2006, the department received an appeal of order 001696 from 1000 Friends of Oregon, Friends of Yamhill County, and Ilsa Perse.
5. On September 12, 2006, the Commission held a hearing on the appeal of the director's approval of a completed periodic review work task and an UGB amendment.

6. During the course of the September 12, 2006 hearing, the city requested that the Commission amend its periodic review work program to add Task 4, the rezoning of the West Hills and West 2nd Street areas from R-1 to R-2.

7. On November 8, 2006, the Commission issued Approval Order 06-WKTASK 001709, which approved the city's Task 1 and UGB amendment submittal, pursuant to OAR 660-025-0150 and 660-025-0160, and approved the city's request to amend its periodic review work program to add Task 4, the rezoning of the West Hills and West 2nd Street areas from R-1 to R-2.

8. On August 1, 2007, petitioners 1000 Friends of Oregon, Friends of Yamhill County, and Ilsa Perse filed their opening brief in the Court of Appeals on judicial review of the Commission's order. Petitioners' opening brief assigned error to the Commission's interpretation of certain statutes, statewide planning goals and prior Commission position thereon.

9. By order dated November 20, 2007, the Commission found that petitioners raised issues concerning the interpretation of law that merited reconsideration. The Commission also found that withdrawal of its approval order offered the most efficient means of resolving petitioners' concerns, to the benefit of the city, petitioners, and the Commission. Therefore, pursuant to ORS 183.482(6) and ORAP 4.35, the Commission withdrew Approval Order 06-WKTASK 001709 for reconsideration under the authority delegated to the director under OAR 660-002-0010(5).

10. In early 2008, the parties explored settlement. The city subsequently informed the petitioners and the department that it would no longer pursue settlement.

11. On November 17, 2008, the Commission issued Order on Reconsideration of Approval Order 08-WKTASK-001760, which approved Periodic Review Task 1, "Inventory of Commercial Lands" and the city's UGB amendment submittal, as illustrated in Figure 6 (Exhibit B) of Ordinance 4841, pursuant to OAR 660-025-0150 and 660-025-0160; and approved the city's request to amend its periodic review work program to add Task 4, the rezoning of the West Hills and West 2nd Street areas from R-1 to R-2 at the time of completion of the Transportation System Plan (Task 2 of the city's periodic review work program).

12. In 2009, the parties again explored settlement. In the fall of 2009, the city subsequently informed the petitioners and the department that it would no longer pursue settlement.

13. On October 13, 2009, petitioners filed a supplemental opening brief in the Court of Appeals on judicial review of the Commission's revised order (08-WKTASK-001760).

14. On June 9, 2010, the department issued order 001790 approving the city's Task 2 submittal regarding the Transportation System Plan.

15. On judicial review of the orders, the Oregon Court of Appeals reversed and remanded for reconsideration of the decision to add land to the UGB, but did not otherwise address 08-WKTASK-001760. *1000 Friends of Oregon v. LCDC*, __ Or App __, __ P3d __ (2011). The court directed the Commission to make additional findings regarding petitioners' contentions or take appropriate action in review of the city's UGB submittal to:

“(1) determine what particular and quantified land use need are to be accommodated by any additional land to be added to the McMinnville UGB; (2) apply ORS 197.298 to determine the land available to accommodate those quantified land use needs; (3) apply Goal 14 to justify the inclusion of suitable land in any amended UGB; and (4) take any other necessary action under a correct interpretation of the governing standards, including a determination of whether the city's submission, ‘on the whole conform[s] with the purposes of the goals and any failure to meet individual goal requirements is technical or minor in nature’ under ORS 197.747.” Slip op at 60.

Findings of Fact

1. On July 13, 2011, the Court of Appeals filed its decision on judicial review of the Commission's Order on Reconsideration of Approval Order 08-WKTASK-001760.
2. On January 31, 2012 the State Court Administrator sent a copy of the appellate judgment to the Commission and the Court of Appeals decision became effective on that date pursuant to ORAP 14.05.

Conclusion

Based on the decision of the Court of Appeals, Work Task 1 is affirmed. The court directed the Commission to make additional findings regarding petitioners' contentions or take appropriate action in review of the city's UGB submittal. However, such determinations, for example the initial determination of the particular and quantified land use needs that are to be accommodated by any additional land to be added to the McMinnville UGB, are the purview of the city and not the role of this Commission. Therefore, under the court's direction, the only appropriate action is to remand the city's UGB submittal. On remand, the City of McMinnville must either determine its land use needs and apply ORS 197.298 and Goal 14 in the manner announced by the court's decision, or otherwise fulfill the requirements of accommodating its identified needs in compliance with the statewide planning goals and consistent with the court's decision.

THEREFORE, IT IS ORDERED THAT:

The Commission modifies its Order on Reconsideration of Approval Order 08-WKTASK-001760 to reverse the approval of the city's UGB amendment submittal, as illustrated in Figure 6 (Exhibit B) of Ordinance 4841, and to remand the city's UGB amendment submittal, as illustrated in Figure 6 (Exhibit B) of Ordinance 4841, for further findings consistent with the court's final opinion and order. On remand, the city may either (a) include the city's UGB amendment submittal, as illustrated in Figure 6 (Exhibit B) of Ordinance 4841, based on (1) findings of its particular and quantified land use need that are to be accommodated by any additional land added to the McMinnville UGB that are supported by substantial evidence; (2) application of ORS 197.298 to determine the land available to accommodate those quantified land use needs; (3) application of Goal 14 to justify the inclusion of suitable land in any amended UGB; or (b) fulfill the requirements of accommodating its identified needs, including by amending the city's UGB, in any other manner that complies with the statewide planning goals.

DATED THIS 29th DAY OF FEBRUARY, 2012.

FOR THE COMMISSION:



Jim Rue, Acting Director
Department of Land
Conservation and Development

NOTE: You may be entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provisions of ORS 183.482 and ORS 197.650.

FILED: July 13, 2011

IN THE COURT OF APPEALS OF THE STATE OF OREGON

1000 FRIENDS OF OREGON, FRIENDS OF YAMHILL COUNTY
and ILSA PERSE,
Petitioners,

v.

LAND CONSERVATION AND DEVELOPMENT COMMISSION
and CITY OF MCMINNVILLE,
Respondents.

Land Conservation and Development Commission
06WKTASK001709, 08WKTASK001760

A134379

Argued and submitted on September 28, 2010.

Mary Kyle McCurdy argued the cause and filed the briefs for petitioners.

Steven Shipsey, Assistant Attorney General, argued the cause for respondent Land Conservation and Development Commission. On the brief were John R. Kroger, Attorney General, Jerome Lidz, Solicitor General, and Denise G. Fjordbeck, Attorney-in-Charge Civil/Administrative Appeals.

Jeffrey G. Condit argued the cause for respondent City of McMinnville. With him on the brief was Miller Nash LLP.

Before Ortega, Presiding Judge, and Sercombe, Judge, and Landau, Judge pro tempore.

SERCOMBE, J.

Reversed and remanded.

1 begin by describing the legal framework for regulation of the future uses of land around
2 an incorporated city and the periodic review planning process used to adopt those
3 regulations. ORS 197.175(1) requires cities and counties to exercise their planning and
4 zoning responsibilities in accordance with state land use statutes and special rules (goals)
5 approved by LCDC. ORS 197.175(2) specifically directs that each city and county
6 "adopt, amend and revise comprehensive plans in compliance with goals approved by
7 [LCDC]." The LCDC goals, in turn, set out substantive standards for the content of
8 comprehensive plans. However, a city or county can take an "exception" to the
9 application of a goal to particular property regulated by the comprehensive plan.

10 We recently described the relationship of the goals and the exception
11 process in [Waste Not of Yamhill County v. Yamhill County](#), 240 Or App 285, 287-89, 246
12 P3d 493 (2010), [adh'd to as modified on recons](#), 241 Or App 199, ___ P3d ___ (2011):

13 "Some of those goals require plans to restrict the use or development of
14 different types of resource lands, *e.g.*, Goal 3 (Agricultural Lands), OAR
15 660-015-0000(3), and Goal 4 (Forest Lands), OAR 660-015-0000(4).
16 When a city or county wishes to adopt a property-specific plan provision
17 that is inconsistent with a goal requirement, it approves an exception to that
18 goal requirement as part of the comprehensive plan. * * *

19 "ORS 197.732(2) [and Goal 2, Part II] * * * describe[] three types
20 of exceptions: for physically developed land that is not available for the
21 goal use; for land that is 'irrevocably committed' to a nongoal use; and for
22 land needed for a use not allowed by a goal policy. The latter type of
23 exception, a 'reasons' or 'need' exception is allowed by ORS 197.732(2)(c)
24 [and Goal 2]:

25 "'A local government may adopt an exception to a goal if:

26 ""* * * * *

27 ""(c) The following standards are met:

1 "(A) Reasons justify why the state policy embodied in the
2 applicable goals should not apply;

3 "(B) Areas that do not require a new exception cannot reasonably
4 accommodate the use;

5 "(C) The long term environmental, economic, social and energy
6 consequences resulting from the use at the proposed site with measures
7 designed to reduce adverse impacts are not significantly more adverse than
8 would typically result from the same proposal being located in areas
9 requiring a goal exception other than the proposed site; and

10 "(D) The proposed uses are compatible with other adjacent uses or
11 will be so rendered through measures designed to reduce adverse impacts."

12 Thus, when a city amends its comprehensive plan, including any amendment to its UGB,
13 the city must justify the change as being consistent with the LCDC goals, except to the
14 extent that compliance with a goal is excused by an exception to its application.

15 Goal 14 (Urbanization), OAR 660-015-0000(14), provides particular
16 standards for setting or changing a UGB:¹

17 "Urban growth boundaries shall be established to identify and
18 separate urbanizable land from rural land. Establishment and change of the
19 boundaries shall be based upon considerations of the following factors:

20 "(1) Demonstrated need to accommodate long-range urban
21 population growth requirements consistent with LCDC goals;

22 "(2) Need for housing, employment opportunities, and livability;

¹ The provisions of Goal 14 were amended by LCDC on April 28, 2005. The amendments allow local governments "that initiated an evaluation of the [UGB] land supply prior to April 28, 2005, and consider[ed] an amendment of the UGB based on that evaluation" to apply the former version of Goal 14 to that amendment. The city applied the former version of Goal 14. All references to Goal 14 and its implementing regulations in this opinion pertain to the former Goal 14 and the regulations in effect prior to the goal amendments, unless otherwise noted.

1 "(3) Orderly and economic provision for public facilities and
2 services;

3 "(4) Maximum efficiency of land uses within and on the fringe of
4 the existing urban area;

5 "(5) Environmental, energy, economic and social consequences;

6 "(6) Retention of agricultural land as defined, with Class I being the
7 highest priority for retention and Class VI the lowest priority; and,

8 "(7) Compatibility of the proposed urban uses with nearby
9 agricultural activities.

10 "The results of the above considerations shall be included in the
11 comprehensive plan. In the case of a change of a boundary, a governing
12 body proposing such change in the boundary separating urbanizable lands
13 from rural land, shall follow the procedures and requirements as set forth in
14 the Land Use Planning goal (Goal 2) for goal exceptions."

15 The referenced Goal 2 standards for exceptions are to the exception standards noted
16 above. ___ Or App at ___ (slip op at 2-3).

17 ORS 197.298 supplements the Goal 14 criteria used to justify a UGB
18 change. The statute requires that land be added to a UGB in a priority sequence:

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

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

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

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

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

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

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

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

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

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

22 Thus, ORS 197.298(1) requires that the statutory priorities be applied to
23 UGB amendments "[i]n addition to any requirements established by rule addressing
24 urbanization," *i.e.*, Goal 14 and its implementing administrative rules. The priority
25 statute directs the application of different, but somewhat analogous, factors in approving
26 UGB changes than those mandated by Goal 14. This case raises questions about the fit
27 between Goal 14 and ORS 197.298: whether Goal 14 is applied to the classification of
28 lands as eligible for prioritization under ORS 197.298, how Goal 14 works in
29 determining whether higher-priority land is "inadequate to accommodate the amount of

1 land needed," and the ways the two policies are otherwise integrated in their application.

2 One final legal setting is worthy of discussion at this point. The plan
3 amendments in this case arose in the context of "periodic review" of the city's
4 comprehensive plan. The statutes that define the periodic review process provide context
5 to an understanding of the demands of Goal 14 and ORS 197.298 when a UGB is
6 changed as part of a plan update.

7 Once a local comprehensive plan has been approved or "acknowledged" by
8 LCDC as consistent with the statewide planning goals, ORS 197.628(1) requires that the
9 plan and implementing land use regulations be periodically updated

10 "to respond to changes in local, regional and state conditions to ensure that
11 the plans and regulations remain in compliance with the statewide planning
12 goals adopted pursuant to ORS 197.230, and to ensure that the plans and
13 regulations make adequate provision for economic development, needed
14 housing, transportation, public facilities and services and urbanization."

15 ORS 197.296 specifies particular work tasks for larger cities during
16 periodic review to accommodate demand for new housing. A locality must "demonstrate
17 that its comprehensive plan * * * provides sufficient buildable lands within the urban
18 growth boundary * * * to accommodate estimated housing needs for 20 years." ORS
19 197.296(2). To do this, ORS 197.296(3) requires that a local government shall

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

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

1 downtown area and along major roads, infill and redevelopment of underutilized land,
2 and creation of "neighborhood activity centers" (NACs), in order to intensify land uses in
3 the UGB expansion areas.

4 The plan described NACs as follows:

5 "Under this concept, neighborhoods are each centered or organized around
6 an activity center that would provide a range of land uses within walking
7 distance of neighborhoods--preferably within a one-quarter mile area--
8 including neighborhood-scaled [commercial and civic uses]. Surrounding
9 the activity center (or **focus area**) are **support areas**, which include the
10 highest-density housing within the neighborhood, with housing densities
11 progressively decreasing outward.

12 "These activity centers would be selected due to their location, distribution,
13 proximity to vacant buildable lands, ability to accommodate higher
14 intensity and density development, and their context and ability to foster the
15 development of a traditional, or complete, neighborhood. The selected
16 Neighborhood Activity Centers should be equally spaced around the edge
17 of the McMinnville urban area, with the downtown area serving as the
18 geographic center or hub."

19 (Boldface in original.) After further specifying those technical parameters for an NAC,
20 which require a high degree of comprehensive master planning and a defined amount of
21 land, the plan concludes that

22 "Neighborhood Activity Centers should not be located in areas that are
23 heavily parcelized, or characterized by numerous individual ownerships.
24 Priority should be given to locations that consist primarily of large vacant
25 parcels in order to maximize the ability to realize such development in a
26 cost effective, comprehensively planned manner."

27 The city determined that the NAC form of development would facilitate the construction
28 of new medium-density to high-density housing, as compared with the low-density
29 residential development pattern of the past, and decrease the quantity of land that needed
30 to be added to the UGB by approximately 225 acres.

1 With those assumptions, the city determined that it needed to expand the
2 UGB by 1,188 gross acres, including 890 buildable acres. The city concluded that this
3 was necessary to accommodate a need for 537 acres for residential use (341 acres for
4 low-density residential development and 106 acres for medium-density and high-density
5 residential use), 193 acres for office and commercial uses, and 314 acres for parks in
6 order to serve an estimated population of 44,055 by 2023.² The plan and its findings
7 quantified needs for additional land supply, both inside and outside of the existing urban
8 growth boundary, by land use type (*e.g.*, single-family detached housing, manufactured
9 dwellings, row/townhouses, and apartments) and zoning designation.

10 The adopted UGB changes designated four parts of the added land for
11 neighborhood activity centers (Three Mile Lane, Southwest, Northwest, and Grandhaven
12 NACs). For the most part, those boundary changes captured prime agricultural land.
13 Another area of agricultural land was added, a good part of which had already been
14 developed as a city park (Norton Lane). The city also proposed to add four exception
15 areas to the boundary to meet residential needs (Fox Ridge Road, Redmond Hill Road,
16 Riverside South, and Lawson Lane). The city decided, however, not to add five
17 exception areas (Westside Road, Bunn's Village, Old Sheridan Road, Riverside North,
18 and Booth Bend Road) for various reasons.

19 The findings adopted to justify those actions evaluated a number of
20 considerations in applying ORS 197.298(1) to nine alternative exception areas, including

² The remaining acres were needed for institutional and governmental uses.

1 potential for annexation, costs of water service, transportation circulation issues,
2 consistency with a compact urban form (distance from commercial services and schools),
3 compatibility with adjacent land uses, and environmental concerns. The findings
4 analyzed whether the exception areas would be suitable for an NAC. Both the plan and
5 the adopted findings concluded that the five excluded exception areas would be
6 insufficient to meet that need:

7 "These sub-areas are, in summary, extensively parcelized; held in multiple
8 ownerships; require costly extension or upgrades to existing public utilities
9 to support urban density development; are located some distance from
10 existing public utilities, schools, and other services; in some cases, located
11 adjacent to heavy industrial development and rail; and have extensive
12 amounts of rural residential development in locations and patterns that
13 make higher density development impracticable or [un]timely."

14 The findings further explained, "Absent supporting urban residential development, it is
15 not appropriate that these sub-areas be considered for other identified residential land
16 needs, such as schools, parks, and churches, or for commercial land needs." The plan
17 assumed that future low-density residential land need could be satisfied by land within
18 the existing UGB. The findings then evaluated the included exception areas and five
19 parcels of high-quality agricultural land (Norton Lane, Three Mile Lane, Northwest,
20 Grandhaven, and Southwest properties) for consistency with the Goal 14 locational
21 factors.³

22 The city presented the MGMUP amendments and supporting

³ Another agricultural area, West Hills South, was analyzed but not proposed to be added to the UGB at that time.

1 documentation to the Department of Land Conservation and Development (DLCD or
2 department) for approval as a completed work task.⁴ Petitioners 1000 Friends of Oregon
3 and Friends of Yamhill County objected to the city's submissions and appealed the
4 director's decisions on those objections to LCDC. After a hearing, the commission
5 approved inclusion of three exception areas in the UGB (Riverside South, Fox Ridge
6 Road, and Redmond Hill), and remanded the proceeding to the city for an evaluation of
7 adding lower-quality agricultural land, as well as, among other things, consideration of
8 parkland needs and the exclusion of floodplain areas from the proposed UGB. On
9 remand, the city adopted ordinances to remove floodplains from three expansion
10 subareas, adjust slightly the calculations of needed lands, change the boundaries of the
11 added areas, correct implementing zoning, justify its parklands assumptions, and
12 otherwise respond to the remanding directives. In particular, the city added some lower-
13 quality agricultural land (Fox Ridge North and West Hills South), and adopted new
14 findings to justify its exclusion of other lower-quality agricultural lands.

15 Ultimately, the city determined that it needed to add 663 gross acres to the
16 UGB for residential land needs to be developed at a higher density (6.3 dwellings/acre)

⁴ Under the periodic review process, when a work task is completed, the actions are submitted to the DLCD director for approval. ORS 197.633(4). The director can approve or remand the work task, or refer the work task to LCDC. *Id.* If the director approves completion of the work task, the action is final unless an interested party files an objection to the approval. If a work task is referred or appealed, LCDC will consider the matter under a process set out by its rules. ORS 197.633(5). *See also* ORS 197.633(2) (required rulemaking for periodic review process); OAR ch 660, div 25 (periodic review rules).

1 than allowed under low-density residential zoning. It proposed to add four NAC areas to
2 meet 488 acres of that need, two additional parcels of agricultural land to address 175
3 acres of that need (Norton Lane and West Hills South), and the three previously approved
4 exception areas to be developed for residences at lower densities (Riverside South, Fox
5 Ridge Road, and Redmond Hill Road).

6 And so, the city sought DLCD approval of the retooled UGB amendments.
7 Petitioners filed extensive and particular objections to the submission with the DLCD
8 director. In general, petitioners asserted that the city zoning map and regulations did not
9 adequately implement the plan directives, the large size of the proposed UGB expansion
10 was not justified, and the expansion improperly included prime agricultural land instead
11 of available exception areas and areas of poorer soils. Petitioners argued that those
12 actions were inconsistent with ORS 197.298, Goal 14, and the Goal 2 exception criteria.
13 Petitioners objected to particular city findings that ruled out individual exception areas
14 and lower-quality agricultural lands, complaining either that the findings lacked factual
15 support or were insufficient to explain the particular decision under all applicable
16 decisional standards. The objections were not sustained by the DLCD director, who
17 approved the UGB changes.

18 Petitioners appealed to LCDC. Petitioners took issue with DLCD's
19 response to their objections. They complained that the DLCD report did not respond to
20 their objections and that DLCD otherwise erred in sustaining factual findings and making
21 legal determinations about the various parcels included and excluded from the proposed

1 UGB change. Among the many specific assertions, petitioners argued that the NAC
2 designations over-allocated needed amounts of commercial land and parkland, the
3 boundary expansion excluded over 225 buildable acres of exception lands, and the
4 relevant legal standard was "whether exception areas can accommodate the use at all, not
5 whether they can do so as efficiently or beneficially as farmland." Specifically,
6 petitioners alleged that "the city's identified land needs are not limited to pedestrian- and
7 transit-oriented development in neighborhood activity centers" and added that,
8 "[u]nder ORS 197.298, resource land cannot be included in a UGB instead
9 of exception land if the exception land can reasonably accommodate some
10 portion of identified needs. It cannot be excluded simply because it cannot
11 meet one type of identified land need."

12 Petitioners reiterated that the exclusion of parcels with lower-quality agricultural lands
13 could not be justified because of their inability to accommodate an NAC when "the city
14 has [a] specific, identified land need for low density housing that exceeds the capacity of
15 all the exception areas it has included within the UGB."

16 Following a hearing, the commission upheld the department's approval of
17 the plan amendments. Petitioners sought review in this court. After petitioners filed their
18 opening brief, LCDC withdrew its original order for reconsideration.

19 The order on reconsideration generally approved the exclusion of the
20 exception areas because "they could not accommodate the identified land need
21 (MGMUP, pp. 6-5 to 6-10)"⁵ based on physical constraints, location relative to existing

⁵ The referenced part of the MGMUP is a summary of the analysis of alternative sites for a UGB expansion. It describes the city's "identified land needs" as needs for "an

1 and planned facilities, surrounding uses, market demand, and "[e]xisting development
2 patterns and other factors affecting urbanization." LCDC more particularly justified the
3 failure to include particular exception areas because the area could not (1) be served with
4 public facilities under ORS 197.298(3)(b); (2) "reasonably accommodate the need for
5 pedestrian- and transit-oriented development in a neighborhood activity center"; (3)
6 "accommodate residential use"; or (4) "reasonably accommodate the need for a compact,
7 pedestrian-friendly urban area." As to the omitted lower-quality resource land, West
8 Hills was excluded because it could not "reasonably accommodate the city's identified
9 need [for 'medium- or high-density housing']" and because of topographic constraints to
10 the supply of water under ORS 197.298(3)(b). The resource area north of Fox Hills Road
11 was left out because, "pursuant to Goal 2, the city did not need to consider lands under
12 ORS 197.298 that could not reasonably accommodate its identified need." The resource
13 land near the airport was determined to not "accommodate an identified need due to
14 safety issues." Based on these and other extensive findings, LCDC concluded that "the
15 city has adequately justified those areas included and excluded from the UGB based on
16 relevant criteria." The LCDC order is before us on review.

17

increased percentage of multi-family, or single-family attached, housing," in general, and neighborhood activity centers, in particular, and for "314 acres of public parkland, 96 acres for public school use, and 106 acres for future commercial development." The summary further notes the "identified residential land needs as they are described in the 'McMinnville Residential Land Needs Analysis' (and the revisions to that document), and the 'Urbanization Element Update.'" The residential land needs analysis describes generic residential land needs.

1 III. CONTENTIONS OF THE PARTIES

2 Petitioners raise three assignments of error. We reject the second and third
3 assignments of error without further discussion. The remaining assignment of error
4 raises a number of general concerns about whether the city properly applied Goal 14 and
5 ORS 197.298 to sort through potentially eligible property for inclusion in the UGB.
6 Those concerns are that the city initially erred in amending the UGB and LCDC erred in
7 upholding the UGB decisions because (1) the city did not apply the Goal 14 standards
8 completely or consistently when it assessed exception areas by, on the one hand, using a
9 particular factor to rule out some land with a disqualifying characteristic, but, on the other
10 hand, including land in the boundary with that same quality; and (2) the city ruled out
11 some land for consideration by defining its land needs too particularly at the front end of
12 the ORS 197.298 prioritization--*i.e.*, land needed for use as an NAC or for particularized
13 residential land needs--so that less exception land was available for the city's particular
14 needs and more agricultural land was included in the boundary than otherwise would
15 have been included had the city's needs been defined more generically.

16 As to the latter contention, respondents argue that ORS 197.296(3)(b)
17 requires the city to determine "housing need by type and density range, in accordance
18 with ORS 197.303 and statewide planning goals and rules relating to housing." To the
19 extent that need cannot be met by zoning changes inside the UGB, then land can be
20 added to the UGB under ORS 197.298 to address those particular housing needs.
21 Respondents claim that that is what the city did.

1 LCDC defends its decision more specifically. The commission contends
2 that Goal 14, in general, and its incorporated Goal 2 exception factors can be used to
3 define even more particular land needs at the front end of the ORS 197.298 analysis.
4 Thus, LCDC asserts that the city defined the NAC land form as the need to be evaluated
5 under the priorities statute and relied on the desired characteristics of an NAC site as
6 reasons to rule out higher-priority land in order to resort to lower-priority land under ORS
7 197.298. Petitioners disagree and counter that, even if an NAC does qualify as a generic
8 or specific land need under ORS 197.298, the land added through the NACs does not
9 satisfy all of the city's quantitative needs for additional residential land and a more
10 rigorous application of ORS 197.298 is required to justify bringing agricultural land into
11 the boundary for that non-NAC need.

12 Petitioners also dispute the sufficiency of LCDC's findings on their
13 objections to the city's rationale for not including particular exception areas in the UGB
14 (Old Sheridan Road, Riverside North, and Booth End Road) or not adding lower-quality
15 agricultural land (West Hills, north of Fox Ridge Road, north of McMinnville Airport,
16 and various smaller tracts) before including prime agricultural land. The city and LCDC
17 respond that the locational factors in Goal 14 were properly applied to categorize those
18 exception and lower-value agricultural lands as insufficient.

19 Many of the general differences between the parties stem from their
20 different understandings about how ORS 197.298 works to sort land available for
21 inclusion within a UGB. In petitioners' view, the priorities statute works to categorize

1 land as available to meet broadly defined land use needs (in this case, for residential land
2 of any kind). Higher-priority land qualifies to meet that need unless urban services
3 cannot be provided to the land because of physical constraints. Goal 14 is then applied to
4 the prioritized and available land to determine the specific urban growth areas.

5 According to respondents, however, ORS 197.298 is applied--especially
6 during the periodic review process--to determine the adequacy of land for more particular
7 land use needs (in this case, for higher-density residential uses). Higher-priority land
8 qualifies to meet that need unless it is determined to be unsuitable under the Goal 14
9 locational factors and the Goal 2 exceptions criteria. Goal 14 is then applied to
10 corroborate the inclusion of higher-priority land and to justify any further selection
11 among land of a lower-priority class.

12 We ultimately conclude that neither party has it quite right. For the reasons
13 stated below, we agree that ORS 197.298 does provide the first cut in the sorting process
14 and that Goal 14 is then applied to justify the inclusion or exclusion of the sorted lands
15 and any remaining choices about what land to include in the boundary. Goal 14 also
16 plays a role in identifying the types of land that are subjected to the priorities statute.
17 Goal 14 is used in evaluating the adequacy of available land under ORS 197.298(1), but
18 in a more particular way than suggested by respondents. We reach those initial
19 conclusions based on an analysis of the text and context of ORS 197.298.

20 IV. STATUTORY CONSTRUCTION ANALYSIS

21 Our determination of the legislature's intent in enacting ORS 197.298 is

1 guided primarily by the text and context of the statute, in light of any pertinent legislative
2 history. [State v. Gaines](#), 346 Or 160, 171-72, 206 P3d 1042 (2009). In the analysis of the
3 text of the statute, we give words of common usage their "plain, natural, and ordinary
4 meaning." *PGE v. Bureau of Labor and Industries*, 317 Or 606, 611, 859 P2d 1143
5 (1993). That textual analysis, of course, is assisted by our prior construction of the
6 statutory terms. [Waite v. Dempsey](#), 203 Or App 136, 141, 125 P3d 788 (2005). The
7 context of a statute includes the entire enactment of which it was a part, [State v. Ortiz](#),
8 202 Or App 695, 699-700, 124 P3d 611 (2005), as well as related statutes on the same
9 subject, *State v. Carr*, 319 Or 408, 411-12, 877 P2d 1192 (1994).

10 A. *Step One: Determine the land needed under ORS 197.298(1)*

11 The first issue concerns how to categorize land needs that arise from
12 periodic review for purposes of the application of ORS 197.298 to a large-scale
13 expansion of a UGB. LCDC and the city argue that ORS 197.298 can be applied to
14 prioritize areas of potential UGB expansion based upon the functional needs of
15 particularly intended land uses (*i.e.*, an NAC). Petitioners, by contrast, suggest that the
16 statute is applied to broad, generic types of land use needs that are identified during
17 periodic review (*e.g.*, 250 acres for residential uses) and that adequacy determinations
18 under ORS 197.298(1) are less particular in focus.

19 Again, the descending priorities in ORS 197.298(1) are applied to
20 determine whether the priority land is "inadequate to accommodate the amount of land
21 needed." The first step is to determine the "amount of land needed." That determination

1 is necessarily made by the application of Goal 14, which provides that "[e]stablishment
2 and change of the boundaries shall be based upon considerations of the following factors:

3 (1) Demonstrated need to accommodate long-range urban population growth
4 requirements consistent with LCDC goals; (2) Need for housing, employment
5 opportunities, and livability * * *." In [Residents of Rosemont v. Metro](#), 173 Or App 321,
6 328, 21 P3d 1108 (2001), we explained that

7 "[w]e held in *Baker v. Marion County*, 120 Or App 50, 852 P2d 254, *rev*
8 *den*, 317 Or 485 (1993),] that factors 1 and 2 of Goal 14 are interdependent
9 and that, if one of the factors is not fully satisfied, or is less determinative,
10 that factor must still be considered and discussed in deciding if a need for
11 expansion of a UGB has been shown under factors 1 and 2 of Goal 14."

12 (Footnote omitted.) In the context of periodic review, Factor 1 pertains to a
13 determination of overall land need in order to accommodate population growth. Factor 2
14 requires subcategorization of that need at least to specify separate quantities of land
15 needed for "housing, employment opportunities, and livability." Because different types
16 of land use consume different amounts of land (*e.g.*, the dwellings/acre densities for low-,
17 medium-, and high-density residential development), determining the amount of land
18 needed to be added to a UGB during periodic review under Factors 1 and 2 necessarily
19 requires differentiation of land use types according to their land consumption attributes.
20 The coordinated application of ORS 197.298 with Goal 14 ("[i]n addition to any
21 requirements established by rule addressing urbanization") implies that ORS 197.298 is
22 applied during periodic review to the quantified land use needs identified by the
23 operation of Factors 1 and 2 of Goal 14.

1 That application of ORS 197.298 is more directly required by ORS 197.296
2 during the periodic review process. That statute prompts a quantification of the amounts
3 of land needed for specific residential purposes prior to UGB amendments that result
4 from the periodic review process.⁶ As part of that process, ORS 197.296(3) requires an
5 analysis of "housing need by type and density range * * * to determine the number of
6 units and amount of land needed for each needed housing type for the next 20 years." If
7 those needs cannot be met within the existing UGB through rezonings or infill, then the
8 locality must "[a]mend its urban growth boundary to include sufficient buildable lands to
9 accommodate housing needs." ORS 197.296(6)(a). The statutory direction to amend the
10 UGB "to accommodate housing needs" that are classified "by type and density" strongly
11 implies that the next step--the operation of ORS 197.298--works on those same
12 inventoried needs. Thus, for purposes of periodic review, ORS 197.298 works on types
13 of land uses that generate the need for specific quantities of land as a result of the
14 application of the need factors of Goal 14 and related statutory directives, including ORS
15 197.296.⁷ We reject petitioners' general contention that LCDC erred in applying ORS

⁶ The 1995 Legislative Assembly adopted the initial versions of ORS 197.296 and ORS 197.298 as part of one law. Or Laws 1995, ch 547. In construing the meaning of a statute, we have looked at the context of related statutes in the same chapter in which a provision has been codified, *Morsman v. City of Madras*, 203 Or App 546, 561, 126 P3d 6, *rev den*, 340 Or 483 (2006), and at other provisions of the bill enacting that statute, *Ortiz*, 202 Or App at 699-700.

⁷ LCDC did not approve any addition to the McMinnville UGB because "[s]pecific types of identified land needs cannot be accommodated on higher priority lands" under ORS 197.298(3)(a). We need not apply that part of the statute to dispose of the contentions in this review proceeding. ORS 197.298(3)(a) does have contextual

1 197.298(1) to evaluate the city's need for higher-density residential land, as opposed to all
2 residential needs.⁸

3 B. *Step Two: Determine the adequacy of candidate lands under ORS*
4 *197.298(1) and (3)*

5
6 1. *General scheme characteristics--the tension between ORS 197.298*
7 *and Goal 14*

8
9 The next step is somewhat more complicated--the application of ORS
10 197.298(1) and (3), together with Goal 14, to locate and justify the inclusion of land to
11 fill that quantified need. ORS 197.298(1) provides that its prioritization scheme, which
12 allows for bringing prime resource land into the UGB as a last resort, is "[i]n addition to

relevance, however, in contrasting the types of "[s]pecific * * * land needs" under ORS 197.298(3) with the types of land use needs identified at the front end of ORS 197.298 as the statute is applied during the periodic review process. The text of ORS 197.298(3) suggests that its "specific types" pertain to need for land of a particular quality or situation, such as size, site characteristics, service levels, or proximity to other land uses, that occurs only on lower-priority land. For example, ORS 197.712(2)(c) requires comprehensive plans to "provide for at least an adequate supply of sites of suitable sizes, types, locations and service levels for industrial and commercial uses consistent with plan policies." That more discrete land need is in contrast to the more generic land use needs identified during periodic review and used in making adequacy determinations under ORS 197.298(1).

⁸ We need not decide the relationship of the current Goal 14 to ORS 197.298. The land need portion of Goal 14 now requires that a UGB change be based on

"(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).

"In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need."

1 any requirements established by rule addressing urbanization"--a plain reference to Goal
2 14 (Urbanization) and its implementing rules. As noted above, Goal 14 sets out seven
3 factors for changing a UGB: two "need" factors relate to determining the need for
4 additional land ("[d]emonstrated need to accommodate long-range population growth"
5 and "[n]eed for housing, employment opportunities, and livability") and five "locational"
6 factors relate to justifying the selection of land to satisfy those determined needs (either
7 inside the existing UGB or at specific locations outside the UGB) based on public
8 facilities and services, efficiency of land uses, consequences of any allowed development,
9 retention of agricultural land for farm use, and compatibility of development with nearby
10 agricultural activities.⁹

11 In prior decisions concerning the application of Goal 14 to UGB changes,
12 we have required that all five locational factors be considered together and balanced in
13 assessing the alternative locations for a UGB change. In [*Citizens Against Irresponsible*](#)
14 [*Growth v. Metro*](#), 179 Or App 12, 17, 38 P3d 956 (2002), we concluded that the
15 locational factors in Goal 14 "do not stand alone but represent * * * several factors to be
16 considered and balanced when amending a UGB. * * * No single factor is of such
17 importance as to be determinative in a [] UGB amendment proceeding, nor are the

⁹ The incorporated Goal 2 exception standards also require an analogous assessment of the reasons for a UGB change (comparable to Goal 14, Factors 1 and 2); why areas that do not require an exception to Goal 14 (*i.e.*, areas already inside the UGB) "cannot reasonably accommodate the use"; the long-term environmental, economic, social, and energy consequences of expanding at a particular location, as opposed to other possible locations; and the compatibility of development allowed by the expansion with adjacent uses.

1 individual factors necessarily thresholds that must be met." Similarly, in [*1000 Friends of*](#)
2 [*Oregon v. Metro*](#), 174 Or App 406, 409-10, 26 P3d 151 (2001), we noted that

3 "the locational factors are not independent approval criteria. It is not
4 necessary that a designated level of satisfaction of the objectives of each of
5 the factors must always be met before a local government can justify a
6 change in a UGB. Rather, the local government must show that the factors
7 were 'considered' and balanced by the local government in determining if a
8 change in the UGB for a particular area is justified. It is within a local
9 government's authority to evaluate the Goal 14 factors and exercise its
10 judgment as to which areas should be made available for growth."

11 In other words, under Goal 14, an expansion of a UGB to include agricultural land could
12 be justified if considerations of the cost of public facilities, land use efficiency, and
13 environmental, energy, economic, and social consequences and compatibility with nearby
14 land were favorable.

15 By contrast, ORS 197.298 appears to operate less flexibly. Under the
16 priorities statute, prime agricultural land can be included within a UGB *only if* urban
17 reserve land, nonresource land, exception land, and marginal land are "inadequate to
18 accommodate the amount of land needed" for identified urban uses.

19 So, which scheme ultimately controls the choice of where to expand a
20 UGB--the flexible Goal 14 or the more rigid ORS 197.298? Our case law--in a very
21 imprecise way--suggests that the answer may be either or both.

22 We have previously determined that Goal 14 interacts with ORS 197.298 in
23 two ways. First, the two operate *independently* to justify a UGB expansion. Compliance
24 with ORS 197.298 does not absolve the independent and separate requirement to apply
25 the Goal 14 factors to a proposed UGB change. In *Residents of Rosemont*, two cities

1 challenged Metro's decision to expand the Portland-area UGB in order to address a need
2 for housing in a particular part of the metropolitan area. An issue on review was whether
3 a subregional need for housing could qualify under the Goal 14 need factors as a basis for
4 expanding the UGB without considering that need in the context of the overall regional
5 need for housing. We held that it could not, at least in the context presented. We also
6 concluded that compliance with the criteria in ORS 197.298 did not excuse the separate
7 application of Goal 14 to the UGB amendment:

8 "Those priority concerns [in ORS 197.298] do not purport to be the
9 exclusive considerations governing the location of UGBs, and ORS
10 197.298(3) does not purport to excuse compliance with Goal 14's
11 requirements for the establishment or change of UGBs. ORS 197.298
12 specifically provides that the priorities for UGB inclusion that it sets forth
13 are '[i]n addition to any requirements established by rule addressing
14 urbanization.' Metro contends that it is impossible to implement the
15 requirements of ORS 197.296 and 197.298 *and* the requirements of Goal
16 14. Because of that, it asserts that the provisions must be read together.
17 The problem with that argument, however, is that, because ORS 197.298
18 specifically provides that its requirements are *in addition* to the
19 urbanization requirements of Goal 14, which are particularly directed to the
20 establishment and change of UGBs, it cannot be said that the statute was
21 intended to supersede Goal 14."

22 173 Or App at 332-33 (emphases in original). *See also 1000 Friends of Oregon*, 174 Or
23 App at 412-14 (compliance with ORS 197.298 in justifying a UGB change does not
24 excuse the need to separately apply Goal 14, Factor 6 (retention of agricultural land), to
25 the proposed change).

26 Subsequently, though, we have held that ORS 197.298 is to be applied in an
27 *integrated* way with Goal 14. In [City of West Linn v. LCDC](#), 201 Or App 419, 422, 119
28 P3d 285 (2005), we reviewed an LCDC approval of another amendment to the Portland-

1 area UGB by Metro. In that case, the petitioner argued that the particular UGB
2 expansion was inconsistent with ORS 197.298 because lower-priority resource land had
3 been added without determining that there was inadequate land of higher priority
4 anywhere in the region. We agreed with LCDC that the locational factors of Goal 14
5 were relevant in determining whether land of a particular priority in ORS 197.298(1) is
6 "inadequate to accommodate the amount of land needed." We reasoned that

7 "[t]he operative term is 'inadequate.' Whether there is adequate land to
8 serve a need may depend upon a variety of factors. In particular, the
9 adequacy of land may be affected by locational characteristics that must be
10 taken into account under Goal 14. As LCDC correctly noted, ORS
11 197.298(1) expressly provides that the priorities that it describes apply '[i]n
12 addition to any requirements established by rule addressing urbanization,'
13 such as the locational factors described in Goal 14. As a result, the fact that
14 other, higher priority land may exist *somewhere* adjacent to the UGB does
15 not necessarily mean that that land will be '[]adequate to accommodate the
16 amount of land needed,' if using it for an identified need would violate the
17 locational considerations required by Goal 14. In other words, the statutory
18 reference to 'inadequate' land addresses suitability, not just quantity, of
19 higher priority land."

20 *City of West Linn*, 201 Or App at 440 (emphasis in original). In [Hildenbrand v. City of](#)
21 [Adair Village](#), 217 Or App 623, 634, 177 P3d 40 (2008), we summarized the holding in
22 *City of West Linn* and stated that determining "whether there is 'inadequate' land to serve
23 a need depends on not only the constraints identified by ORS 197.298(3), but also the
24 criteria for locating an urban growth boundary expansion under Goal 14."

25 This relationship between the overlapping policies in Goal 14 and ORS
26 197.298--that the policies are to be applied separately as well as together--creates, at the
27 very least, some awkwardness in their application. Complete integration of the policies is

1 inconsistent with their independent viability. What might reconcile that tension,
2 however, is if ORS 197.298 is not completely conflated with Goal 14--only partially
3 integrated with the goal--in its application, and if Goal 14 is separately and fully applied
4 to the candidate land identified under ORS 197.298 in order to determine if that land is
5 suitable for inclusion in the UGB. We examine that possibility next.

6 2. *Integration of Goal 14 and ORS 197.298*

7 We turn, then, to the adequacy assessment under ORS 197.298(1),
8 specifically the factors used to determine when priority "land * * * is inadequate to
9 accommodate the amount of land needed." Petitioners contend that a jurisdiction can use
10 lower-priority land for its land needs only when higher-priority land is not available to
11 accommodate the need because of one of the limitations in ORS 197.298(3) (specific type
12 of identified need, urban services unavailability due to topographical or physical
13 constraints, needed to provide services to higher-priority land). The Goal 14 locational
14 factors, according to petitioners, must be applied in the process of selecting among
15 alternative locations in the same priority class. Respondents disagree and argue that all
16 of the Goal 14 locational factors are used to determine if priority land is "inadequate to
17 accommodate the amount of land needed" under ORS 197.298.

18 The parties agree, and we concur, that any necessary UGB amendment
19 process for purposes of land development begins with the identification of buildable land
20 that is contiguous to the existing boundary. ORS 197.296(6)(a) makes this step explicit
21 for housing needs, requiring the locality to "[a]mend its urban growth boundary to

1 include sufficient buildable lands to accommodate housing needs." For this and other
2 purposes, ORS 197.295(1) defines "buildable lands" as "lands in urban and urbanizable
3 areas that are suitable, available and necessary for residential uses * * * [including] both
4 vacant land and developed land likely to be redeveloped." LCDC has further defined
5 "suitable and available" buildable lands to exclude land that is severely constrained by
6 natural hazards under Goal 7; subject to natural resource protection measures under Goals
7 5, 15, 16, 17, or 18; severely sloped; within a floodplain; or to which public facilities
8 "[c]annot be provided." OAR 660-008-0005(2).

9 The adequacy assessment under ORS 197.298(1), then, applies to land that
10 could be developed. The candidate land, whether exception land or different types of
11 agricultural land, must be "buildable." So, evaluating whether candidate land is
12 "inadequate" under ORS 197.298(1) requires considering qualities other than whether the
13 land is buildable.

14 *City of West Linn* established that Goal 14 is applied in the prioritization of
15 land under ORS 197.298(1) to determine if land of a particular priority "is inadequate to
16 accommodate the amount of land needed." 201 Or App at 440. However, petitioners
17 read *City of West Linn* too narrowly in confining the Goal 14 analysis in ORS 197.298(1)
18 to the selection of land within a single priority class of lands, rather than as general
19 criteria on the inadequacy of land within that priority class to meet the need and allow
20 resort to lower-priority land.

21 Rather, the question becomes whether all of the Goal 14 locational factors

1 are used to disqualify higher-priority land under ORS 197.298(1), or whether a more
2 limited sorting occurs that leaves land available for the potential application of ORS
3 197.298(3). Based on the text of both policies--including a comparison of the more
4 specific locational criteria in ORS 197.298(3) with their Goal 14 analogues, and the
5 textual dynamic within ORS 197.298 between subsections (1) and (3)--we conclude that
6 the legislature likely intended the latter option.

7 In the context of expanding a UGB to include lower-priority land, ORS
8 197.298(3) states more specific limitations than the analogous factors in Goal 14 do:
9 Factor 3 of Goal 14 requires consideration of the "[o]rderly and economic provision for
10 public facilities and services," but ORS 197.298(3)(b) prefers higher-priority land over
11 resource land unless "[f]uture urban services could not reasonably be provided to the
12 higher priority lands due to topographical or other physical constraints." Goal 14, Factor
13 4, directs consideration of the "[m]aximum efficiency of land uses within and on the
14 fringe of the existing urban area," whereas ORS 197.298(3)(c) inhibits urbanization of
15 lower-priority land unless "[m]aximum efficiency of land uses within a proposed urban
16 growth boundary requires inclusion of lower priority lands in order to include or to
17 provide services to higher priority lands."

18 The particular limitations in ORS 197.298(3)(b) and (c) have no practical
19 effect if the broader and less restrictive Goal 14 factor counterparts must be used to
20 determine whether to include lower-priority land under ORS 197.298(1). If land is
21 "inadequate" under Factor 3 because the relative cost of delivery of public facilities and

1 services to the area is high, then the more specific limitation in ORS 197.298(3)(b)--
2 permitting an inadequacy conclusion only when public services cannot be extended
3 because of topographic or physical constraints--has no independent force. Because ORS
4 197.298(3) relates "only to the inclusion of land that comes within the priority concerns
5 described in [ORS 197.298(1)]," *Residents of Rosemont*, 173 Or App at 332, it follows
6 that ORS 197.298(1) must use different kinds of limitations to determine inadequacy than
7 those set out in ORS 197.298(3). Otherwise, ORS 197.298(3) is redundant or incapable
8 of application. We are constrained to construe ORS 197.298 in a way that gives effect to
9 all of its terms. "As a general rule, we assume that the legislature did not intend any
10 portions of its enactments to be meaningless surplusage." [*State v. Stamper*](#), 197 Or App
11 413, 417, 106 P3d 172, *rev den*, 339 Or 230 (2005); *see also* ORS 174.010 ("In the
12 construction of a statute, * * * where there are several provisions or particulars such
13 construction is, if possible, to be adopted as will give effect to all.").

14 It follows, then, that the more specific limitations in ORS 197.298(3)
15 displace the application of their more generic and flexible Goal 14 counterparts in the
16 application of ORS 197.298(1). That displacement gives meaning to ORS 197.298(3),
17 which reads that it--as opposed to other factors--is applied to determine "if land of higher
18 priority is * * * inadequate to accommodate the amount of land estimated in subsection
19 (1)." That explicit requirement precludes the application of any analogous, but less
20 restrictive, suitability criteria under ORS 197.298(1) to make that same determination,
21 *i.e.*, whether higher-priority land "is inadequate to accommodate the amount of land

1 needed." That limited use of Goal 14 in applying ORS 197.298(1) avoids the complete
2 conflation of Goal 14 and ORS 197.298 and allows for the sequential application of ORS
3 197.298(3).

4 Instead, the Goal 14 locational factors that are applied under ORS
5 197.298(1) and *City of West Linn* are those that are *not* the counterparts to the ORS
6 197.298(3) factors: Factor 5 ("Environmental, energy, economic and social
7 consequences") and Factor 7 ("Compatibility of the proposed urban uses with nearby
8 agricultural activities"). The application of Goal 14, Factors 5 and 7, at this point
9 parallels the separate considerations for determining the location of a UGB amendment
10 that are required by the Goal 2 exception criteria that are incorporated into Goal 14; that
11 parallel reinforces the logic of a limited use of Goal 14 as part of the application of ORS
12 197.298. Those Goal 2 considerations are:

13 "(3) The long term environmental, economic, social and energy
14 consequences resulting from the use of the proposed site with measures
15 designed to reduce adverse impacts are not significantly more adverse than
16 would typically result from the same proposal being located in areas
17 requiring a goal exception other than the proposed site; and

18 "(4) The proposed uses are compatible with other adjacent uses or
19 will be so rendered through measures designed to reduce adverse impacts."

20 OAR 660-015-0000(2), Part II.¹⁰ Thus, those specific Goal 2 exception criteria and their

¹⁰ The remaining exception criteria are less relevant in determining where a UGB should be expanded. The first criterion goes to the reasons for expanding the UGB and is satisfied through the general application of Goal 14, particularly Factors 1 and 2. OAR 660-004-0010(1)(d)(B)(i) (reasons factor for UGB change under former Goal 14 "satisfied by compliance with the seven factors of Goal 14"). The second criterion requires consideration of "[a]reas which do not require a new exception." In the case of a Goal 14 exception, that area is the land already in the UGB. *See* ___ Or App at ___ (slip

1 Goal 14 factor counterparts (Factors 5 and 7) are the relevant Goal 14 considerations in
2 assessing the adequacy of land in a priority class under ORS 197.298(1).

3 Based upon the text and context of ORS 197.298, we conclude that not all
4 of the Goal 14 locational criteria are applied under ORS 197.298(1) to determine if
5 priority land "is inadequate to accommodate the amount of land needed." Instead, only
6 the consequences and compatibility factors of Goal 2, Part II, and Goal 14 are applied.
7 Whether the priority land is inadequate due to the unavailability of public facilities and
8 services or because of land use efficiencies is determined by the separate application of
9 ORS 197.298(3). Thus, we agree with petitioners' general claim that LCDC improperly
10 applied ORS 197.298(1) in approving the city's resort to lower-priority land because of
11 the relatively higher costs of providing a particular public facility or service to the higher-
12 priority area.

13 C. *Step Three: Determine which candidate lands should be included under*
14 *Goal 14*

15 Goal 14 is independently applied, then, *after* land has been prioritized
16 under ORS 197.298 as adequate to accommodate the identified need. ORS 197.298
17 operates, in short, to identify land that *could* be added to the UGB to accommodate a
18 needed type of land use. Thereafter, Goal 14 works to qualify land that, having been
19 identified already under ORS 197.298, *should* be added to the boundary. This works in
20 two ways--both to make choices among land in the lowest rung of the priority scheme
21 and to justify the inclusion of the entire set of lands selected under ORS 197.298. Once

op at 40).

1 candidate lands have been located under ORS 197.298 (*i.e.*, the higher-priority lands that
2 have been identified as adequate to satisfy part of a land need and any remaining lower-
3 priority lands that exist in quantities sufficient to accommodate the remaining need), the
4 location of the boundary changes is determined by the full and consistent application of
5 the Goal 14 locational factors, the Goal 2 exception criteria to those candidate lands, and
6 relevant plan and ordinance criteria.

7 It is at this point in the analysis that cost efficiencies in the provision of
8 public facilities and services become relevant. Considerations of Goal 14, Factor 3
9 (provision of public facilities and services) and Factor 4 (efficiency of land uses), at this
10 point--in combination with the other Goal 14 locational factors--may prompt the
11 discarding of candidate land identified under ORS 197.298, and the selection of land
12 otherwise consistent with the Goal 14 factors.

13 That application of all of the provisions in Goal 14 to the resulting UGB
14 change is required under *Citizens Against Irresponsible Growth* and *1000 Friends of*
15 *Oregon*. The application of Goal 14 to the land that results from the prioritization of
16 ORS 197.298 allows the separate and full use of both policies in justifying a UGB change
17 that is contemplated by the priorities statute ("[i]n addition to any requirements
18 established by rule addressing urbanization, land may not be included within an urban
19 growth boundary except under the following priorities") and our holdings in *Residents of*
20 *Rosemont* and *1000 Friends of Oregon*.

21 With those principles in mind, we turn to petitioners' remaining

1 contentions.

2 V. JUSTIFICATION FOR THE PROPOSED CHANGES

3 A. *Standards of review*

4 We begin with our standards of review. ORS 197.650(1) provides that we
5 review the LCDC order "in the manner provided in ORS 183.482." That part of the
6 Administrative Procedures Act sets out the standards of review of a contested case order
7 and provides:

8 "(a) The court may affirm, reverse or remand the order. If the court
9 finds that the agency has erroneously interpreted a provision of law and that
10 a correct interpretation compels a particular action, the court shall:

11 "(A) Set aside or modify the order; or

12 "(B) Remand the case to the agency for further action under a
13 correct interpretation of the provision of law.

14 "(b) The court shall remand the order to the agency if the court finds
15 the agency's exercise of discretion to be:

16 "(A) Outside the range of discretion delegated to the agency by law;

17 "(B) Inconsistent with an agency rule, an officially stated agency
18 position, or a prior agency practice, if the inconsistency is not explained by
19 the agency; or

20 "(C) Otherwise in violation of a constitutional or statutory
21 provision.

22 "(c) The court shall set aside or remand the order if the court finds
23 that the order is not supported by substantial evidence in the record.
24 Substantial evidence exists to support a finding of fact when the record,
25 viewed as a whole, would permit a reasonable person to make that finding."

26 ORS 183.482(8).

27 We recently explained that the requirements that an agency correctly

1 interpret the law, explain inconsistencies, and have evidentiary support for the decision
2 implies that LCDC must "demonstrate in [its] opinion[] the *reasoning* that leads the
3 agency from the *facts* that it has found to the *conclusions* that it draws from those facts."
4 [1000 Friends of Oregon v. LCDC](#), 237 Or App 213, 225, 239 P3d 272 (2010)
5 (*Woodburn*) (quoting *Drew v. PSRB*, 322 Or 491, 500, 909 P2d 1211 (1996)) (emphasis
6 in *Drew*). See also *City of Roseburg v. Roseburg City Firefighters*, 292 Or 266, 271, 639
7 P2d 90 (1981) (stating the test as "whether there is a basis in reason connecting the
8 inference [of compliance with the decisional standard] to the facts from which it is
9 derived"). In connection with substantial evidence review, we do not review the city's
10 decision for evidentiary support. Rather, "[o]ur role is to determine whether [LCDC]
11 applied the correct legal test in deciding whether [the city's] decision is supported by
12 substantial evidence." *Citizens Against Irresponsible Growth*, 179 Or App at 21.¹¹

13 Finally, the focus of our review is on the issues presented on appeal that
14 have been preserved before LCDC. As we said in *Marion County v. Federation For*

¹¹ In *City of West Linn*, we concluded, based on *1000 Friends of Oregon v. LCDC (Lane County)*, 305 Or 384, 404-05, 752 P2d 271 (1988), that an LCDC order approving a legislative UGB change under ORS 197.650 "implicates the substantial evidence standard that is described in [ORS 183.482]." 201 Or App at 428. More precisely, LCDC reviews UGB and periodic review submissions for "compliance with the statewide planning goals." ORS 197.628(1). Goal 2, in turn, requires that land use decisions have an "adequate factual base." LCDC's review of a legislative UGB change for an "adequate factual base" is synonymous with the requirement that a decision be supported by substantial evidence. Substantial evidence review of an LCDC periodic review order may directly occur when the commission requests and obtains new evidence for the periodic review submission and then makes factual findings on that enhanced record. See OAR 660-025-0160(5) (allowing supplement to periodic review record).

1 *Sound Planning*, 64 Or App 226, 237, 668 P2d 406 (1983), "[a] petitioner seeking
2 judicial review under the terms of [ORS 197.650] must base the arguments on the
3 objections (or comments) filed with DLCD; those objections will therefore frame the
4 issues on appeal."¹² This requires objectors before LCDC to make an explicit and
5 particular specification of error by the local government. ORAP 5.45(1) requires
6 preservation of error in a lower court in order to consider the error on appeal. We apply
7 that preservation requirement to administrative proceedings. [Veselik v. SAIF](#), 177 Or
8 App 280, 288, 33 P3d 1007 (2001), *rev den*, 344 Or 121 (2002); *see also* [VanSpeybroeck](#)
9 [v. Tillamook County](#), 221 Or App 677, 690, 191 P3d 712 (2008) (applying preservation
10 requirements in proceedings to review LUBA orders). A party's claim of error by LCDC
11 in its periodic review order, therefore, is limited to the commission's resolution of
12 objections raised in the periodic review proceedings.

13 B. *The commission's defense*

14 We turn--at long last--to petitioners' contentions about the deficiencies in

¹² Moreover, under ORS 197.633(2), LCDC is obliged to "adopt rules for conducting periodic review." The rules require persons who object to a work task submittal to file written objections with DLCD that "[c]learly identify an alleged deficiency in the work task sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the task submittal is alleged to have violated." OAR 660-025-0140(2)(b). OAR 660-025-0150(4)(d)(B) imposes that same specification of error requirement when an appeal is taken to LCDC from DLCD decisions on periodic review task completions. Objections that do not meet that standard "will not be considered by the director or commission." OAR 660-025-0140(3). If no objections are received, "the work task shall be deemed approved." OAR 660-025-0150(3)(a). Standing to appeal an LCDC periodic review order is limited to "[p]ersons who submitted comments or objections" to the agency. ORS 197.650.

1 LCDC's order and findings in light of the specific objections and exceptions they filed
2 with the agency. Petitioners' assignment of error contends that (1) LCDC erroneously
3 interpreted ORS 197.298, Goal 14, *former* ORS 197.732(1)(c)(B) (2005), *amended by* Or
4 Laws 2007, ch 71, § 68, *renumbered as* ORS 197.732(2)(c)(B) (2007) ("[a]reas which do
5 not require a new exception cannot reasonably accommodate the use"), and Goal 2, Part
6 II(c), OAR 660-004-0020 (an administrative rule detailing the requirements for a
7 "reasons" exception to a goal); (2) LCDC made a decision not supported by substantial
8 evidence; and (3) LCDC acted inconsistently with an official agency position in adding
9 agricultural land rather than other lands. Although petitioners' contentions are framed
10 with respect to the exclusion of particular exception and higher-priority resource lands
11 from the area of the proposed UGB change, their arguments attack the *manner* in which
12 the city and LCDC applied ORS 197.298. Petitioners complain that the city defined the
13 needed land--higher-density residential land--too specifically under Step One so that ORS
14 197.298(1) was applied to allow the exclusion of some land that could be used for low-
15 density residential needs and that lands were excluded under Step Two because of a
16 single deficiency rather than an overall adequacy assessment based on balancing all of
17 the considerations. Moreover, petitioners argue that various locational factors in Goal 14
18 were not considered as part of Step Three in evaluating the alternatives for the UGB
19 expansion.

20 In its brief, LCDC offers a broad justification for its order and joins the
21 city's more specific defenses. LCDC explains that the city identified neighborhood

1 activity centers as a form of land need to which the prioritization scheme of ORS
2 197.298(1) was then applied, and that the commission was correct in approving the
3 exclusion of exception areas and higher-priority resource lands that could not
4 accommodate NACs. LCDC further argues that, under the Goal 2 exceptions criteria, a
5 broad test should be employed under ORS 197.298 to determine whether candidate lands
6 are "inadequate to accommodate the amount of land needed." LCDC reasons that (1)
7 ORS 197.298 is administered "[i]n addition to" Goal 14; (2) Goal 14 includes the
8 "reasons" exception criteria in Goal 2; (3) ORS 197.298(1) incorporates the exceptions
9 criterion in Goal 2 that "[a]reas that do not require a new exception cannot reasonably
10 accommodate the use"; and, therefore, (4) the statute allows a broad assessment of
11 whether land is "inadequate to [reasonably] accommodate" an identified land need.

12 LCDC's first defense--that the city appropriately identified a quantity of
13 needed NAC land and applied ORS 197.298(1) to that quantified need--fails because that
14 is not what the city did. The city did determine that the NAC mixed-use category of land
15 use would use less land than the traditional low-density residential development for
16 housing needs. But the city did not quantify the amount of any needed mixed-use
17 category of commercial and residential land uses and then apply the ORS 197.298(1)
18 priorities to that quantified mixed-use need. To recall, ORS 197.298(1) is applied to
19 determine if land of a particular priority "is found to be inadequate to accommodate the
20 *amount of land*" determined to be needed. (Emphasis added.) Here, the city quantified
21 the need for categories of residential, commercial, industrial, parkland, and other land

1 uses and then applied the priorities to those quantitative needs. However, the city used
2 the defined qualities of an NAC (*e.g.*, size, location to downtown, and urban form) as a
3 basis to rule out higher-priority land under ORS 197.298(1), and, in doing so, proved the
4 wrong point.

5 LCDC's argument that its order is justified because of the need for land for
6 NACs is not supported by the order's reasoning or result. First, the order is unclear on the
7 specifics of the identified need under ORS 197.298--whether the need is for residential
8 land in general; higher-density residential land; mixed-use land for specified residential,
9 commercial, and parkland needs; or NACs. The order upholds the exclusion of the
10 Westside Road exception area from the UGB amendment under ORS 197.298(3)(b)
11 (unavailability of services due to topographic or other physical constraints), rather than
12 because the area is unsuitable for use as an NAC. Another part of the order approves
13 exclusion of the Bunn's Village exception area under ORS 197.298(3)(b) as well as under
14 ORS 197.298(1) for its unsuitability for "pedestrian- and transit-oriented development in
15 a neighborhood activity center." LCDC determined that the Booth Bend Road exception
16 area "cannot reasonably accommodate the identified need," but purports to identify the
17 need as one for a "compact, pedestrian-friendly urban area." The city's failure to include
18 the Old Sheridan Road exception area into the boundary change was approved because
19 "this area cannot reasonably accommodate the identified need," yet that approval was
20 made without any elaboration on the nature of that identified need. The Riverside North
21 area was not included because "this area cannot reasonably accommodate residential

1 use." If ORS 197.298 is applied to address separate types of land needs, then the amount
2 of each of those land needs must be quantified, and the land supply examined to see if it
3 is "inadequate to accommodate [each] amount of land needed."

4 Second, the order, in fact, approves the inclusion of some of the lower-
5 priority agricultural land (Norton Lane, West Hills South, and part of Fox Ridge North)
6 ahead of some exception areas even though those agricultural areas were not designated
7 as NACs. Thus, the adopted justification for the UGB amendments as well as the actual
8 inclusion of agricultural land for general residential use suggests that lower-priority land
9 was not added solely to meet the need for an identified quantity of land for mixed-use
10 development. The adopted order fails to explain why the failure of an exception area to
11 accommodate the need for an NAC justifies its exclusion from the expansion area when
12 lower-priority land is being added to accommodate a less specific need for residential
13 land. As we held in *Woodburn*, 237 Or App at 224-26, when an LCDC order fails to
14 explain its reasoning for finding consistency with the standards for a UGB expansion, the
15 order lacks substantial reason and becomes inadequate for judicial review. The failure of
16 LCDC to consistently identify the needed categories and quantities of land uses--the
17 fundamental premises of its justification of the UGB change under ORS 197.298--
18 requires the same conclusion here.

19 LCDC's second point--that the "[a]reas that do not require a new exception
20 cannot reasonably accommodate the use" criterion in the Goal 2 exception standards can
21 be used to rule out higher-priority land under ORS 197.298(1), presumably no matter

1 how the need for residential land is described--also does not withstand scrutiny. As noted
2 earlier, Goal 14 requires that a UGB change "follow the procedures and requirements as
3 set forth in the Land Use Planning goal (Goal 2) for goal exceptions." The standards for
4 such an exception include a determination that "[a]reas which do not require a new
5 exception cannot reasonably accommodate the use." But that criterion applies to land
6 that does not require an exception to Goal 14, *i.e.*, land already within the UGB or
7 specially designated land in unincorporated communities outside of a UGB. [VinCEP v.](#)
8 [Yamhill County](#), 215 Or App 414, 425, 171 P3d 368 (2007) ("areas which do not require
9 a new exception" criterion under Goal 14 are "lands within urban growth boundaries and
10 areas for which a Goal 14 exception has already been taken"). The exception standard
11 requires an evaluation of whether land inside of a UGB can be developed in a way that
12 eliminates or minimizes the need to expand a UGB. The criterion is not a factor to
13 distinguish among lands that do require an exception to Goal 14--the exception and
14 resource lands outside the UGB that could qualify for inclusion within the boundary.¹³
15 So the second exception criterion, by its terms, is not relevant to classify exception and

¹³ DLCD understood that the second exception criterion did not require an alternatives analysis of lands outside the existing UGB. In its decision on petitioners' objections in the first LCDC proceeding, the department noted:

"It is not clear that [the alternative lands exception criterion] distinguishes between Goal 3 exception lands and resource lands outside of a UGB. Both require that the city follow the exceptions process for a UGB amendment and can be said to 'require a new exception.' The department understands this standard to mean that a UGB amendment is needed only if lands inside a UGB or rural lands for which an exception to Goal 14 has been taken cannot reasonably accommodate the use."

1 resource lands outside the existing UGB as suitable for growth.¹⁴

2 The order under review approves the city's decision not to include the North
3 Fox Ridge Road resource area in the UGB because, "pursuant to Goal 2, the city did not
4 need to consider lands under ORS 197.298 that could not reasonably accommodate its
5 identified need." In other parts of the order, the exclusions are justified under a generic
6 "reasonably accommodate" standard (presumably tied to Goal 2), rather than the more
7 discrete accommodation standards of ORS 197.298(1) and (3). In those respects, LCDC
8 erred in applying the wrong standards and misconstrued the applicable law. ORS
9 183.482(8)(a).

10 We must next determine if those Step One and Step Two errors compel a
11 different result under ORS 183.482(8)(a) (allowing remedy if "the agency has
12 erroneously interpreted a provision of law and * * * a correct interpretation compels a
13 particular action"). We turn then to petitioners' specific contentions about the application
14 of ORS 197.298. LCDC and the city defend the LCDC order by arguing that the

¹⁴ The reference to the Goal 2 exception requirements in Goal 14 was eliminated in the revision to Goal 14 adopted in 2005. In its place, the goal now 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."

In addition, OAR 660-004-0010(1)(c)(C) now provides that,

"[w]hen a local government changes an established urban growth boundary applying Goal 14 as amended April 28, 2005, a goal exception is not required unless the local government seeks an exception to any of the requirements of Goal 14 or other applicable goals[.]"

1 exclusions are justified under ORS 197.298, no matter how the residential land need is
2 defined--whether as a need for higher-density residential land or for land suitable for an
3 NAC.

4 C. *Application of ORS 197.298*

5 Petitioners claim that LCDC erred in endorsing the exclusion of three
6 exception areas--Old Sheridan Road, Riverside North, and Booth Bend Road--that should
7 have been added to the boundary under ORS 197.298. They reason that those areas were
8 excluded because they were unsuitable for medium-density and high-density housing, but
9 that such a specification of need is inappropriate for the application of ORS 197.298.
10 Rather, petitioners argue, the statute should have been applied to residential land needs as
11 a whole. Moreover, the quantity of needed low-density residential land (341 acres)
12 exceeded the buildable land added through the included exception areas, so petitioners
13 reason that the other exception areas should have been brought into the boundary to meet
14 low-density residential land needs. Finally, petitioners claim that there is no substantial
15 evidence that the excluded exception areas could not accommodate some medium-density
16 or high-density housing. More specifically, petitioners contest LCDC's findings on the
17 excluded exception areas as well as the three excluded lower-quality resource lands tracts
18 (West Hills, Fox Ridge Road North, and the area north of McMinnville Airport).

19 1. *Old Sheridan Road exception area*

20 In its findings on ORS 197.298(1), the city evaluated this exception area
21 under factors that it also applied to other exception areas (annexation potential, ability to

1 develop with adequate internal transportation circulation, limited traffic access from
2 Highway 18, consistency with compact urban form, and public safety issues). As stated
3 earlier, considerations of the *general availability* of public facilities and services are
4 immaterial as part of the Step Two application of ORS 197.298. The remaining
5 determinations by the city are relevant under ORS 197.298(1) (comparative long-term
6 environmental, economic, social and energy (EESE) consequences resulting from the use
7 at the proposed site). The city's decision to exclude the Old Sheridan Road exception
8 area was based upon a balancing of those determinations.

9 Petitioners objected to DLCD that the city's findings failed to establish that
10 the Old Sheridan Road exception area could not accommodate a portion of the city's
11 residential land needs. More specifically, petitioners claimed that the city findings
12 showed that the comparative costs of providing city facilities and services to the area
13 varied, depending upon the service, but were not prohibitive. Petitioners disputed that
14 there was evidence in the record to support the city's findings that Old Sheridan Road
15 provided the sole access to the area and that the area was distant from existing public
16 utilities and schools.

17 DLCD did not resolve those objections under ORS 197.298(1). Instead,
18 DLCD concluded that it "agrees with the city's findings that transportation facilities
19 cannot reasonably be provided to this area under ORS 197.298(3)(b)." Again, ORS
20 197.298(3)(b) allows resort to lower-priority land if "[f]uture urban services could not
21 reasonably be provided to the higher priority lands due to topographical or other physical

1 constraints." LCDC appeared to affirm on that basis, largely because Highway 18 is a
2 limited access highway.

3 On review, petitioners argue that ORS 197.298(3)(b) allows resort to lower-
4 priority land only if a package of future urban services could not be reasonably provided.
5 Petitioners contend that LCDC's findings failed to evaluate the entire suite of urban
6 services in excluding the Old Sheridan Road exception area and that the deficiency in the
7 provision of transportation facilities was not due to topographical or other physical
8 constraints. Moreover, petitioners claim that there is no substantial evidence to support
9 the finding of unavailable transportation facilities because local streets could be extended
10 to the area. Respondents counter that LCDC approved the exclusion of Old Sheridan
11 Road, in part, because lack of access to Highway 18 required prohibitively expensive
12 road improvements to the area and congestion in other access points to the highway.

13 We disagree with petitioners' contention that a composite of urban services
14 must to be considered under ORS 197.298(3)(b). Although the term "urban services" is
15 not defined in the statute, a related term, "urban facilities and services" is defined under
16 Goal 11 to include "police protection; sanitary facilities; storm drainage facilities;
17 planning, zoning and subdivision control; health services; recreation facilities and
18 services; energy and communication services; and community governmental services."
19 OAR 660-015-0000(11). That definition does not include water supply systems or roads.
20 Goal 12 separately deals with transportation facilities, a utility that is neither "urban,"
21 being necessary to both rural and urban land uses, nor a "service." ORS 197.298(3), by

1 its plain text, refers only to those "urban services" that could be constrained "due to
2 topographical or other physical constraints." Thus, the text of the provision refers to a
3 service that is urban in character and that can be physically constrained in its provision.
4 What is a constrained urban service is a matter of proof in a particular UGB amendment
5 proceeding, but it surely does not mean the full panoply of urban facilities and services
6 described in Goal 11.

7 We do agree, however, with petitioners' contention that inefficiencies in the
8 provision of roads to a potential urbanizing area is not sufficient to exclude that area
9 under ORS 197.298(3)(b). Transportation facilities are not an "urban service" under the
10 statute. It may be that LCDC's order also implicitly rests upon excluding the Old
11 Sheridan Road exception area from the category of candidate lands under ORS
12 197.298(1). As noted earlier, however, any inefficiency in the provision of urban
13 services and facilities is not material to the analysis under ORS 197.298(1). LCDC erred
14 in approving the exclusion on either of those bases; it should have addressed whether the
15 city's findings were otherwise factually and legally sufficient under ORS 197.298(1).

16 2. *Riverside North exception area*

17 Petitioners next contend that the basis for excluding the Riverside North
18 exception area--unsuitability for residential use due to "noise and odor associated with
19 the adjacent sewage treatment plant, industrial use, and railroad"--was insufficient under
20 ORS 197.298(3)(a) because residential use is not a "[s]pecific type[] of identified land
21 need[]" under that statutory provision, but a more generic need that is subject to the

1 priorities of ORS 197.298(1). Petitioners argue that LCDC's findings are deficient in
2 failing to assess whether the Riverside North exception area could be used to satisfy
3 nonresidential land needs, in general, or for industrial uses, in particular, thereby allowing
4 redesignation of existing industrial land within the UGB for residential uses. Petitioners
5 finally assert that the city's decision to exclude Riverside North was inconsistent with its
6 decision to include the Riverside South exception area, and that, in approving both
7 actions, LCDC acted "inconsistently with official agency position or practice" and
8 without substantial evidence.

9 Respondents argue that the incompatibility of any proposed residential use
10 of the subarea with nearby industrial and institutional uses is a legitimate consideration in
11 applying ORS 197.298(1). Based on the Step Two analysis noted earlier (that EESE
12 considerations under Goal 2 and Goal 14, Factor 5, are applied under ORS 197.298(1)),
13 we agree with respondents. We also agree with respondents' further contention that
14 LCDC did not misconstrue the applicable law or fail to support its decision by substantial
15 reason in not requiring redesignation of industrial land within the existing UGB for
16 residential uses in order to add Riverside North for industrial purposes. Finally,
17 petitioners' assertion that LCDC made inconsistent determinations on the Riverside South
18 and Riverside North areas was not preserved, because petitioners never asserted to DLCD
19 that the city was constrained to treat both areas in the same way.

20 3. *Booth Bend Road exception area*

21 Again, the city adopted findings on the considered exception areas,

1 including the Booth Bend Road exception area, that evaluated those areas under ORS
2 197.298(1) based upon a balancing of factors that included the area's potential for
3 annexation, internal transportation circulation, urban form, public safety, the overall cost-
4 effectiveness of the provision of urban facilities, and compatibility with adjacent uses,
5 including agricultural uses. The city excluded the Booth Bend Road exception area
6 because of limited potential for annexation, the cost-ineffectiveness of necessary road and
7 sanitary sewer improvements, the lack of supportive neighborhood services and facilities,
8 and incompatibility with adjacent agricultural uses.

9 Before LCDC, petitioners disputed the factual accuracy of some of the
10 city's findings. LCDC overruled those objections because "this area is problematic since
11 it would be an isolated extension of the UGB across the highway, making walking to
12 nearby destinations difficult[,] such that it could not "reasonably accommodate the need
13 for a compact, pedestrian-friendly urban area."

14 On review, petitioners argue that that specification of need is not a
15 "[s]pecific type[] of identified land need[]" under ORS 197.298(3)(a) and, to the extent
16 that the need arises as a consequence of the application of Goal 14, Factor 4 (efficiency
17 of land uses on the fringe of urban areas), that consideration was not balanced with other
18 Goal 14 factors in determining suitability under ORS 197.298(1). Moreover, petitioners
19 assert that excluding the Booth Bend Road exception area because of its isolated location
20 (south of Highway 18) is inconsistent with the inclusion of other areas south of the
21 highway (Three Mile Lane and Lawson Lane areas). Respondents counter that the city's

1 findings appropriately considered urban form and conflicts with agricultural land in its
2 ORS 197.298(1) analysis.

3 We agree with petitioners that the application of ORS 197.298(1) requires
4 more than the consideration of pedestrian circulation. LCDC erred in failing to address
5 whether the city's findings about other ORS 197.298(1) considerations were sufficient
6 and were supported by the record. The city's evaluation of the cost-effectiveness of the
7 provision of public facilities and services is immaterial to the analysis under ORS
8 197.298(1) during Step Two. In the same way, considerations of urban form under Goal
9 14, Factor 4, are more appropriately deferred to Step Three, during the full application of
10 Goal 14 to candidate lands identified under the priorities statute.

11 4. *West Hills resource land area*

12 Following the initial remand of the MGMUP amendments by LCDC, the
13 city analyzed resource areas with poorer soils for potential inclusion within the UGB.
14 The city determined that an area in the West Hills west of Fox Ridge Road and Redmond
15 Hill Road (exception areas included in the UGB in the initial LCDC proceedings) would
16 be unsuitable. The findings in support of that conclusion identified a land need for
17 medium- and high-density housing. The city reasoned that the sloped topography of the
18 subarea would increase the cost of construction "anywhere from \$5,000 to \$15,000 per
19 lot in additional development costs, depending on site-specific conditions"; the area was
20 more likely to be developed with single-family residences; additional water distribution
21 facilities and transportation access would be expensive; the area was too far from

1 commercial areas for feasible higher-density residential development; and development
2 would be incompatible with nearby farm and forestry operations and with a compact
3 urban form. The city concluded that the area should be excluded from the boundary
4 change under ORS 197.298(3).

5 In their DLCD objections, petitioners agreed with the city's rationale for
6 excluding the more steeply sloped portions of the subarea, but claimed that the more
7 gently sloped portions adjacent to the current UGB would be suitable to accommodate
8 identified land needs. Petitioners disagreed with the city's limitation of the identified
9 need to higher-density residential use and with the city's adopted rationale for exclusion
10 that relied upon the expense of water service, the feasibility and likelihood of higher-
11 density housing in the area, and the expense of road extension and distance from
12 commercial areas. After reiterating much of the city's findings, LCDC concluded that

13 "1000 Friends objects to the exclusion of this area, contending that the city
14 erred in its findings and that the area can accommodate specific types of
15 land needs * * *. Specifically, that this higher priority area can
16 accommodate low-, medium-, or high-density housing even with the
17 constraints of slope, water service costs, transportation difficulties, and
18 should therefore be included. The Commission finds that the city
19 established both that the West Hills area could not reasonably
20 accommodate the city's identified need and that under ORS 197.298(3)(b),
21 the city could not reasonably provide water, a future urban service, due to
22 the topographical constraint."

23 On review, petitioner argues that LCDC's determination applies only to the
24 more steeply sloped part of the resource area and not to the more gently sloped area
25 adjacent to the existing UGB. Petitioners further assert that the findings do not identify
26 which land need could not be accommodated, that the reference in the findings to the

1 effects of inclusion of the territory on nearby agricultural land is inappropriate under
2 ORS 197.298(1), and that water services can be extended to the lower portions of the
3 resource area. Respondents claim that the city findings and LCDC restatement of those
4 findings applied to the entire resource area and were sufficient under ORS 197.298(1).

5 We agree with petitioners in part. The city findings identified a need for
6 higher-density housing. We concluded earlier that ORS 197.298(1) could be applied to
7 prioritize land to satisfy that particular need. The city considered some relevant factors
8 under ORS 197.298(1), including compatibility with adjacent agricultural land, in
9 evaluating the resource area. However, LCDC relied upon the city's findings that applied
10 Goal 14, Factor 3 ("[o]rderly and economic provision for public facilities and services"),
11 in determining suitability under ORS 197.298(1). Because that factor is applied under
12 Goal 14 to evaluate, but not determine, candidate lands (Step Three in the analysis),
13 LCDC erred in its application of ORS 197.298 to the city's findings. Petitioners have not
14 otherwise shown that LCDC incorrectly applied ORS 197.298 or misunderstood the
15 substantial evidence test in approving the city's findings on this issue.

16 5. *Area north of Fox Ridge Road*

17 A portion of the area north of Fox Ridge Road (Tax Lot 700) was added to
18 the UGB. Petitioners argue that an additional corridor of land in this area should have
19 been included (Tax Lots 100, 200, 300, and 400). The city determined that Tax Lot 100
20 and portions of Tax Lot 200, although within the boundaries of the Northwest NAC,
21 should be excluded from the UGB because of limited connectivity with the existing road

1 system and "the steep slopes in the southern portions of these two properties leave only
2 perhaps a 200-foot wide buildable corridor extending across tax lots 700, 200 and 100."
3 The city concluded that those properties should not be included in the boundary "as
4 permitted by ORS 197.298(3)(a)."

5 In their DLCD objections, petitioners complained that the city failed to
6 address the potential inclusion of Tax Lots 300 and 400 and that the city's factual findings
7 on the soil composition, road connectivity, and buildable lands in the resource area were
8 not supported by the record. LCDC reiterated the city's findings, concluding that,

9 "[f]or the reasons cited above, the city concluded that the needs identified
10 in the MGMUP cannot be reasonably accommodated by the areas of Class
11 III and Class IV soils within tax lot R4513-00100 or the northern portion of
12 tax lot R4418-00200. The city, therefore, did not include these lands in its
13 expanded UGB, purportedly under ORS 197.298(3)(a). The Commission
14 concludes that the city erred in excluding the lands under ORS
15 197.298(3)(a). However, pursuant to Goal 2, the city did not need to
16 consider lands under ORS 197.298 that could not reasonably accommodate
17 its identified need."

18 After noting petitioners' objections "to the exclusion of tax lot 100, the northern portion
19 of tax lot 200, and land west of tax lot 100 from the proposed UGB" and their assertion
20 that the city's findings on the soil composition of Tax Lots 100 and 200 were wrong,
21 LCDC decided that

22 "[t]he Commission concludes that the city has established that the excluded
23 lots will have limited future connectivity, are constrained by slope that
24 leaves a limited building corridor, and would create an island of agricultural
25 activity and cut off tax lots 1100 and 1000 from existing farm operations."

26 On review, petitioners claim that LCDC's findings addressed only part of
27 the area they argued should have been included and failed to address Tax Lots 300 and

1 400. Petitioners also contend that the reasons for excluding two of the tax lots--road
2 connectivity and cutting off farm parcels--are insufficient if the entire area is included.
3 Respondents argue that LCDC affirmed the city's findings on the unsuitability of Tax
4 Lots 100 and 200 under ORS 197.298 based on a number of relevant considerations
5 (topography, relation to existing and future development, connectivity, and effect on
6 agricultural operations) and that LCDC did not err in its construction of applicable law or
7 application of the substantial evidence test in reaching those determinations.

8 We agree with petitioners that LCDC failed to address their core
9 contention--that the city did not evaluate, in its adopted findings, whether a larger area of
10 properties north of Fox Ridge Road, with lower-class soils, could reasonably
11 accommodate the city's identified need for residential land instead of the lower-priority
12 land added for that purpose, and that such an evaluation was necessary under ORS
13 197.298(1).¹⁵ LCDC should have determined whether the city's rationale for excluding
14 Tax Lots 100 and 200 was based upon consequences and compatibility considerations
15 relevant under ORS 197.298(1) and whether that rationale was legally sufficient without
16 consideration of a larger area. Instead, LCDC sustained the city's determination
17 "pursuant to Goal 2," using a broader and incorrect "reasonably accommodate" standard

¹⁵ On remand of the original UGB decision, DLCD directed the city to "identify areas with class 3 and 4 agricultural soils and either (1) include them in the UGB instead of areas with class 1 and 2 soils, if any, or (2) explain why they should not be included based on the standards in ORS 197.298(3)." The city identified the properties with Class III and IV soils that were within one mile of its 1981 UGB. It is not clear whether Tax Lots 300 and 400 fit within that parameter. The "discussion areas" map of alternative lands attached to petitioners' opening brief appears to exclude Tax Lots 300 and 400.

1 in the application of ORS 197.298. And, LCDC did not deal with petitioners' contention
2 that the city's findings were insufficient under ORS 197.298(1) because the city did not
3 address whether the consequences and compatibility concerns about bringing Tax Lots
4 100 and 200 into the boundary should have been mitigated by including a differently
5 configured area. That determination was necessary to LCDC's conclusion that the city's
6 findings demonstrated its compliance with ORS 197.298(1).

7 6. *Other resource land areas*

8 After the remand, the city considered including in the UGB three lower-
9 quality agricultural tracts near the municipal airport: a 197-acre tract north of the airport
10 that is bordered by farmland on three sides; a smaller 35-acre tract on Highway 18 that is
11 situated south of the air museum, and surrounded by the existing UGB except along an
12 access road; and a large tract east of the airport. The city made collective findings on
13 those properties under ORS 197.298, although some of the collective findings appear to
14 be specific to a particular, but unidentified, property (*e.g.*, "[t]his property is also
15 immediately adjacent to the airport approach zone for Runway 17," "[t]his land * * *
16 would be bordered by actively farmed land on three of its four sides"). The findings note
17 concerns with the effects of high-density housing on flight safety and use of adjacent
18 agricultural land as the bases for excluding the properties from the boundary. The city
19 concluded:

20 "For the above noted reasons, the City concludes that specific types of land
21 needs as identified in the MGMUP cannot be reasonably accommodated on
22 the lands north and east of the McMinnville Municipal Airport, on which
23 are found predominantly Class III or Class IV soils. The City, therefore,

1 has not included these lands in its expanded urban growth boundary, as
2 permitted by ORS 197.298(3)(a)."

3 In their DLCD objections, petitioners complained that the city findings
4 made collective assessments about differently situated properties and that the smaller
5 tract next to the museum could be used to satisfy low-density residential land needs.
6 LCDC, after taking administrative notice of the airport master plan, concluded that
7 "[d]evelopment of these lands at urban residential densities would be incompatible with
8 the long range plans for the airport, * * * and would potentially threaten the airport's
9 viability." The commission reiterated some of the city's collective findings that were
10 written as particular to one property. After noting petitioners' concern that the small tract
11 adjacent to the air museum was not analyzed in the findings, LCDC concluded that "the
12 city established that the area cannot reasonably accommodate an identified need due to
13 safety issues related to the airport."

14 On review, petitioners argue that the smaller 35-acre parcel, which is
15 composed of Class III soils, has particular priority under ORS 197.298(1)(b) (giving
16 second priority to exceptions lands and "resource land that is completely surrounded by
17 exception areas"). Petitioners claim that the city and LCDC did not address that property
18 in particular, instead they lumped it with two other properties that have different
19 compatibility issues. Finally, petitioners argue that, if the basis for excluding this parcel
20 is its unavailability for high-density residential use, that basis does not excuse its
21 potential use for low-density residential needs. Respondents counter that airport safety
22 concerns are relevant issues under ORS 197.298(1) in the application of Goal 14, Factor

1 3 (orderly and economic provision of services), Factor 4 (maximum efficiency of land
2 uses), and Factor 5 (EASE consequences).

3 LCDC's findings on this tract are inadequate for judicial review. As noted
4 earlier, the ORS 197.298(1) consequences and compatibility factors apply differently,
5 depending upon whether the quantified land need is for land to be used for low-density
6 residential, mixed-use, or higher-density residential uses. The findings do not explain
7 why the tract was evaluated for higher-density residential land needs alone. Moreover,
8 the findings set out common compatibility concerns caused by proximity to a runway and
9 flight paths for properties located in different areas and, presumably, with different
10 compatibility issues. As such, the findings lack substantial reason because they do not
11 articulate the ORS 197.298 evaluation for the smaller 35-acre parcel.

12 Finally, petitioners claim that they called the city's attention to other
13 potential higher-priority resource lands (the Riverside area, land south of the airport, and
14 land south of Three Mile Lane and west of Booth Bend Road), but that those sites were
15 not evaluated, contrary to the then applicable version of OAR 660-004-0020(2)(b)(C),¹⁶ a
16 rule applicable to UGB changes made under the older version of Goal 14. Petitioners
17 argue that LCDC erred in failing to remand the decision to the city for that consideration.

18 The above-cited rule set policy on how to comply with the reasons
19 exception criterion in Goal 2, Part II(c), that "[a]reas which do not require a new

¹⁶ OAR 660-004-0020 was amended in 2011. Those amendments are not relevant to the contentions on review.

1 exception cannot reasonably accommodate the use." That rule stated that

2 "[s]ite specific comparisons are not required of a local government taking
3 an exception, unless another party to the local proceeding can describe why
4 there are specific sites that can more reasonably accommodate the proposed
5 use. A detailed evaluation of specific alternative sites is thus not required
6 unless such sites are specifically described with facts to support the
7 assertion that the sites are more reasonable by another party during the local
8 exceptions proceedings."

9 As we noted earlier, however, that exception criterion does not apply to
10 evaluating land outside a UGB--all of which required a new exception to Goal 14 as
11 applicable here--for inclusion in the boundary. Instead, it requires determining if land
12 already inside the UGB--land which does not require a new exception--can reasonably
13 accommodate the need. As such, OAR 660-004-0020(2)(b)(C) did not require the city to
14 evaluate any particular alternative site proposed by petitioners.

15 Instead, the city applied particular criteria (*e.g.*, within one mile of the 1981
16 UGB, composition of Class III or IV soils, and within prescribed geographic boundaries)
17 to inventory the lands to be studied. Petitioners did not object to the city or LCDC that
18 those inventory criteria were unlawful or that they had been misapplied to petitioners'
19 suggested alternative resource lands areas. Thus, the commission did not err in failing to
20 require the city to study those areas for inclusion.

21 D. *Application of Goal 14 locational factors*

22 Petitioners' first set of contentions relate to Step Two--the application of
23 Goal 14 in determining whether the quantity of land in the priority class is inadequate
24 under ORS 197.298(1). Petitioners claim that, in separately applying the locational

1 factors of Goal 14 to the areas proposed to be added to the UGB, the city and LCDC
2 erred in failing to consider all of the available exception lands collectively and
3 consistently and did not explain how the locational factors--in particular, Factors 3
4 (public facilities and services), 4 (efficiency of land uses), and 7 (compatibility with
5 agricultural activities)--were balanced to include some exception lands and not others.
6 They assert that Factor 7 was not applied at all in the evaluation of the available
7 exception areas, but was instead applied only to the already included territory.

8 Respondents protest that those arguments were not made to LCDC and that
9 the commission is not obliged to determine on its own whether those particular
10 deficiencies in the local decision existed. As we said before, petitioners' contentions
11 must be particularly raised before LCDC in order to merit review in this court.
12 Petitioners generally asserted below--in the midst of dozens of more specific objections--
13 that "the city has not conducted a coordinated land priority analysis around the entire
14 UGB perimeter." That is insufficient to raise the specific objection that the city failed to
15 completely consider any particular Goal 14 factor in its evaluation of whether exception
16 lands could reasonably accommodate an identified land need.

17 Petitioners next argue that LCDC erred in approving the city's Goal 14
18 evaluation of both the low-value farmland that was excluded from the UGB and the high-
19 value farmland that was included. Petitioners assert that the city and LCDC erred in
20 failing to consider Factor 3 (public facilities and services) in comparing alternative lower-
21 quality resource lands, made no findings about the availability of public services to the

1 Airport North and the Fox Ridge Road North resource areas, and inconsistently evaluated
2 the public services factor in comparing the West Hills resource area with the higher-
3 quality Southwest and Grandhaven areas. According to petitioners, LCDC and the city
4 further erred in not balancing Factor 4 (efficiency of land uses) with other factors in
5 evaluating alternative resource lands, instead subsuming that consideration in the
6 application of ORS 197.298, and in applying Factor 4 to land outside of the "existing
7 urban area." Petitioners also complain that Factor 6 (retention of agricultural lands) was
8 applied in a cursory manner to available resource lands and that LCDC made no findings
9 on that complaint.

10 Some of those contentions were preserved; others were not. Before the
11 agency, petitioners cited ORS 197.298 and Goal 14 as the bases for their contention that
12 the city erred in excluding certain exception areas and higher-priority resource land.
13 Much of the argument was framed around whether those properties could reasonably
14 accommodate an identified land need, a contention apparently rooted in the requirements
15 of ORS 197.298. As we concluded earlier, the relevant Goal 14 factors in the sorting of
16 suitable higher-priority land under ORS 197.298(1) are Factor 5 (EASE consequences)
17 and Factor 7 (compatibility with agricultural activities) and their analogues in the Goal 2
18 exception criteria. We earlier determined the legal sufficiency of the city's consideration
19 of exception lands and higher-priority resource lands under ORS 197.298(1); petitioners'
20 restated Goal 14 contentions about the excluded exception and higher-priority resource
21 lands raise no different and relevant claims.

1 Petitioners' remaining contentions concern Step Three, the application of
2 Goal 14, Factor 7 (compatibility of proposed urban uses with agricultural lands) to the
3 lands considered for inclusion in the boundary. The city's Factor 7 findings from 2003 on
4 the Norton Lane, Three Mile Lane, Southwest, Northwest, and Grandhaven areas
5 described adjacent agricultural land uses in general terms ("actively farmed land," "active
6 farm use," "agricultural farm use," "actively farmed agricultural land," and "large-parcel
7 farm operations") before concluding that,

8 "[t]he Council concludes that the proposed expansion areas will not create
9 compatibility conflicts between uses. Much of the existing UGB is
10 adjacent to resource lands that are currently in agricultural uses. Expansion
11 of the UGB would not create new uses that would create new types of
12 compatibility issues."

13 Before LCDC, among other assertions, petitioners argued that the city's
14 findings on the application of Factor 7 to four of those areas were (1) incomplete because
15 the findings did not consider the particular agricultural activities of nearby land and
16 compare compatibility conflicts among the considered resource lands; and (2) inaccurate
17 because the findings do not examine the boundaries of the redrawn resource lands areas
18 that were altered following remand. In its order, LCDC reiterated the city's findings and
19 affirmed, without further analysis, that the city properly applied Factor 7. We agree with
20 petitioners that LCDC erred in not requiring additional findings on Factor 7. The existing
21 findings were not sufficiently descriptive of nearby agricultural uses to allow comparison
22 among the candidate sites and were inaccurate as to the redrawn boundaries of the
23 resource areas. We reject petitioners' remaining Goal 14 contentions.

1 VI. CONCLUSIONS

2 We conclude that the commission erroneously interpreted ORS 197.298 by
3 failing to require that the city first separately quantify its needs for low-density residential
4 land, higher-density residential land, and mixed-use land (Step One) and then apply ORS
5 197.298(1) and (3) to each of those quantified needs (Step Two), and in permitting the
6 city to exclude land from further consideration under ORS 197.298(1) for immaterial
7 reasons. Further, correct application of ORS 197.298 would compel different actions by
8 the commission in its evaluation of the city's justification for excluding particular
9 exception and resource areas under ORS 197.298. Thus, a remand is appropriate under
10 ORS 183.482(8)(a)(B) (allowing remand to an agency for "further action under a correct
11 interpretation of the provision of law").

12 On remand, LCDC should respond to petitioners' contentions by making
13 additional findings or taking appropriate action in its review of the city's submissions to
14 (1) determine what particular and quantified land use needs are to be accommodated by
15 any additional land to be added to the McMinnville UGB; (2) apply ORS 197.298 to
16 determine the land available to accommodate those quantified land use needs; (3) apply
17 Goal 14 to justify the inclusion of suitable land in any amended UGB; and (4) take any
18 other necessary action under a correct interpretation of the governing standards, including
19 a determination of whether the city's submission, "on the whole, conform[s] with the
20 purposes of the goals and any failure to meet individual goal requirements is technical or
21 minor in nature" under ORS 197.747.

1

Reversed and remanded.

ORDINANCE NO. 4966

An Ordinance amending certain portions of Ordinance No. 4796 related to the adoption of the McMinnville Growth Management and Urbanization Plan (MGMUP) and MGMUP – Findings document, and repealing Ordinance No. 4841 in its entirety.

RECITALS:

On October 14, 2003, the McMinnville City Council adopted the “McMinnville Growth Management and Urbanization Plan” (MGMUP) and appendices, and the MGMUP – Findings document (ORD No. 4796) as part of the McMinnville Comprehensive Plan, Volume I. These documents were prepared in response to an analysis of the city’s buildable lands and future land needs, which determined that there exists a shortfall of both residential and commercial land necessary to accommodate projected growth needs through the year 2023.

Following a series of subsequent appeals and remands, the Oregon Land Conservation and Development Commission (LCDC) issued an Order approving the MGMUP on November 8, 2006.

On December 22, 2006, this action was appealed by 1000 Friends of Oregon, Friends of Yamhill County and Ilsa Perse to the Oregon Court of Appeals.

Following attempts at reaching a negotiated settlement with the appellants that proved unsuccessful, DLCD drafted amendments to the Commission’s 2006 approval order to address interpretations of law. The Commission approved the revised Order in November, 2008.

After multiple time extensions were granted, the appellants filed their opening brief with the Oregon Court of Appeals in October, 2009. Oral arguments were presented to the Court in September, 2010.

On July 13, 2011, the Court issued its decision to reverse and remand LCDC’s approval of portions of MGMUP. This decision became effective on January, 13, 2012. On February, 28, 2012, LCDC issued an order reversing and remanding its prior decision to the City consistent with the court’s final opinion and order.

The City Council has determined that the prudent course of action at this time is to delay further work necessary to satisfy the LCDC Order, and to remove from the adopted MGMUP those elements that are no longer relevant.

A public hearing before the McMinnville City Council for the purpose of taking testimony to consider these proposed amendments was conducted on November 27, 2012, after notice of the meeting had been published in the News Register on November 16, 2012. At the conclusion of this hearing, the City Council held the record open and directed staff to provide a written response to comments offered during public testimony for review at the December 11, 2012, Council meeting.

At the December 11, 2012, meeting Council reviewed staff’s response and received and considered additional public testimony. Following thorough deliberation, the Council found the amendments proposed by staff appropriate and consistent with the referenced LCDC Order and directed staff to prepare an amended ordinance for their consideration and adoption.

Now therefore, THE CITY OF McMinnville ORDAINS AS FOLLOWS:

Section 1. That the following comprehensive plan policies shall be amended to remove NAC references and to reinstate the previous policy language:

- (a) Policy 27.00, 68.00, 84.00, 86.00, 132.15, and 186.00

Section 2. That the policies and single goal below shall be modified as follows [new text is underlined; text to be deleted is indicated with a strikeout font]:

- (a) Policy 45.00 The City of McMinnville shall study the feasibility of developing bicycle and pedestrian paths and/or lanes between residential areas and the activity centers in the downtown. ~~designated Neighborhood Activity Centers and between residential areas and Downtown McMinnville.~~

- (b) Policy 71.01 The City shall plan for development of the property located on the west side of the City that is outside of ~~designated Neighborhood Activity Centers~~ or planned or existing transit corridors (1/4 mile ~~500 feet~~ either side of the route) to be limited to a density of six units per acre. It is recognized that it is an objective of the City to disperse multiple family units throughout the community. In order to provide for higher density housing on the west side, sewer density allowances or trade-offs shall be allowed and encouraged.

[..] E. Applications for multiple-family zone changes will be considered in relation to the above factors, e.g., sewer line capacity and dispersal of units. In addition, requests for zone changes to multiple-family shall consider those factors set forth in Section 17.72.035 (zone change criteria) of the zoning ordinance. (as amended by Ord. 4218, Nov. 23, 1985). ~~and the locational policies contained in Volume I of the McMinnville Comprehensive Plan.~~

- (c) GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALY DESIGNATED LANDS, THROUGH APPROPRIATELY LOCATING FUTURE NEIGHBORHOOD AND COMMUNITY SERVING COMMERCIAL LANDS, AND DISCOURAGING STRIP DEVELOPMENT.

Section 3. That the following elements of the MGMUP be repealed in their entirety:

- (a) MGMUP pages, i – 7-30, C-1 – C-217, and D-18 – D-24
- (b) MGMUP policies: 28.01 (page D-2), 71.11 (page D-9), 71.12 (page D-10), and 170.06 (page D-15)
- (c) MGMUP zoning: 17.33.010 (3) (page E-3), 17.06.425 (page E-4), NAC Chapter (pages e-5 – E-15) and 17.22 (pages E-16 – E-21)
- (d) MGMUP Findings document pages 1-169

Section 4. That the following amendments to Policy 49.01 regarding industrial land (denoted by underlined text for addition and ~~strikeout~~ text for deletion):

- 49.01 The City shall designate an adequate supply of suitable sites to meet identified needs for a variety of different parcel sizes at locations which have direct access to an arterial or collector street without having to pass through residential neighborhoods.

Section 5. That Policy 49.02 addressing the location and provision of industrial land be supplanted with the following:

- 49.02 The location, type, and amount of industrial activity within the Urban Growth Boundary shall be based on community needs as identified in the Economic Opportunities Analysis.

Section 6. That Ordinance No. 4841 be repealed in its entirety.

Section 7. That the current McMinnville comprehensive plan map be supplanted with the comprehensive plan map attached to this ordinance as Exhibit 1.

Section 8. That this ordinance shall be subject to the terms and conditions of Ordinance No. 3823 entitled "Initiative and Referendum" for a period of thirty (30) days.

Passed by the Council this 8th day of January 2013, by the following votes:

Ayes: Hill, Jeffries, May, Menke

Nays: _____

Approved this 8th day of January 2013.



MAYOR

Attest:



CITY RECORDER

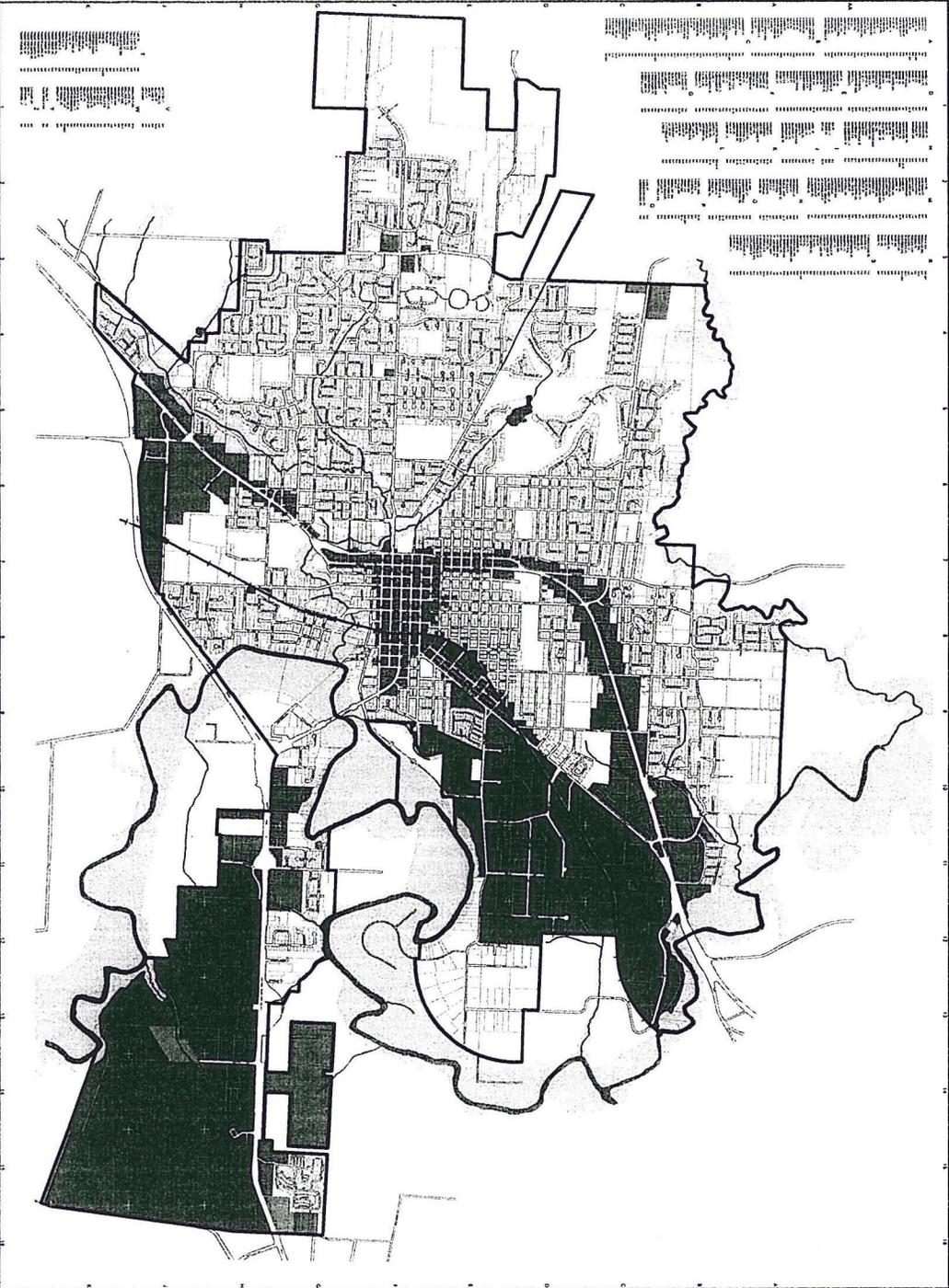
Approved as to form:



CITY ATTORNEY

Exhibit 1

City of McMinnville Comprehensive Plan



Legend:
 Comprehensive Plan Designations
 Commercial
 Industrial
 Residential
 Mixed Use Urban
 Floodplain
 Urban Growth Boundary



November 2012

This map for pre-filing purposes
 information please call the
 McMinnville Planning Department
 at (503) 844-2311.
 City of McMinnville
 Engineering Department
 500 North Main Street
 McMinnville, OR 97128
 (503) 424-2312

ORDINANCE NO. 4841

An Ordinance adopting certain amendments to the McMinnville Urban Growth Management and Urbanization Plan (MGMUP), supporting Findings, Economic Opportunities Analysis, and Comprehensive Plan and implementing ordinances.

RECITALS:

On October 14, 2003, the McMinnville City Council adopted the "McMinnville Growth Management and Urbanization Plan" and appendices (MGMUP), and Findings (ORD No. 4796), and the "Economic Opportunities Analysis," (ORD No. 4795), as part of the McMinnville Comprehensive Plan, Volume I. These documents were prepared in response to an analysis of the city's buildable lands and future land needs, which determined that there exists a shortfall of both residential and commercial land necessary to accommodate projected growth needs through the year 2023.

On October 20, 2003, the City provided notice of the ordinance adoptions and periodic review work task submittal to DLCD and interested parties. On April 20, 2004, the Director of the Department of Land Conservation and Development (DLCD) issued a response to written objections and exceptions filed by participants and the City pursuant to OAR 660-025-0160(3).

At the April 22 and September 10, 2004, Land Conservation and Development Commission (LCDC) hearings, the Commission heard oral argument from the City, DLCD staff and objectors and acknowledged certain elements of the MGMUP while remanding others. Portions of the MGMUP that pertain to efficiency measures and lands to be included within the urban growth boundary yet remain to be reviewed by the Commission.

In response to DLCD staff's position as regard these remaining elements, and consistent with the directives of the LCDC Remand Order, staff finds it prudent to propose certain amendments to the MGMUP, its supporting Findings document, the Economic Opportunities Analysis, and Comprehensive Plan and implementing ordinances. Those amendments are specific to the following issues: Removal of floodplain lands from the 2004 urban growth boundary; use of floor area ratio for projecting future land needs; transit (residential) corridor enhancement policies; Neighborhood Activity Centers (NACs); support areas of illustrative plans; and, reduction of buildable land need for parks.

A joint public work session was held with the City Council, Yamhill County Board of Commissioners, and the McMinnville Urban Area Management Commission (MUAMC) on October 25, 2005, at 6:00 p.m. at which these proposed amendments were presented and discussed. Subsequent to that work session a public hearing was held with these same review bodies on December 6, 2005, after due notice had been given in the local newspaper. At that hearing, the review bodies received written and oral testimony, and having considered this testimony, the MUAMC recommended the adoption of the floodplain, floor area ratio, NAC, and alternative lands recommendations of City staff. The Council and Board closed this hearing and convened a second public to consider further these recommendations on January 11, 2006. At this hearing, having received written and oral testimony relevant to these recommendations and draft ordinance, the City Council found the amendments as herein described to be appropriate. Now therefore,

THE CITY OF McMinnville ORDAINS AS FOLLOWS:

Section 1. That the McMinnville Growth Management and Urbanization Plan (MGMUP) shall be amended as follows:

- (a) That Figure 5 ("Resource Land Subareas") be amended to exclude lands within the 100-year floodplain from the Three Mile Lane, Norton Lane (not to include the area within Joe Dancer Park), and Grandhaven subarea perimeters.
- (b) That page 6-13 (Resource Land Sub-Area Capacity) be modified as follows:

"Inclusion of the Grandhaven, Norton Lane, Three Mile Lane, Southwest, West Hills South, and Northwest sub-areas will provide an additional ~~653.15~~ 663.4 acres of buildable land for urban development as detailed in Table 13 below."
- (c) That Table 13 ("Resource land sub-area capacity analysis") be amended to reflect the removal of flood plain land from the Three Mile Lane, Norton Lane, and Grandhaven subareas; and the removal of certain parcels from the Northwest and Southwest subareas and addition of lands in the "West Hills South" subarea, as follows. Table 15 ("Sub-area capacity analysis, proposed UGB expansion areas") and Table 16 (Summary of land supply and capacity, existing McMinnville UGB and proposed UGB expansion areas) shall be amended to be consistent with Table 13, as modified:

Norton Lane	8	256.2 <u>142.24</u>	189.93 <u>75.97</u>	66.27	6.3	414
Three Mile Lane	14	321.25 <u>165.15</u>	163.62 <u>7.52</u>	157.63	6.3	985
Northwest	5 <u>2</u>	144.53 <u>75.90</u>	4.34 <u>1.83</u>	140.22 <u>74.07</u>	6.3	876.4 <u>463</u>
Grandhaven	8	227.63 <u>151.43</u>	90.57 <u>14.37</u>	137.06	6.3	857
Southwest	11 8	194.62 <u>133.66</u>	42.65 <u>27.67</u>	151.97 <u>118.99</u>	6.3	949.8 <u>744</u>
West Hills South*	<u>2</u>	<u>125.23</u>	<u>15.85</u>	<u>109.38</u>	6.3	<u>684</u>
Resource Area Subtotals	48 42	1144.23 <u>793.61</u>	491.08 <u>130.21</u>	653.15 <u>663.4</u>	6.30	4082 <u>4146</u>

* The West Hills South Sub-area includes the parcel previously identified as the Thompson Property.

- (d) Page 7-28 shall be amended by adding the following to immediately proceed Table 16, as follows:

"With the amendments to the 2003 boundary, as described in this plan, there exists a match in acres of land need and gross vacant buildable acres (891.1 acres vs. 890.9 acres, respectively)."
- (e) That Figure 6 ("UGB Expansion Proposal") be amended as follows:
 - a. The boundaries of the Norton Lane, Three Mile Lane, and Grandhaven subareas shall be consistent with the amended Figure 5, relative to the exclusion of floodplain land.

- b. Tax Lots R4418-00900, R4418-01000, R4418-01001, and a portion of R4418CC-00200 shall be removed from the Northwest subarea and adopted 2003 urban growth boundary.
 - c. Tax Lots R4430-01000 and R4430-01100 shall be removed from the Southwest subarea.
 - d. Tax Lots R4514-01300 (the "Thompson" property) and R4524-02000 shall be added to the urban growth boundary expansion proposal and be identified as "West Hills South" on the map.
- (f) That Figure 7 (Proposed Activity Centers), Figure 12 (Proposed Comprehensive Plan and Zoning Changes), and Figure 13 (Proposed Comprehensive Plan) shall be amended consistent with Section 1 (e) of this ordinance.
 - (g) That the illustrative plans for the Northwest, Grandhaven, Three Mile Lane, and Southwest Neighborhood Activity Centers be deleted from the MGMUP (Figures 8, 9, 10, and 11, respectively).

Section 2. That Volume II of the McMinnville Comprehensive Plan (Goals and Policies) shall be amended as follows:

- (a) Policy 187.00 shall be amended to read as follows:

"187.00 The City of McMinnville shall adopt additional implementation ordinances and measures to carry out the goals and policies of the McMinnville Comprehensive Plan. These shall include, but not be limited to, Zoning Ordinance and Map, Annexation Ordinance, Mobile Home Development Ordinance, and Land Division Ordinance. In addition, the City shall, as funding permits and generally in the following order, prepare and implement plans for the Northwest, Grandhaven, Southwest, and Three Mile Lane Neighborhood Activity Centers (NACs).¹ Such plans shall be consistent with the draft concepts, policies, and implementation ordinance contained in the McMinnville Growth Management and Urbanization Plan, as amended. The plans shall require, at a minimum, that all development be consistent with the requirements of the Transportation Planning Rule. The preparation and adoption of such plans shall occur within the current planning period (years 2003 – 2023).

- (b) Policy 188.03 shall be amended to read as follows:

"188.03 Neighborhood activity centers shall should be located and arranged according to the following guidelines: [...]

Maximum distance that nonresidential uses should may radiate outwards from the center of the activity center (along streets):[...]"

¹ The size and configuration of the Northwest NAC has been modified in consideration of advisory comments and objections submitted by DLCD and 1000 Friends of Oregon during the review process of this project. In addition, as some three years have passed since the date of the buildable lands inventory (and more than two years since the adoption of the MGMUP), some opportunities originally envisioned within this NAC have now been lost due to ongoing development within this area. As such, the ability to implement the recommended NAC plan for the Northwest area should be assessed as part of the future planning for this area.

(c) Policies 188.10, 188.18, 188.26 and 188.34 are amended to read as follows:

"The overall residential density of this neighborhood is ~~targeted~~ at a minimum of 7.5 dwelling units per net acre.

Section 3. That the MGMUP Findings document shall be amended as follows:

(a) That the second paragraph on page 7 be amended to read as follows:

"The findings contained in this document support an expansion of the present UGB by approximately ~~4,539~~ 1,188 gross acres of which one-quarter --- nearly 300 acres --- are unbuildable due to environmental constraints or existing development.. This equates to a 15 percent increase in the gross land area contained within the present urban growth boundary to accommodate a 55% increase in population, and a 50% increase in employment for the period 2003-2023. This is the first significant amendment to the City's urban growth boundary to occur in the ~~22~~ 25 years since its adoption in 1981."

(b) That Table 8 (McMinnville vacant land and new built space needed for employment by land use type, 2003-2023) be amended by deleting in its entirety the column titled "Sq. Ft. of building space."

(c) That Table 11 (Effect on proposed land redesignations on buildable land supply), Table 12 (Revised buildable land supply with land redesignations, McMinnville UGB, December 2002), and Table 14 (Comparisons of land supply and demand, McMinnville UGB, 2003-2023), and text which follows Table 10 (pages 14 – 17) be amended as follows:

Table 11. Effect of proposed land redesignations on buildable land supply

Plan Designation	Change in buildable acres
Commercial	0.49 <u>0.0</u>
Industrial	(13.82) <u>(12.77)</u>
Mixed Use	(2.85) <u>(2.85)</u>
Residential	46.18 <u>15.62</u>

Source: City of McMinnville

Table 12. Revised buildable land supply with land redesignations, McMinnville UGB, December 2002

Plan Designation	Gross Buildable Acres (Jan 2003)		Proposed land redesignations	Gross Buildable Acres (w/ redesignations; Jan 2003)	
	864.9	102.4		881.4	880.5
Residential	864.9		-16.2	15.6	881.4
Commercial	401.9	102.4	0.5	0.0	102.4
Industrial	339.8		-13.8	-12.8	326
Mixed Use		2.9	-2.9	0.0	0.0
Total Buildable Land	1309.5	1310.0	0.0	2.9	1309.5

Source: City of McMinnville

Page 15: "At an average density of 5.9 dwelling units per gross residential acre, the proposed land redesignations would accommodate approximately 9592 new dwelling units."

Table 14. Comparison of land supply and demand, McMinnville UGB, 2003-2023

Plan Designation	Land Need (2003-2023)	Gross Buildable Acres (Jan 2003)		Deficit (Surplus)
		881.4	880.5	
Residential ^a	1,538.4	881.4	880.5	4019.2
Commercial	219.1		102.4	106.0
Industrial	269.7	326	327.1	(44.7)
Total Buildable Land				
Need Outside UGB	2,027.2	1309.5	1312.9	1125.8

Source: ECONorthwest, 2003

^a Application of residential carrying capacity analysis produces an unmet residential need of 537 acres and does not allow a simple supply/demand calculation to occur.

"Notes: [...] McMinnville will maintain a 46 acre surplus of industrial land during the planning period."

- (d) That pages 50 – 53 be supplanted with the text contained in the "Goal 14, factor 6 Supplemental Findings," identified as Exhibit "A," a copy of which is attached hereto and incorporated herein by this reference.
- (e) That the following text be added to page 58 ("Resource Areas Recommended for Inclusion"), specific to the West Hills South subarea:

West Hills South

Sewer:

While there are topographic conditions that serve to make extending public sanitary sewer service to this sub-area costly, there are no other known reasons that would preclude the provision of such service. There currently exists a public sanitary sewer line in Redmond Hill Road, which borders the subject site at the northeast corner. The topography of the subject site would allow gravity flow to the east and south; the eastern portion of the site may require a pump station due to its elevation, however. According to the City of McMinnville Engineering Department, costs associated with providing public sanitary sewer service to this sub-area are estimated to be slightly above average.

Water:

Individual, private wells currently serve as the source of domestic water for the lands within this sub-area. As described in the McMinnville Water and Light "Water System Master Plan," with the exception of the extreme western edge of this subject site, this area is located within the current water service area and could be provided public water without construction of an upper level system. Public water currently extends to the Hillsdale residential subdivision, a relatively short distance to the northeast.

Electric:

McMinnville Water and Light estimates the costs for providing electric service to the West Hills South sub-area as low (ranging from \$0 to \$200,000). Existing feeders on Hill Road may have to be upgraded to accommodate the additional projected load, however.

Transportation:

As noted previously, Redmond Hill Road is the only public road serving this sub-area. This Yamhill County road extends west from Hill Road and through the Hillsdale residential subdivision a distance of approximately 2,600 feet where it then crosses the sub-area's northern edge. As it fronts the subject site, this road is gravel surfaced and has a right-of-way dimension of thirty feet and is under the jurisdiction of Yamhill County. No other public roads or rights-of-way exist within this sub-area. Extending from both Redmond Hill Road and Hill Road are narrow private drives that afford access to the parcels that are located within the sub-area.

- (f) That the following text be added to page 68 ("Factor 5; Environmental, energy, economic and social consequences"), specific to the West Hills South subarea:
- West Hills South. Development of this area will require provision of water, sewer and transportation systems. The inclusion of this area within the UGB would have economic impacts by removing lands from agricultural production and converting them to urban uses.

Section 4. That the McMinnville Comprehensive Plan Map shall is amended to reflect a revised urban growth boundary consistent with the boundary as depicted in Exhibit "B," a copy of which is attached hereto and incorporated herein by this reference. The plan map is further

amended to designate lands within the newly adopted urban growth boundary for residential, commercial, or industrial purposes, as depicted in Exhibit "C," a copy of which is attached hereto and incorporated herein by this reference. The plan map is also amended to add a "Neighborhood Activity Center" planned development overlay to the Grandhaven, Norton Lane, Southwest, Northwest, and Three Mile Lane subareas, as depicted on Exhibit "C," a copy of which is attached hereto and incorporated herein by this reference.

Section 5. That, for purposes of administering the provisions of ordinance, the amendments described herein shall not take effect until and unless approved by the State of Oregon as part of the City's current periodic review work program related to the expansion of the McMinnville Urban Growth Boundary.

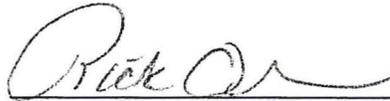
Section 6. That this ordinance shall be subject to the terms and conditions of Ordinance No. 3823 entitled "Initiative and Referendum" for a period of thirty (30) days.

Passed by the Council this 11th day of January, 2006, by the following votes:

Ayes: Hansen, Hill, Menke, Olson, Yoder

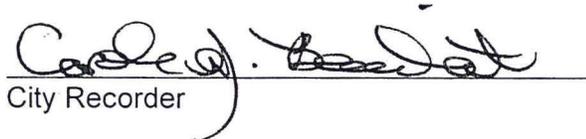
Nays: _____

Approved this 11th day of January, 2006.



COUNCIL PRESIDENT

ATTEST:



City Recorder

Approved as to form:



CITY ATTORNEY

Exhibit A

Addendum to the McMinnville Growth Management and Urbanization Plan Findings Document

An Element of the City of McMinnville
Comprehensive Plan
January 2006

EXHIBIT A

Amend the Findings Document by supplanting the “Goal 14, factor 6” findings (pages 50 – 53) with the following:

Goal 14, factor 6, requires consideration of the following:

Retention of agricultural land as defined; with Class I being the highest priority for retention and Class VI the lowest priority.¹

In addition, ORS 197.298(2) requires that land of “lower capability as measured by the [U.S. Natural Resources Conservation Service (NRCS) agricultural soil] capability classification system or by cubic foot site class, whichever is appropriate for the current use,” be given higher priority for inclusion in a UGB. Also, ORS 197.298 (3) allows land of lower priority to be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land needed for one or more of the following reasons:

- (a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;
- (b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or
- (c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.

Findings: In 2003, the Council carefully considered impacts on agricultural and forestlands when deciding which direction to expand the UGB. The methods used in conducting this analysis, and the findings of this analysis, are detailed in the MGMUP and in the Findings document (pages 50 – 53).¹ In its review of the MGMUP in March

¹ In its 2003 analysis, the City looked first at all resource lands within one mile of the current urban growth boundary that met the following criteria:

1. Resource lands that are surrounded by the existing urban growth boundary, and the Yamhill River, Baker Creek, or Panther Creek;
2. Resource land surrounded on at least three sides by the existing UGB and/or non-resource lands, and/or other significant natural or man-made edge (e.g., slope, floodplain, arterial street);
3. Resource land needed to allow extension of public facilities to serve land within the existing UGB; and
4. Resource land held by public entities.

Lands not meeting these criteria were assumed to be less appropriate for meeting the City's identified land needs due primarily to their greater distance from existing and planned public facilities (more expensive to serve), and surrounding uses (surrounded almost entirely by other resource land, thereby increasing the potential for urban and agricultural conflict). This prioritization scheme is consistent with the guiding principles described in the *McMinnville Growth Management and Urbanization Plan*—specifically, principles #2, *Historical Development Patterns -- Respect existing land use and development patterns and build from*

and April of 2004, the Oregon Department of Land Conservation and Development (DLCDD) concluded that the City's analysis was deficient and recommended to its commission (LCDC) that additional work be done to support the prior decisions relative to which resource lands should be included --- or excluded --- from the proposed urban growth boundary. Specifically, the DLCDD recommended the following:

"Using maps provided by the US Natural Resource Conservation Service and the Oregon Department of Agriculture, identify areas with class 3 and 4 agricultural soils and either (1) include them in the UGB instead of areas with class 1 and 2 soils, if any, or (2) explain why they should not be included based on the standards in ORS 197.298(3). Areas with class III and IV soils east of the airport are excluded from this requirement."

Consistent with this recommendation, the City has mapped areas surrounding the McMinnville urban area, extending outward a distance of one mile from its 1981 urban growth boundary, for the purpose of identifying the existence and location of soils rated by the US Natural Resource Conservation Service as Class III or Class IV. The locations of these soils were depicted at the October 25, 2005, joint City Council, Yamhill County Board of Commissioners, McMinnville Urban Area Management Commission, public work session on slide 18 ("Soil Class") of a PowerPoint presentation and in the work session packets provided to decision makers.

Generally, lands composed predominantly of Class II soils surround McMinnville's urban area. In lesser proportions, there exists a linear band of Class I soil that parallels Baker Creek in northwest McMinnville; threads of Class III soils, which appear to follow historical creek and drainage courses are found in various isolated locations around the city's perimeter; Class III, IV, and VI and VIII soils primarily in the moderately to steeply sloped hills of west McMinnville; and some additional Class IV soils found east and north of the McMinnville Municipal Airport.

Further direction is provided in Statewide Planning Goal 14 (Urbanization), which states that the location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:²

- (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

them, and #7, UGB Expansions -- Contain urban expansion within natural and physical boundaries, to the extent possible.

Application of criteria 1-4 listed above, as well as the guiding principles described in Section III of the *McMinnville Growth Management and Urbanization Plan*, resulted in resource lands north of Baker Creek and the North Yamhill River, east and south of the South Yamhill River, and south of Highway 18 being excluded from initial consideration. This left five geographically distinct resource sub-areas for analysis: Grandhaven; Norton Lane; Three Mile Lane; Southwest; and, Northwest. As a result of testimony provided during the public hearing process regarding this plan amendment, a sixth resource land sub-area was added, referred to as the "Thompson" property. To accommodate this addition, the southern third of the Southwest sub-area was removed from further consideration.

² Responses to these factors are found in pages 66 – 73 of the Findings document.

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

That Goal continues by stating that 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.³

Specific to the MGMUP, McMinnville's future land needs specific to commercial and residential uses (to include parks, schools, and similar "residential" uses) are described at some length in the plan, the key elements of which are summarized in the following:

Residential Land Need –

- At its core, the MGMUP proposes the use of "Neighborhood Activity Centers" to promote pedestrian-friendly, compact development. These centers are selected due to their location, distribution, proximity to vacant buildable lands, ability to accommodate higher intensity and density development, and their context and ability to foster the development of a traditional, or complete, neighborhood. These centers need to be located at major street intersections.
- To address issues of land use efficiency and minimizing rural / urban conflict, the MGMUP is based in part upon urban containment and the concentration of development in areas that have adequate carrying capacity to support Neighborhood Activity Center development. Urbanization of areas that are contrary to these principles should be avoided.
- The MGMUP encourages the principles of "smart growth" to create walkable, mixed-use communities. This means smaller single-family lot sizes, a higher percentage of multi-family housing, and mixing of neighborhood scale commercial uses.
- All planning should be in the form of complete and integrated communities containing housing, shops, work places, schools, parks and civic facilities essential to the daily life of the residents.
- Future development should respect the area's historical development patterns and natural and man-made constraints that have --- and are proposed to continue to --- shape McMinnville's growth and sense of place. In so doing, potential urban and rural land use conflicts are kept to a minimum, as is the speculative pressure to develop rural lands beyond the urban edge for urban uses. To the extent possible, urban expansion should:
 - Stay west and north of the South Yamhill River;

³ Beyond the requirements of law, for purposes of good planning, land should be suitable for the intended use. Both the Oregon Land Use Board of Appeals and the Oregon Court of Appeals have indicated that where the need identified by the local government can be satisfied only by land with certain characteristics, only lands that have those characteristics should be evaluated under ORS 197.298. As DLCD stated in its staff report to its Commission in May of 2002, regarding the City of North Plains Periodic Review Task: "[...] to require a local government to do otherwise would be to require it to evaluate (and possibly include within its UGB) lands that can't satisfy the identified land need for additional lands. Neither the statutes nor Goal 14 require or even suggest this result."

- Stay south and west of the North Yamhill River;
- Stay south of Baker Creek; and
- Not cross south of Highway 18, west of the South Yamhill River.

Housing mix will shift markedly toward historically higher percentages of multi-family housing (duplexes, commonwalls, and apartment complexes). Larger concentrations of such housing types, and in particular, apartment development, will require locations on arterial or collector streets, consistent with adopted plan policy.⁴ Further, based upon long-standing policy (since 1978), multi-family housing will not be concentrated in any one neighborhood, but will, instead, be distributed throughout the city.

Based upon recent experience, City polices propose to limit future neighborhood and community park types to lands outside of the 100-year floodplain.

Commercial Land Need –

Commercial land uses should not extend in a manner that would promote auto-oriented, commercial “strip” development.

Commercial uses should form the center, or active component, of planned Neighborhood Activity Centers.

The City finds three geographic areas within one mile of the McMinnville urban growth boundary that exhibit Class III or Class IV soils. These areas are shown in Figures 1, 2 and 3, and are identified as:

- Lands North and East of the McMinnville Municipal Airport;
- Lands in the McMinnville West Hills; and
- Lands West of Old Sheridan Road (Southwest McMinnville).

A description of each area follows.

Lands North and East of the McMinnville Municipal Airport

To the north and east of the approximately 500-acre McMinnville Municipal airport are areas of Class III and Class IV soils that immediately abut the existing McMinnville urban growth boundary. They are generally described as follows:

Lands North of Olde Stone Village –

To the immediate north of Olde Stone Village, a manufactured home park constructed in the mid-1980's, are found two parcels that are predominantly composed of Class III soils. These parcels are identified as Assessor Map R4414-03601 and R4423-00400 and total approximately 197 acres. Topographically, this land is relatively flat and is absent any physical development. The properties are

⁴ The McMinnville Residential Land Needs Analysis concluded that McMinnville's housing need is for 25 percent multi-family housing (tri-plex and larger).

owned by Evergreen Agricultural Enterprises, and Dora Bansen; each property has a long history of active farm use. The parcels are bordered to the north, west and east by other lands that are actively farmed. The previously described manufactured home park, and the Evergreen Aviation Museum campus border the parcels to the south. Reid Road, an unimproved County road that has a right-of-way dimension of 40 feet in width, provides access to this area. This property borders the existing McMinnville urban growth boundary along its southern edge.

This property sits immediately west of the protection zone for Runway 17/35, a zone used to minimize incompatible development within the area critical for safe aircraft landings and departures. A portion of this property lies within the downwind leg of the Runway 4 traffic pattern.

Lands North of McMinnville Municipal Airport

There exists to the north of the airport, south of the Evergreen Aviation Museum property, and west of Olde Stone Village, some 35 acres of land that is comprised of predominantly Class III soils. The property is owned by Evergreen Agricultural Enterprises and is actively farmed. Cirrus Avenue terminates at the site's southwest corner; no other improvements are found within the site.

Lands East of McMinnville Municipal Airport

Situated east and parallel to Runway 17/34 a distance of approximately 800 feet is an area of Class IV soils, which are surrounded by Class II soils. This land is actively farmed and borders the McMinnville city limits and urban growth boundary to the west.

For the following reasons, the City finds that the above-described lands are inappropriate for use in satisfying the identified residential and commercial land needs. As such, they are not included in the amended McMinnville urban growth boundary.

Land use compatibility –

"Aviation is a nearly \$50 billion national industry that provides a vital transportation and economic element to our country. However, this essential service is continually threatened by the perpetual encroachment of incompatible land uses."⁵

The City finds that inclusion of this land would result in further residential encroachment adjacent to the airport; some of this land is less than ¼ mile of Runway 17/34, while other land is immediately adjacent to the airport approach zone or under the downwind leg of the Runway 4/22 traffic pattern. Development of these lands at urban residential densities would be incompatible with the long range plans for the airport, as described in the McMinnville Municipal Airport Master Plan, and

⁵ Excerpts relative to airport safety and land use compatibility are taken from the Oregon Department of Aviation's, "Airport Land Use Compatibility Guidebook," dated January 2003.

would potentially threaten the airport's viability and ability to serve the local and regional economy. According to the McMinnville Municipal Airport Master Plan, updated December 2004, aircraft operations are forecast to increase from 65,961 (2003 levels) to 109,440 by the year 2023.

Safety –

“Safety issues are a significant consideration for pilots, airports, and land uses surrounding airports. From an off-airport land use planning perspective, the characteristics of accidents near airports are of the greatest concern. [...] three geographic areas should be considered when addressing incompatible land use: land use under the airport traffic pattern, within one-quarter mile of an airport, and off the approach ends to the runways.”³

The City finds that aircraft on the downwind leg of Runway 4 fly directly over the subject land. Placing residential development on this property would potentially jeopardize the safety of those on the ground and pilots and passengers in the aircraft (need for open space in which to land in the event of emergency). In addition, noise from such aircraft operations would not be conducive to residential development within the subject site. This property is also immediately adjacent to the airport approach zone for Runway 17. Limiting development within the zone, and on lands adjacent to it, is critical for safe operation of the airport.

As noted in the airport master plan, within the planning period (extending to the year 2023) there will be increased numbers of aircraft based at this facility, as well as increased numbers of aircraft operations. The City finds it prudent and responsible to take measures necessary to minimize risk to individuals in the vicinity of the airport, especially given the expected increase in activity. The City, therefore, does not believe it to be good planning to include this property within the urban growth boundary.

Agricultural land compatibility –

This land, if brought into the urban growth boundary, would be bordered by actively farmed land on three of its four sides. Its inclusion would also increase the perimeter of land that would be in direct proximity to farmed land. Extension of public utilities to serve residential or commercial development within these lands would add pressure to urbanize adjacent resource lands in the future.

Complete neighborhoods –

“A primary means of limiting the risks of damage or injury to persons or property on the ground due to near-airport aircraft accidents is to limit the density of land use development in these areas.”³

The cornerstone of the MGMUP is the creation of complete neighborhoods that are achieved through the implementation of Neighborhood Activity Centers. Densities within these centers are expected to be higher than historically realized in McMinnville and

would include higher percentages of multi-family housing. Needed low-density residential development can be accommodated within the existing McMinnville urban growth boundary and in exception land areas recently added to the boundary (Fox Ridge Road, Redmond Hill Road, and Riverside South). To address safety concerns, higher density housing is not an appropriate use for the subject site.

For the above noted reasons, the City concludes that specific types of land needs as identified in the MGMUP cannot be reasonably accommodated on the lands north and east of the McMinnville Municipal Airport, on which are found predominantly Class III or Class IV soils. The City, therefore, has not included these lands in its expanded urban growth boundary, as permitted by ORS 197.298 (3)(a).

Lands West of Hill Road

Specific to the hills west of McMinnville, this area is steeply sloped, and is further marked by several ravines that cross through the area. The area is largely vacant any physical development, covered in native grasses and trees, and has a history of primarily forest related use (tree farms, open space). Generally, agricultural soils within this area decrease in quality (from Class III to Class VIII) the greater the distance west of the current McMinnville UGB.

Topographically, there exists to the immediate north, west and south of the current urban growth boundary a wide band of steeply sloping land that forms a crescent touching on the Fox Ridge Road at its northern tip and the Redmond Hill Road area to the south. Slopes within this crescent shaped area are 25 percent and greater; soil types are predominantly comprised of Yamhill silt loam (YaE and YaF) and Willakenzie silty clay loam soil (WeE), which have severe slopes, ranging from 20 percent to 50 percent. These soils, and others found within this crescent, are Class IV, VI, VII, and VIII agricultural soils. Although not highly rated for agricultural use, the Willakenzie soil and Yamhill soil have woodland capability class ratings of II (high) and III (moderately high), making them significant Goal 4 (Forest Land) resource lands.

Parcels of predominantly soil class III and above located farther west, northwest, and southwest of the above described steeply sloping lands were found to be inappropriate for use in meeting McMinnville's identified future residential land needs due primarily to the following reasons:

- **Expensive to provide with public services**
McMinnville's current water distribution system is designed as a single-level pressure system providing service to those properties situated between 100 feet and 275 feet in elevation. These areas are situated at elevations that extend upward from some 320 feet. Provision of public water to this area will require considerable expense, estimated to exceed \$3.4 million.
- **Physically separated from other planned urban development**
For purposes of conducting a buildable lands analysis, lands with slopes 25 percent or greater would be excluded from further consideration. As such, in this case, there would exist a wide continuous band of "unbuildable land" that, by its location and topography, would physically separate this area from lands within the current (and

proposed) UGB. This separation would not be conducive to development patterns that are efficient, economical, or consistent with the City's MGMUP.

- **Resource use**

These lands exhibit qualities and physical characteristics of forest resource lands as evidenced by the presence of Yamhill silt loam and Willakenzie silty clay loam soils, tree cover, and historical use (tree farms). Use of this area for residential or commercial development would be incompatible with management of this area for forest related uses.

Within the balance of the west hills outside of the current UGB and east of the previously described steeply sloping lands are lands that are comprised predominantly of Class III agricultural soils. Generally, these areas are located immediately north of the Fox Ridge Road subarea, west of the Redmond Hill Road subarea; and south and west of the "Thompson Property" subarea. These areas are depicted on the attached map, and are described in further detail in the following text.

Area North of Fox Ridge Road –

Three parcels, which abut the existing urban growth boundary north of Fox Ridge Road, are dominated by Class III and IV soils. The westerly parcel is Assessor Map No. R4513-00100, a 94.73-acre piece owned by the Abrams family and is part of their larger farm and timber operation. The central parcel is a 16-acre portion of the larger tax lot 200, the southern portion of which is a former exception area that was approved for addition to the urban growth boundary in 2004 by LCDC. The easterly parcel is the approximately 34-acre parcel (Assessor Map R4418-00700, owned by Mark Smith.

Topographically, this area immediately adjacent to Hill Road is generally flat, but rises abruptly at the southwest where it merges with the foothills (the "West Hills"), which rise up to the west along Fox Ridge Road. The Class III and IV soils comprise the flat portions of the Smith parcel, and a small portion (northern edges) of the other parcels. Predominantly, these Class III and IV soils are consistent with the steeply sloped areas in the southern portions of the westerly two parcels where gradients can exceed 25 percent.

The flatter portions of these parcels have historically been farmed for field crops, although the sloped areas at the south are managed for timber production, and a small area within the unincorporated portion of tax lot 200 has been cultivated for Christmas trees. The parcels border the current McMinnville urban growth boundary at the south, southwest, and east.

The abutting parcels to the southwest are under County jurisdiction and tend to be small acreage residential properties, with mixed oak/Douglas fir forest and some livestock pasture. The McMinnville Water and Light reservoirs are within this cluster of parcels. At the west and to the north of the central parcel are additional parcels within the Abrams farm operation. At the north, tax lot 701 is a 42-acre piece, which was just recently approved by the State for inclusion to the urban growth boundary; this parcel is owned by the McMinnville School District No. 40 and is slated as a future high school site.

For the reasons discussed below, the City finds that tax lot R4418-00700 (Smith parcel) is appropriate for use in satisfying the identified residential land needs, but the City finds that the northern portion of tax lot R4418-00200 and the entirety of tax lot R4513-00100 are inappropriate for satisfying future land needs.

Land use compatibility –

Tax lot 700 lies between low-density residential housing to the south and southwest and a future high school site to the north. Because this parcel abuts the school property, it would be ideal for medium to high-density residential development, which would also provide a reasonable transition between the school and the low-density development to the south/southwest. In addition, medium-density residential development on this parcel would be consistent with ongoing development on the east side of Hill Road, which includes a future elementary school site and a mixture of medium- and low-density residential development.

Agricultural land compatibility –

Tax lot 700, if brought into the urban growth boundary, would be bordered by actively farmed land (the northern portion of tax lot 200) along an approximately 350-foot length of its western boundary, but would otherwise abut the school site at the north, Hill Road at the east, Fox Ridge Road at the south, and the urban growth boundary at the southwest. Development of tax lot 700 would remove farmland from production which is a long, narrow piece wedged between the school site and the existing urban growth boundary; the City believes there is more likelihood of conflicts between urban and farm uses if tax lot 700 is left as agricultural land. The preliminary plans for the future high school site indicate that the westerly portion will be used for outdoor activities and athletic events; these uses can provide a buffer between agricultural activities to the west and north and residential development on tax lot 700.

If the northern portion of tax lot 200 were brought into the urban growth boundary, it would abut the agricultural tax lot 100 at the west for a distance of approximately 1,100 feet, and tax lot 1000 at the north for about 500 feet. Although the southern portion of this piece of land would be unlikely to develop due to the steepness of the slopes, the northern portion could develop, resulting in a "prong" of residential development between the agricultural uses to the north and west, and the school property at the east.

Tax lot 100, if brought into the urban growth boundary, would be bordered by actively farmed land on two sides and along a portion of a third. This would leave an island of farm parcels bordered by the school property at the south, residential development at the southwest and west, Hill Road at the east, and Baker Creek Road at the north. This would also cut off tax lots R44 18 1000 and 1100, also owned by the Abrams family, from the remaining portions of the farm operation.

Complete neighborhoods –

Tax lot 700 lies within the preliminary boundaries of the Northwest Neighborhood Activity Center (NAC). As discussed elsewhere in this document, NACs are intended to provide medium- and high-density housing close to neighborhood scale commercial development and transit corridors, because low-density housing needs are already met

within the existing urban growth boundary. Hill Road is designated as a transit corridor and planned transit route in the MGMUP; since tax lot 700 abuts Hill Road at the east; this provides an excellent opportunity to plan for development that can take full advantage of transit opportunities. The NAC plan in the MGMUP (Figure 8) calls for medium-density (R-3 and R-4) residential development on tax lot 700; the City stands by this recommendation.

Tax lot 100 and the northern portion of tax lot 200 also lie within the Northwestern NAC boundaries. However, the City now finds that these two properties should be excluded from the urban growth boundary and the NAC because they will have limited connectivity with Hill Road and with development of tax lot 700 (absent the addition of other lands to the north and west, as proposed in the 2003 MGMUP): the steep slopes in the southern portions of these two properties leave only perhaps a 200-foot wide buildable corridor extending across tax lots 700, 200 and 100. Although such a corridor could potentially be developed with a 60-foot wide local street right-of-way lined by homes on each side, the City finds that this would be an inefficient use of tax lots 200 and 100. Since the street could not make a connection to the north, it would have to be designed as a dead-end street, which would be an inefficient system.

For the reasons cited above, the City concludes that specific types of land needs as identified in the MGMUP cannot be reasonably accommodated by the areas of Class III and Class IV soils within tax lot R4513-00100 or the northern portion of tax lot R4418-00200. The City, therefore, has not included these lands in its expanded urban growth boundary, as permitted by ORS 197.298 (3) (a).

However, the City also concludes that identified residential land needs can be accommodated by tax lot R4418-00700, which is predominately Class III and Class IV soils. The City, therefore, recommends its inclusion into the expanded urban growth boundary.

West Hills Area west of Fox Ridge Road and Redmond Hill Road –

It should be noted that the Fox Ridge Subarea proposed in the MGMUP was acknowledged by LCDRC for inclusion into the urban growth boundary in 2004, as was the Redmond Hill Road Subarea at the terminus of Redmond Hill to the south. Adjacent to the west of this newly expanded westerly urban growth boundary is a concentration of Class III and IV soils. This area is characterized by moderate to steeply sloping terrain, with slopes ranging from approximately seven percent to more than 25 percent.

Class IV soils in the West Hills Area are essentially confined to the most severe slopes including those over 25 percent gradient; these soils tend to be located further west and do not adjoin the existing urban growth boundary. Class III soils dominate the area adjacent to the urban growth boundary. The concentration of Class III soils adjacent to the westerly urban growth boundary is approximately 200 acres.

The parcels in the West Hills area have been managed primarily for timber production, although farming of field crops and Christmas trees is also evident. These lands,

because of their elevation and tree cover, give visual form and edge to the City's western perimeter.⁶

For the following reasons, the City finds that the above-described lands are inappropriate for use in satisfying the identified residential and commercial land needs. As such, they are not included in the amended McMinnville urban growth boundary.

Development constraints -

Slopes

This area of Class III soils abuts the existing urban growth to the east. The City's housing needs are for medium- and high-density; it is generally accepted that higher elevation lands with views, such as the West Hills area, tend to be developed for low-density residential housing. This has been the case in McMinnville, as is evident elsewhere in the west hills. Further, in conversations with local engineers, City staff are advised that sloped land areas can cost anywhere from \$5,000 to \$15,000 per lot in additional development costs, depending on site-specific conditions. They also note that the construction of multi-family housing on such sloped land is problematic, from an environmental perspective, in that it requires extensive grading to accommodate the larger building footprint and off-street parking areas. This is not consistent with the housing type (more affordable) or density needed, as described in the MGMUP.

Water

As discussed elsewhere in the MGMUP, McMinnville's current water distribution system is designed as a single-level pressure system that can only provide service to those properties situated between 100 feet and 275 feet in elevation. The West Hills area west of the urban growth boundary has a low elevation of approximately 300 feet, and rises westward to a high of 560 feet and sits entirely above the current water service level. Provision of public water to this area would require considerable expense. It appears from the McMinnville Water & Light Water Master Plan that the agency has contemplated construction of an additional pressure zone system that could provide water service up to a high elevation of 415 feet; this elevation occurs at roughly the mid-point of the Class III soils in the West Hills area. However, even if an additional pressure system were constructed at some point in the future, for reasons of slope and market, the City envisions that it would only enable the development of low-density single-family residential within the West Hills area. Since the City is in need of medium- and high-density residential development, construction of an additional pressure system will not help in this endeavor.

Transportation

Two public streets stub to the existing urban growth boundary at the east edge of the West Hills area: Fox Ridge Road at the north terminates in a series of private driveways and easements serving residences on acreages; Redmond Hill Road at the south is a

⁶ Development of the West Hills area that is situated inside the current McMinnville urban growth boundary is encumbered by the West Hills Planned Development Overlay Ordinance. In part, this overlay was established in recognition of the "scenic values unique to this area, and topographical features which are not conducive to the standard development practices normally employed in residential designs in the City."

public street all the way through to its existing stub at the urban growth boundary. For development to occur in the West Hills area west of the current urban growth boundary, Redmond Hill Road could be extended, but a secondary access road would have to be created in order to provide reasonable circulation and needed emergency vehicle access. For extension of Fox Ridge Road, right-of-way dedication would have to occur either along the existing privately held driveways or along a new alignment. A third option would be the extension of West 2nd Street, which currently stubs approximately 3,000 feet to the east of the existing urban growth boundary. Of further consideration, Peavine Road lies to the southwest of the West Hills area; however, a wide band of severe slopes (exceeding 25 percent gradient) lies between Peavine Road and the area of Class III soils, which are adjacent to the existing urban growth boundary, creating an impediment to a street connection. Extension of any of these three streets would require expensive design and construction measures because of the relatively steep grades present across this area.

The City finds that the relatively steep grades of the Class III and IV soils in the West Hills area, coupled with distance from services and from the city center, will make the provision of public access and transportation more difficult and expensive; public transportation will be integral to the medium- and high-density housing which the City is planning for.

Land use compatibility –

The area within the western portion of the existing urban growth boundary is above the 275-foot elevation mark for service under the existing municipal water system. To the east of that elevation marker, the area is rapidly undergoing development with low-density single-family residential subdivisions. Preliminary indications are that this development pattern will continue. If needed medium- and high-density housing were placed in the West Hills area through westward expansion of the urban growth boundary, it would lie between low-density housing at the east and resource land at the west. From a planning perspective, this is not a logical scenario as it increases the potential for conflicts between residential uses and farm/forest resource management.

This area's distance to commercial development also adds to its infeasibility for medium- and high-density residential development. The goal of higher-density residential development is that residents will not have to travel far to obtain services, and that public transportation will be most accessible. The West Hills area is a significant distance (more than a mile and a half) from any existing or proposed concentration of services.

Agricultural land compatibility –

The West Hills area borders on farm and forestry lands to the north, west, and south. If brought into the urban growth boundary and developed with needed medium- or high-density housing, the potential for conflicts between the residential development and surrounding farming or forestry operations would increase significantly: the expansion would increase the number of dwelling units and residents adjacent to these farm and forestry operations.

Further, the bulk of the Class III soils within this portion of the West Hills are parts of larger parcels which are managed for farm or forestry uses, and comprise the best soils

of those parcels; development on these soils would leave the residual parcels dominated by Class IV or lesser quality soils.

Complete neighborhoods –

The Class III soils adjacent to the existing urban growth boundary at the west edge of McMinnville are concentrated outside the boundaries of the nearest Neighborhood Activity Center (NAC). Development of medium- to high-density housing in this area would create a "satellite" area extending out into the resource land areas.

In accordance with ORS 197.298 (3) (a), (b), and (c), the City concludes that the concentration of Class III soils within the West Hills area adjacent to the existing westerly urban growth boundary are inadequate to accommodate the specific types of land needs identified in the MGMUP, for the reasons cited above. Accordingly, the City has not included these lands within its expanded urban growth boundary.

West Hills South

This area consists of two parcels which adjoin the south edge of the existing westerly urban growth boundary south of Redmond Hill Road, and which are predominantly Class III soils. The more easterly of these two parcels, tax lot R4524-01300 (hereafter referred to as "the Thompson property"), is approximately 37.23 acres and is almost entirely composed of Class III soils; two small inclusions of Class II soils are located at the extreme east edge of this parcel. The westerly of the two parcels is tax lot R4424-02000, which is 88 acres in size. This parcel includes pockets of Class II soils as well as pockets of Class IV and VIII soils.

Topographically, these two parcels lie at the base of the West Hills (Coast Range foothills). The western portion of tax lot 2000 exhibits a seven percent slope where it rises upward toward the West Hills; however, the bulk of the parcel is essentially flat. The Thompson property is flat throughout, with the exception that a portion of the base of a small knoll on the neighboring parcel to the east extends within the extreme east edge of the parcel. These parcels are situated within the current limits of the McMinnville Water and Light water service area, unlike the majority of other West Hills properties described previously.

Development constraints –

Both parcels feature intermittent streams: two streams converge at the northeast corner of tax lot 2000 and a single stream flows to the east across the site; a single drainage ditch flows from north to south across the eastern portion of the Thompson property. Intermittent streams such as these are considered as linear wetlands pursuant to the Division of State Lands (DSL) classification system; assuming a 25-foot no-build buffer along each side of these stream segments within these two parcels in accordance with DSL guidelines, this would remove approximately 12.6 acres from the buildable land area of tax lot 2000 and approximately 2.0 acres from the buildable land area of the Thompson property. The resulting gross buildable acreages would tentatively be estimated at approximately 75 acres for tax lot 2000 and 34 acres for the Thompson property.

Land use compatibility –

Inclusion of these two parcels into the urban growth boundary would enable their development with medium- and high-density housing in keeping with the City's identified land use needs.

Agricultural land compatibility –

The inclusion of these two parcels would reduce slightly the length of perimeter that would abut actively farmed land.

Based upon the above findings, the City also concludes that identified residential land needs can be accommodated on these two parcels (R4524-01300, referred to as "the Thompson property," and R4424-02000, which are predominately Class III and Class IV soils. The City, therefore, recommends their inclusion into the expanded urban growth boundary.

Lands West of Old Sheridan Road

Forming a crescent in the area southwest of McMinnville are lands comprised of Class III soils identified as Dayton Silt Loam, thick surface ("Dc" on US Department of Agriculture soil maps). This band generally parallels Old Sheridan Road to the northwest and Durham Road to the south; Highway 18 crosses through the subject site's geographic mid-point. These lands appear to follow historic drainage ways, which is consistent with the description for Dayton soils. Topographically, the area is relatively flat; physical improvements are few and consist of single-family residences on large-parcel, actively farmed holdings. The northern most tip of these lands is situated several hundred feet southwest of the existing McMinnville urban growth boundary (it does touch, however, on a portion of the Southwest subarea, which is proposed to be added to the urban growth boundary) and extends to the south a distance of nearly two miles. Of note, a portion of the Redmond family Century farm is located within this area.

This geographic area also includes a small, isolated area of Class IV soils, identified as Dayton silt loam ("Da").

For the following reasons, the City finds that the above-described lands are inappropriate for use in satisfying the identified residential and commercial land needs. As such, they are not included in the amended McMinnville urban growth boundary.

Agricultural land compatibility –

This land, if brought into the urban growth boundary, would be bordered by actively farmed land on all sides, and would include lands that are an integral part of the Redmond family Century farm. Its inclusion would also increase significantly the perimeter of land that would be in direct proximity to farmed land. Extension of public utilities to serve residential or commercial development within these lands would add pressure to urbanize adjacent resource lands in the future.

Residential use limitations –

The Soil Survey for Yamhill County classifies the Dayton soils as “severe” for the siting of residences and playgrounds, noting poor drainage, and high water table in winter and spring.⁷ Further, this survey states that, for foundations for low buildings the soil has “low shear strength; medium to high compressibility; high shrink-swell potential in subsoil; water table may rise to surface in winter; 12 to 24 inches depth to claypan; and very slow permeability.” For “highway location,” it notes that the “water table may rise to surface in winter; high shrink-swell potential in subsoil; and difficult to excavate.” Because of these characteristics, the City finds that it is poor planning to direct future urban development to such lands.

Neighborhood Activity Centers –

A cornerstone of the MGMUP is to apply “activity center” planned developments in appropriate locations in order to create support for neighborhood scale commercial and transit supportive development. Under this concept, neighborhoods are each centered or organized around a center that would provide a range of land uses within walking distance of neighborhoods --- preferably within a one-quarter mile area --- including neighborhood scale retail, office, recreation, civic, school, day care, places of assembly, public parks and open spaces, and medical offices. These centers have been selected due to their location, distribution, proximity to vacant buildable lands, ability to accommodate higher intensity and density development, and their context and ability to foster the development of a traditional, or complete, neighborhood. These centers have been equally spaced around the edge of the McMinnville urban area, with the downtown serving as the geographic hub. These centers need to be located at major street intersections.

As to this particular area, the area is not contiguous to the existing urban growth boundary. Major streets that currently exist to serve this area include Peavine Road and South Hill Road, both of which are under Yamhill County jurisdiction. Peavine Road is located more than one-half mile from the current urban growth boundary; Hill Road is a short distance south of the boundary. The nearest existing urban residential development is located more than one mile from where Peavine Road crosses through the Class III soil lands. It may be possible to locate an activity center upon these Class III soil lands, but it would be relatively isolated from other existing McMinnville residential development and services.

Based upon these distribution and location criteria, and the physical form that such an expansion would take, the City finds that these lands are not supportive of a “neighborhood activity center” and, as such, should not be included in the expanded urban growth boundary.

Existing Development Patterns –

Urban development in this area has been kept east of Hill Road, north of the North Fork of Cozine Creek, and east of Old Sheridan Road due to the presence of the McMinnville urban growth boundary, adopted in 1981. As noted previously, this area of Class III and

⁷ As regard siting for residences, a “severe” rating is associated with soils that exhibit poor stability, or that are poorly drained or subject to flooding, and have high shrink-swell potential and low shear strength.

Class IV soils is not contiguous to the existing urban growth boundary and extends away from the boundary in a relatively narrow band to the southwest before turning eventually to the east. In order to permit this area's urbanization, and for reasons of efficiency, some amount of land with Class II soils would need to be included in order to make it contiguous to the existing McMinnville urban growth boundary. Even so, the City finds that such a boundary --- a finger extending into actively farmed lands --- would not be conducive to an efficient development pattern, nor to the criteria supportive of the activity center concept, as summarized previously and described more fully in the MGMUP. It would also partially, or completely, surround other actively farmed areas, thereby putting increased pressure on them for future urbanization, and, in the meantime, creating rural / urban conflict.

The City has considered the lands west and southwest of the existing UGB and is recommending that some of them be included in the proposed expansion (Northwest, Southwest, and the Thompson property sub-areas), as well as sub-areas to the north and southeast (Grandhaven and Three Mile Lane, respectively). The other areas referenced are located farther to the west and southwest and are not included for reasons related to the cost and feasibility of providing necessary urban services (elevation and distance), transportation, distance to planned and existing services (schools, commercial development), and housing need (elevation, slope, and cost of development will make it less likely that these would support smaller lot development). Also, lands east of the airport were not given consideration due to their location adjacent to the airport and weapons training facility and their land use incompatibilities with urban residential development

For the above noted reasons, the City concludes that specific types of land needs as identified in the MGMUP can be accommodated within lands south of the future high school site, and south of the Redmond Hill subarea. The City concludes that all other resource lands of predominantly Class III or greater soils cannot reasonably accommodate such land needs. The City, therefore, has not included these lands in its expanded urban growth boundary, as permitted by ORS 197.298 (3)(a - c).

Consistent with ORS 197.298, and other applicable planning laws and goals, the City next analyzed Class II lands to determine their suitability to accommodate identified land needs. The details of this analysis are found in the MGMUP, and Appendix C of the MGMUP. Such soils are generally contained within the following geographic subareas:

- o Grandhaven;
- o Three Mile Lane;
- o Norton Lane;
- o Southwest; and
- o Northwest.

A summary of soil types for each of these sub-areas follows.

- Norton Lane. Soil classification within the eastern portion of this sub-area (the portion east of Joe Dancer Park) was field investigated and mapped in 1999 by a private soil scientist.⁸ That investigation found that some 1.9 percent (3.73 acres) of the soils within the area are classified as SCS Class I. This soil is located primarily

⁸ Jack Parcell, Certified Soil Scientist, #19574 CPSC – June, 1999. (MGMUP, Appendix C, Attachment 3)

west of the location of the milking barns of the Shurig Dairy that was in operation on this site in the recent past. Class II soils comprise nearly 75 percent of the site. The balance of this area is composed of Class III (14.5 percent), Class IV (1.8 percent), and Class VI (7 percent) soils. The majority of the western portion of this sub-area (Joe Dancer Park area) is identified as Class II and contains no Class I soils.

- Three Mile Lane. Soils within this sub-area are almost entirely Class II with a small amount of Class III and Class VI found mainly within the 100-year floodplain of the South Yamhill River. A relatively small occlusion of Class I soil extends east from the Lawson Lane sub-area.⁹
- Northwest. Soils within this sub-area are predominantly Class III and IV with a smaller amount of Class II soils located along the area's northern perimeter. There are no Class I soils within this sub-area.¹⁰
- Grandhaven. Soil classification within this sub-area is almost entirely Class II and Class III. There also exist a few isolated areas of Class IV soil located throughout the sub-area.¹¹
- Southwest. Soil classification within this sub-area is almost entirely Class II soil with a very small amount of Class IV and Class VI along the edge of and within the 100-year floodplain of the adjacent waterways.¹²
- West Hills South. Soil classification within this sub-area is almost entirely Class III. Lesser amounts of Class II and Class IV soils are found in the southern, and extreme western edges of the site, respectively.

Conclusion:

Based upon the above findings, the City has concludes that resource lands within the Northwest, Southwest, Grandhaven, Norton Lane, Three Mile Lane, and West Hills South subareas are, on balance, best suited to accommodate the residential and commercial land needs as identified in the MGMUP. In summary, other areas analyzed and not included were found to be unable to reasonably accommodate such needs for reasons related to the cost and feasibility of providing necessary urban services (elevation and distance), transportation, distance to planned and existing services (schools, commercial development), potential rural/urban conflict, public safety, and inconsistency with growth management planning concepts and goals, as stated in the MGMUP.

The Council concludes that ORS 197.298(2) and (3) and Factor 6 are satisfied because areas with higher capability agricultural land are being retained outside the UGB and other areas with lower capability agricultural are proposed for inclusion. Where higher priority lands are proposed for inclusion, the City has provided sufficient reasons to satisfy ORS 197.298 (3) (a – c).

⁹ Natural Resources Conservation Service (NRCS) - <http://www.nrcs.usda.gov>

¹⁰ Natural Resources Conservation Service (NRCS) - <http://www.nrcs.usda.gov>

¹¹ Natural Resources Conservation Service (NRCS) - <http://www.nrcs.usda.gov>

¹² Natural Resources Conservation Service (NRCS) - <http://www.nrcs.usda.gov>

ALTERNATIVE LANDS DISCUSSION AREAS - EAST

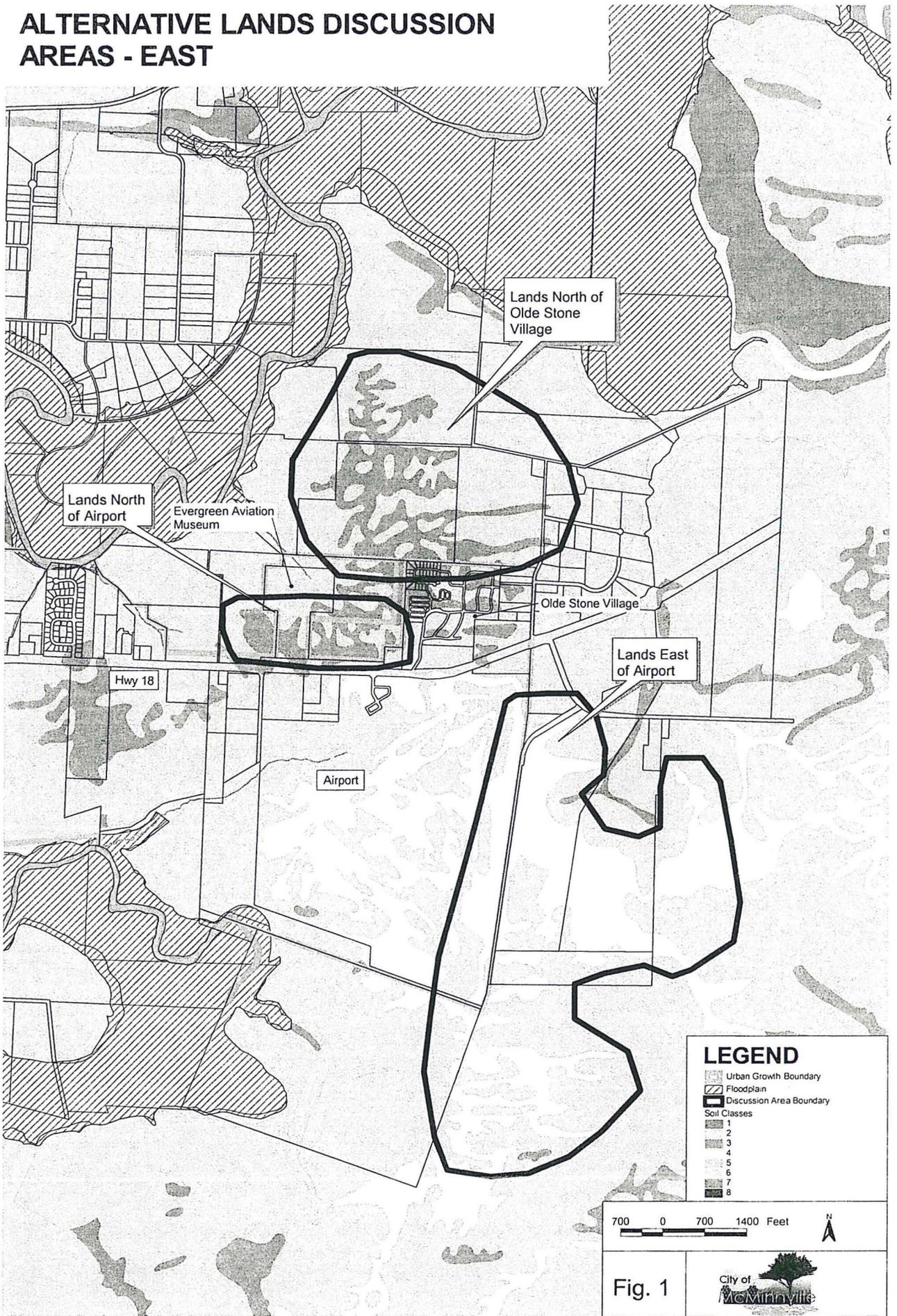
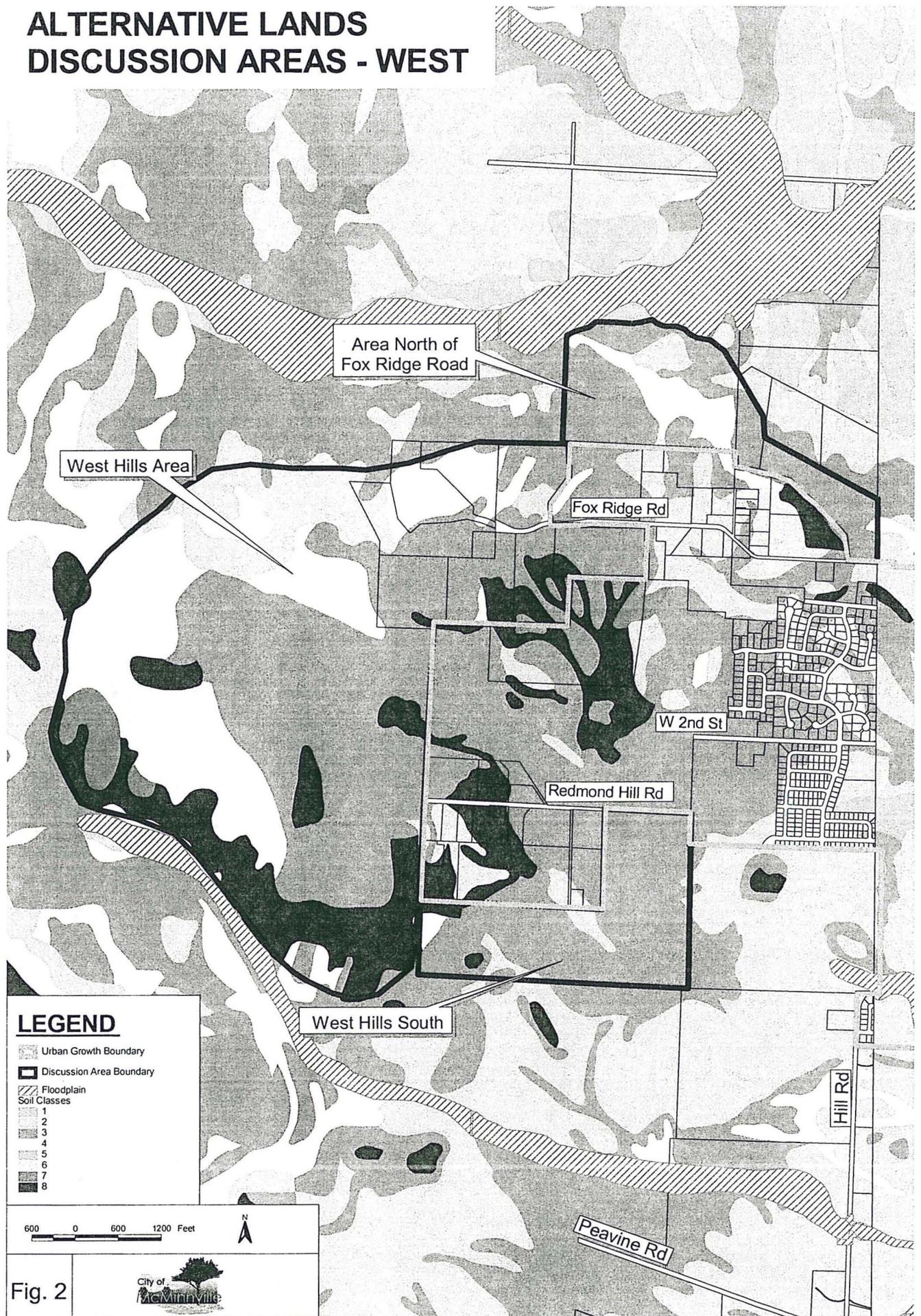


Fig. 1



ALTERNATIVE LANDS DISCUSSION AREAS - WEST



LEGEND

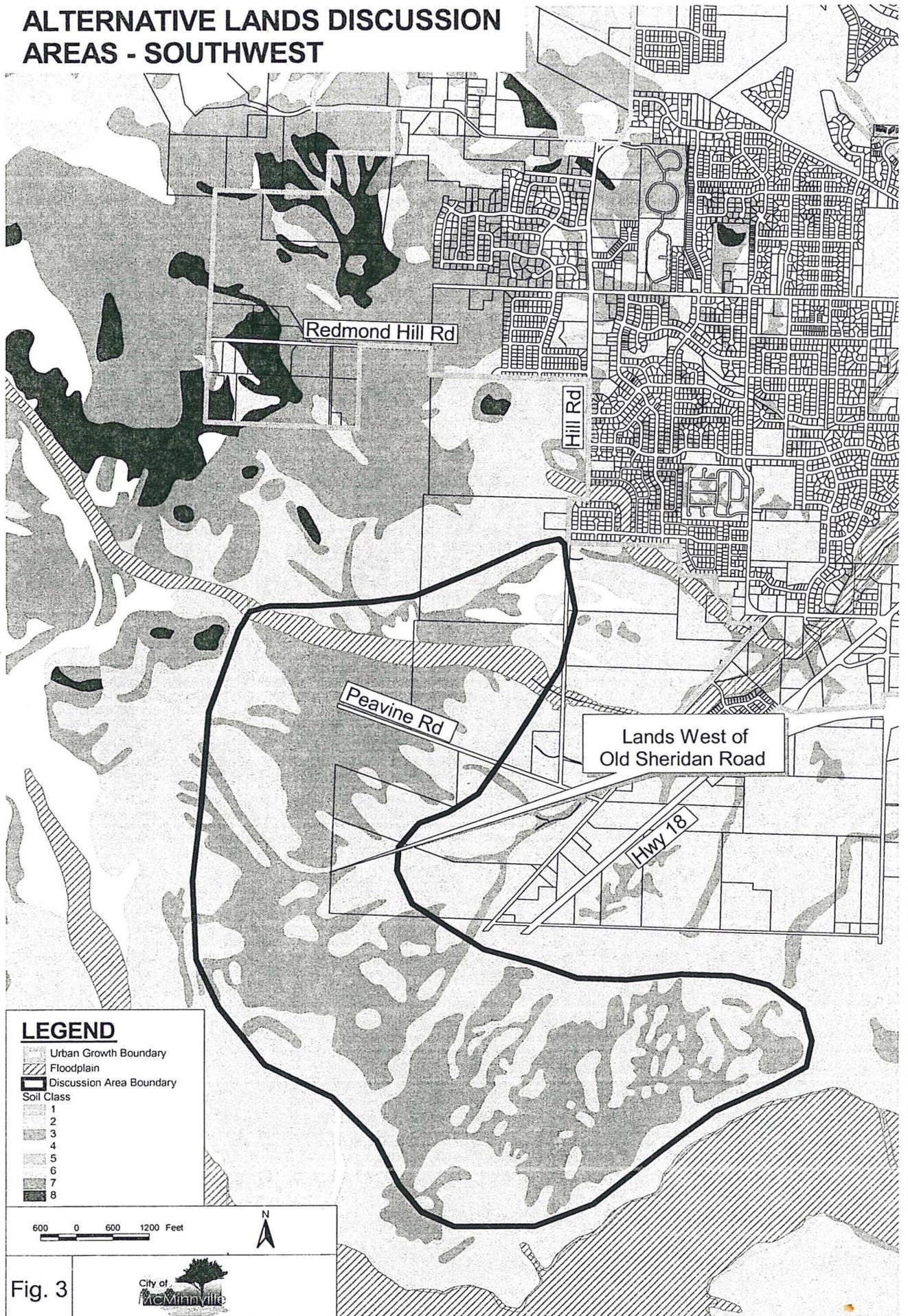
- Urban Growth Boundary
- Discussion Area Boundary
- Floodplain
- Soil Classes**
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8



Fig. 2



ALTERNATIVE LANDS DISCUSSION AREAS - SOUTHWEST



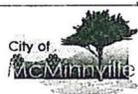
LEGEND

- Urban Growth Boundary
- Floodplain
- Discussion Area Boundary
- Soil Class
 - 1
 - 2
 - 3
 - 4
 - 5
 - 6
 - 7
 - 8

600 0 600 1200 Feet



Fig. 3



ORDINANCE NO. 4840

An Ordinance adopting certain amendments to the McMinnville Urban Growth Management and Urbanization Plan (MGMUP), supporting Findings, Economic Opportunities Analysis, Comprehensive Plan and implementing ordinances.

RECITALS:

On October 14, 2003, the McMinnville City Council adopted the "McMinnville Growth Management and Urbanization Plan" and appendices (MGMUP), and Findings (ORD No. 4796), and the "Economic Opportunities Analysis," (ORD No. 4795), as part of the McMinnville Comprehensive Plan, Volume I. These documents were prepared in response to an analysis of the city's buildable lands and future land needs, which determined that there exists a shortfall of both residential and commercial land necessary to accommodate projected growth needs through the year 2023.

On October 20, 2003, the City provided notice of the ordinance adoptions and periodic review work task submittal to DLCDC and interested parties. On April 20, 2004, the Director of the Department of Land Conservation and Development (DLCDC) issued a response to written objections and exceptions filed by participants and the City pursuant to OAR 660-025-0160(3).

At the April 22 and September 10, 2004, Land Conservation and Development Commission (LCDC) hearings, the Commission heard oral argument from the City, DLCDC staff and objectors and acknowledged certain elements of the MGMUP while remanding others. Portions of the MGMUP that pertain to efficiency measures and lands to be included within the urban growth boundary yet remain to be reviewed by the Commission.

In response to DLCDC staff's position as regard these remaining elements, and consistent with the directives of the LCDC Remand Order, staff finds it prudent to propose certain amendments to the MGMUP, its supporting Findings document, the Economic Opportunities Analysis, and Comprehensive Plan and implementing ordinances. Those amendments are specific to the following issues: transit corridor enhancement policy; residential density within neighborhood activity centers (NACs); residential density definitions; amendment of NAC illustrative plans; rezoning of certain properties; accessory dwelling units and residential density; amendments to the C-1 (Neighborhood Business) zone; R-5 (Multi-family Residential) zone design standards; R-4 (Multi-family Residential) zone design standards; west McMinnville residential density policy; support areas of illustrative plans; and, reduction of buildable land need for parks.

The City Council held a public hearing on May 24, 2005, at 7:30 p.m. on these proposed amendments after due notice had been given in the local newspaper and to the Oregon Department of Land Conservation and Development. At that hearing, the McMinnville City Council, having received written and oral testimony relevant to these recommendations by City staff and testimony provided by interested parties, and having considered this information and testimony, found the amendments as proposed by staff to be appropriate. Now therefore,

THE CITY OF McMinnville ORDAINS AS FOLLOWS:

Section 1. That the McMinnville Growth Management and Urbanization Plan (MGMUP) shall be amended as follows:

- (a) That Table 7 (page 5-15), Figure 12 (page 7-29), and Attachment 2 (page F-10) be amended by deleting all reference to properties identified as Map ID numbers 1, 2, 3, 8, 11, 12, 13, 14, 17, and 18. Totals within this table and attachment shall be adjusted as follows:

Gross Acres	Existing Development	Gross Vacant Buildable Acres
Totals: 414.25 <u>24.42</u>	96.46 <u>8.68</u>	46.67 <u>15.65</u>
Adjustment to Industrial Buildable Land Supply		(13.82) <u>12.77</u>
Adjustment to Residential Buildable Land Supply		16.18 <u>15.62</u>
Adjustment to Mixed Use Buildable Land Supply		<u>(2.85)</u>

- (b) That text found in Appendix F in reference to Map ID numbers 1, 2, 3, 8, 11, 12, 13, 14, 17, and 18 be deleted in their entirety.
- (c) That the "Impact on Land Use Efficiency" paragraph, found on pages 5-14 and F-10 be amended to read as follows:

"This measure results in the rezoning of ~~2010~~ parcels totaling ~~414.25~~24.42 acres. Of the ~~41424~~ total acres, over ~~96~~eight acres were identified as developed in the City's buildable lands inventory. The proposed changes do not affect~~increase~~ the amount of buildable commercial land need ~~by less than one acre~~. They increase the amount of buildable residential land by slightly ~~more~~less than 16 acres, while decreasing the amount of buildable industrial land supply be about ~~44~~13 acres."

- (d) That Table 14 (page 6-16) be amended as follows:

Residential Gross Buildable Acres	881.1 <u>880.54</u>
Residential Deficit (Surplus)	4019.2 <u>1019.76</u>
Commercial Gross Buildable Acres	102.4 <u>101.84</u>
Commercial Deficit (Surplus)	4019.2 <u>106.49</u>
Industrial Gross Buildable Acres	326.0 <u>327.05</u>
Industrial Deficit (Surplus)	(44.7) <u>(45.75)</u>

- (e) That Table 9 (page 5-24) be revised; the subsequent Tables within the MGMUP shall be sequentially renumbered; and that associated text on pages 5-22 and 5-24 be modified as follows:

- (i) Page 5-22, paragraph three, "Transit Corridor Enhancement Policy, Description:"

"[...] More specifically, the City proposes to adopt policies that encourage higher density residential development within ~~five hundred~~1,320 feet of an identified potential transit route (1,000 ~~foot~~one-half mile wide corridor). ~~Such opportunities are identified as shown in Figure 4. In addition, the City proposes to take action to legislatively rezone certain vacant parcels that now exist within this corridor.~~

In general, this policy should seek to realize an average density of ten (10) dwelling units per acre within the transit corridors. [...]"

(ii) Page 5-23 [MGMUP]

That Figure 3 ("Transit Corridor Buildable Lands") be supplanted with the "Residential Density Enhancement Corridor – Buildable Lands – Located outside NACs" map (Exhibit "A").

(iii) Page 5-24 [MGMUP]

"If the City adopts such policies and rezone actions, approximately 32 additional dwelling units (assuming gross density of 10 dwelling units per acre) could be accommodated within the current McMinnville urban growth boundary. A listing of the specific parcels that are proposed for rezoning, and map showing their location is provided in Table 9. The City intends to consider the rezoning of these parcels to permit higher density development as part of its Transportation System Plan analysis, for purposes of determining their potential impact on the City's transportation system and compliance with the State Transportation Planning Rule."

(iii) That Table 9 [MGMUP] be supplanted with the table below:

Table 9. Summary of proposed transit corridor parcel rezonings

Tax Lot No.	Gross Acres	Gross Vacant Buildable Acres	Existing Zone	Historic Density	DU's at historic density	Potential Density	DU's at Proposed Density	Increased DU's	Property Owner
R16BC03201	2.60	2.35	LDR-9000	3.5	8	10	23	15	John Fuller
R16BD01600	1.00	0.57	R-3	5.4	3	10	5	2	David Logsdon
R4420CB00301	1.59	1.59	C-3 PD	0.0	0	10	15	15	Elton Thayer
Totals	5.19	4.51			11		43	32	
Adjustment to Commercial Buildable Land Supply (1.59)									

Section 2. That Volume II of the McMinnville Comprehensive Plan (Goals and Policies) and Appendix "D" of the MGMUP be amended to read as follows:

a) Policy 71.01 [page D-6, MGMUP]

"The City shall plan for development of the property located on the west side of the City that is outside of designated Neighborhood Activity Centers or planned or existing transit corridors (500 feet either side of the route) to be limited to a density of six units per acre. Property that is located within a one-half mile wide corridor centered on existing or planned public transit routes, or within one-quarter mile from neighborhood and general commercial shopping areas is not subject to this density limitation, but shall be subject

to other locational and density related policies contained elsewhere in the McMinnville Comprehensive Plan. In order to provide for higher density housing on the west side, sewer density allowances or trade-offs shall be allowed and encouraged.”

- b) Policy 71.09 [page D-8] and text under “Medium-Density Residential (R-3 and R-4),” page 7-24, MGMUP

~~“The majority of residential lands in McMinnville are planned to develop at medium-density range (4—8 dwelling units per net acre). Medium density residential development should be limited to the following uses include small lot single family detached uses, single family attached units, duplexes and triplexes, and townhouses.”~~

- c) Policy 71.11 [page D-9, MGMUP]

~~“High-Density Residential (R-5) – High density residential ~~contains housing~~ includes townhouses, condominiums, and apartments, with at densities of anywhere from 8 to 30 units per acre, depending on where the high-density dwellings are located (the highest densities being in the downtown commercial core.” ~~Typical uses include townhouses, condominiums, and apartments.~~”~~

- d) Policy 71.13 [page D-10, MGMUP]

6. Areas within a ~~4,000-foot~~ one-half mile wide corridor centered on existing or planned public transit routes.

7. Areas within ~~one-eighth~~ one-quarter mile from neighborhood and general commercial shopping centers or designated activity centers; and”

- e) Policy 90.00 [page D-12, MGMUP]

~~“Greater residential densities shall be encouraged to locate within one-quarter mile from neighborhood and general commercial shopping centers, within neighborhood activity centers and within a one-half mile wide corridor centered on existing or planned public transit routes the corridors that connect them with densities decreasing as distances increase from these larger traffic capacity roads.”~~

- (f) That a new Plan Policy 163.05 be added as follows:

“The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands.”

Section 3. That the McMinnville Zoning Ordinance and Appendix E of the MGMUP shall be modified to read as follows:

- (a) Section 17.21.010(C) [MGMUP page E-16] shall be modified as follows:

"C. Multiple-family dwelling subject to the following:

1. The property on which the use will be located has direct access from a major collector or arterial street; and
2. The property is located within ~~500~~1,320-feet of a planned or existing transit route;
3. The property is within one-quarter mile from a planned or existing neighborhood or general commercial shopping areas."; and
4. ~~Adjacent lower density residential development can be adequately buffered from the multiple family dwelling(s) in order to maximize the privacy of established low density neighborhoods.~~

(b) That Section 17.22.055 [MGMUP page E-20] shall be deleted in its entirety.

(c) That Section 17.33.010 (3) shall be amended to read as follows:

"[...] (3). Multiple-family dwelling subject to the provisions of the R-4 zone."

(d) That Section 17.27.050, Lot Coverage, shall be deleted in its entirety.

(e) That Section 17.27.030(A) shall be amended as follows:

"A. There shall be a no required front yard of not less than thirty feet;"

Section 4. That the MGMUP Findings document shall be amended as follows:

(a) That properties identified as Map ID numbers 1, 2, 3, 8, 11, 12, 13, 14, 17, and 18 be removed from Table 73 [MGMUP Findings page 147].

(b) That the "Totals" provided in Table 73 [MGMUP Findings page 147] be consistent with those noted in Section 1 (a) of this ordinance.

(c) That the "Impact on Land Use Efficiency" text (page 146) be amended to read as follows:

"The October 2003 MGMUP included the rezoning of 20 individual parcels as a means of adding additional residential or commercial land capacity to the city's inventory, and, in some cases, to simply correct inappropriately applied zoning (residence zoned for industrial use in an area of other residential zoning, for example). Information regarding these parcels is found in Appendix F of the October 2003 MGMUP."

In their April 20, 2004 staff report to LCDC, the DLCD noted their objection to the rezoning of these 20 parcels, citing the need for a traffic analysis for each parcel to demonstrate compliance with Goal 12 (Transportation) requirements.

On September 10, 2004, the LCDC approved the City's rezoning of seven of these parcels. This action was taken following DLCD staff's amended recommendation to their Commission and after DLCD's consultation with staff from 1000 Friends of Oregon during a recess occurring at the September 10th hearing. Subsequently, when the hearing reconvened, DLCD recommended to the Commission that seven of those 20 parcels,

totaling 4.4 gross vacant buildable acres - for which no traffic analysis was either provided or requested – be so rezoned.

On February 8, 2005, the City took action to adopt additional traffic analysis and findings in support of the rezoning of three parcels that comprise the “brickyard properties” adjacent to South Davis Street. These three parcels were part of the 20 parcels originally objected to by DLCD and 1000 Friends as part of the MGMUP. In a letter dated October 4, 2005, DLCD approved the rezoning of these three properties as adopted by the McMinnville City Council.

In attempting to determine the standards under which the remaining rezoned parcels would be reviewed, the City requested clarification from DLCD. In a letter dated February 16, 2005, to the McMinnville Planning Department, DLCD states that for the remaining 10 parcels, the City should compare the daily and peak hour trip generation of each parcel under both the existing and proposed zoning designations. If the result is lower (or equal) under the proposed zoning, the City can conclude there will be no significant traffic impacts on transportation facilities. If the traffic impact would be higher under the proposed zoning, the City will need to evaluate and conclude whether this increased traffic will create a significant impact on transportation facilities.

A much needed perspective on this issue is that of these remaining 10 parcels, eight are improved and yield no additional developable land. They include the publicly held Airport Park property, a portion of the former McMinnville Concrete Products business located on Highway 99W, the Evergreen Doe Humane Society property on Three Mile Lane, an extension of the Doran Auto Dealership property located on 3rd Street (to include an 8,200 square foot parcel), and one 13,000 square foot parcel on which is constructed a single-family home. The two remaining parcels (a one-half acre parcel located at the intersection of South Davis and College Avenue owned by Linfield College, and the rear portion of the McMinnville Concrete Products property) yield approximately a combined one-acre of vacant developable land, or some four times less than was approved by LCDC on September 10 following consultation between DLCD staff and 1000 Friends.

Given the amount of effort and expense necessary to conduct the requested traffic analysis, and uncertainty as to future objections regarding this issue, City staff asked DLCD as to the City’s obligation to complete this work. In their letter dated March 14, 2005 DLCD concurs that the City is not required to rezone any of these properties as part of the MGMUP (See the letter from Geoff Crook, DLCD Regional Representative, to Doug Montgomery, McMinnville Planning Director, dated March 14, 2005). As such, the City has amended the October 2003 MGMUP by removing reference to those parcels not already approved by LCDC. Individual plan and zone change amendments as regard each of these properties may be processed at any time in the future as Post Acknowledgment Plan Amendment applications.

In summary, this measure results in the rezoning of 2010 parcels totaling 444.25 23.53 acres. Of the nearly 44424 total acres, 7.91 acres were identified as developed in the City’s buildable lands inventory. The proposed changes ~~do not affect~~increase the amount of buildable commercial land need-by-less-than-one-acre. They increase the amount of buildable residential land by 15.62 acres, while decreasing the amount of buildable industrial land supply by 12.77 acres.”

- (d) That certain text within the "Land Supply and Need, Comparison and Conclusions" section (page 14 – 17) be amended as follows:

"The redesignations add ~~commercial and~~ residential land, and remove land from the industrial and mixed-use designations."

"The land redesignations shown in Tables 11 and 12 will add approximately 16 acres of buildable land to residential uses. At an average density of 5.9 dwelling units per gross residential acre, the proposed land redesignations would accommodate approximately 925 new dwelling units."

- (e) That Table 11 [page 15] be amended as follows:

"Commercial	0.49	0.00
Industrial	(13.82)	12.77
Mixed Use		(2.85)
Residential	46.48	15.62"

- (f) That Table 12 [page 15] be amended to read consistent with Table 14 of the MGMUP, as amended in Section 1 (d) of this ordinance.

- (g) That Table 75 [page 154] be revised, the subsequent Tables within the document shall be sequentially renumbered, and that associated text on page 154 be modified consistent with the amendment described in Section 1 (e) of this ordinance, and as follows:

"To further support this policy, the city finds the following:

The "transit corridor" referenced in the October 2003 McMinnville Growth Management and Urbanization Plan (MGMUP) is centered on the transit routes as identified in the adopted McMinnville Transit Feasibility Study (June 1997). The residential density enhancement corridor adopted by the City as an efficiency measure of the October 2003 MGMUP is 1,000 feet in width (slightly less than one-quarter mile), centered on the adopted public transit route.

In DLCD's Responses to Objections (dated March 30, 2004), DLCD noted that the standard in the planning profession for transit supportive bus service is to utilize a residential density enhancement corridor width of 2,640 feet (1,320 feet on each side of the transit route). Due to the spacing of the City's existing and planned transit routes, a one-half mile wide residential density enhancement corridor would encompass some seventy percent of all land within McMinnville's existing Urban Growth Boundary (UGB). All land within these corridors would not, however, make them eligible, or appropriate for, higher density housing. Such final determinations would be based upon this transit supportive criterion, as well as other criteria found in Plan Policy 91.00, and other zone change criteria (to include compatibility). Application of such criteria, coupled with the limited supply of land inside the current urban growth boundary, will limit considerably the opportunities for increased density within these corridors (outside of NACs).

As part of its recommendation, DLCD notes that a program must be implemented to achieve an average of 10 dwelling units per acre (du/ac) within the corridor by identifying **additional** vacant, underdeveloped, and redevelopable parcels that may be suitable for medium- and high-density housing within this half-mile wide corridor (emphasis added). The City conducted an exhaustive buildable lands analysis, which is thoroughly documented in the "McMinnville Residential Land Needs Analysis" as amended. As a result of this analysis six properties were identified within the current McMinnville UGB that are vacant, underdeveloped, or redevelopable and situated within a 500-foot distance of proposed and existing transit routes. Since the adoption of the MGMUP in October 2003, five of the six properties proposed for rezoning to allow higher density residential use have since developed leaving only one such opportunity.

Application of this policy to property located within one-quarter-mile of proposed and existing transit routes yields three additional higher density housing opportunities. If the City were to adopt this density enhancement policy, and find it appropriate to rezone these properties (consistent with TPR, zone change criteria, etc), approximately 32 additional dwelling units (assuming a gross density of 10 dwelling units per acre) could be accommodated within the current McMinnville urban growth boundary. When applying the locational criteria of Plan Policy 91.00, the small number of properties is further reduced. Based upon a thorough review of buildable and redevelopable lands within the previously described corridor, the City finds that a program to achieve an average density of 10 dwelling units per acre within the proposed corridor cannot be achieved.

Although opportunities do not exist to enable achievement of an average residential density of ten dwelling units per acre within one-quarter mile of transit routes, the City finds that the adoption of this policy as a means of encouraging such housing within one-quarter mile of a transit route, when coupled with other locational criteria, is an appropriate policy.

- (h) That the "Goal 8 (Recreation Needs) findings be supplemented with the following text (pages 84 - 85):

LCDC's Remand Order (December 3, 2004) notes that testimony was provided at their September 10, 2004 hearing alleging that the city could accommodate a greater portion of its identified need for parks on land within the 100-year floodplain or on facilities shared with Linfield College or the school district, rather than on buildable lands. In response to this testimony, the City finds the following:

In DLCD's Responses to Objections (dated March 30, 2004), DLCD directs the City to take two actions to reduce community park land need: 1) assume future community parks will use floodplain land the same as has been used in the past; and, 2) reduce overall future parkland needs based upon the potential for sharing of such needs with the McMinnville School District and Linfield College.

By way of background, the City's Parks, Recreation and Open Space Master Plan was produced following a nearly two-year long citizen led planning process which included the direct involvement of over 500 McMinnville residents. This process included "in-house" departmental and inter-departmental workshops and interviews,

a thorough inventory of existing facilities and services, stakeholder interviews, a community-wide survey mailed to each of the more than 10,000 households in McMinnville, patron surveys at the various City recreation facilities, two community workshops soliciting citizen participation, several working sessions with the Parks Citizens' Advisory Committee, and, ultimately, public hearings before the Planning Commission and City Council. This plan was adopted in 1999.

The Parks, Recreation and Open Space Master Plan includes land need projections for three of the seven identified park types currently found within McMinnville, those being for community parks, neighborhood parks, and greenspace/greenways. No additional land has been allocated for future mini-parks, linear parks, special use parks, or trails as no standards for such projections were provided in the Master Plan. Currently, these latter park types occupy approximately 45 acres of land in McMinnville, all of which are situated on buildable land outside of identified 100-year floodplains.

Based upon the wording of DLCD's recommendation, the only parkland need projection in question is for community parks. To address DLCD's concern regarding the community parkland need projection, the City observes the following:

- McMinnville currently has five community parks: Joe Dancer Park; Wortman Park; Kiwanis Park; Discovery Meadows Park; and, City Park. According to the McMinnville Parks and Recreation Director, all of these parks are fully developed.¹
- Three of these existing community parks have lands within the 100-year floodplain (Joe Dancer, Kiwanis, and City Park). Approximately 52 percent of these three park's total land area is constrained by floodplain.²
- The City finds, based upon its extensive history of maintaining parkland in the floodplain, that it is fiscally unsound, environmentally irresponsible, and not in the best interests of its citizens to continue past practices of locating community parks within areas prone to flooding. It also holds strongly to the belief that the City's past use of floodplain land for community park purposes should not, and does not, restrict its ability to modify such practice if in doing so it is fiscally sound, environmentally responsible, and in the best interests of the residents of McMinnville.

The City also finds that allocating additional floodplain land for community park purposes to be impractical given the location of future growth, dispersal pattern of existing community parks, recommendations contained in the Parks, Recreation and Open Space Master Plan, lack of such constrained land in areas most appropriate and likely to accommodate future community park use, and availability of land on which to construct such parks. The City does find, however, that linear parks and trails (additional parks types identified in the Master Plan for which additional land is needed but not projected as the Master Plan did not provide a projection ratio) are appropriate to locate along the edge of, or within,

¹ Conversation with Jay Pearson, Parks and Recreation Director, April 7, 2005.

² Acreage figures based upon analysis of City GIS maps, April 2005.

identified floodplain areas for the reasons stated in the City's Parks, Recreation and Open Space Master Plan. More specifically:

- Extensive flooding occurred within the boundaries of Joe Dancer Park and Kiwanis Park in February, 1996. This flood caused thousands of dollars of damage to baseball backstops, benches, soccer goals, the concession stand, parking facilities, trails, accessways, irrigation system, and landscaping within the park. Similar flooding and damage occurred also to Lower City Park.³ Based upon this event, and many others that have preceded this flood, the City finds it fiscally unsound to plan for future community parks that would occupy lands prone to flooding. In so doing, expenses required to repair reoccurring flood related damage can be minimized, thereby allowing other pressing parkland needs to be addressed.
- Lands within floodplain areas are typically unsuitable for community park use for much of the year due to the presence of standing water or soggy conditions. McMinnville Parks and Recreation spring and fall soccer games scheduled on fields located within the 100-year floodplain are routinely cancelled during periods of heavy seasonal rain to prevent damage to the fields. Such conditions are not compatible with the needs of a community park or the residents of McMinnville.
- As a practical matter, use of floodplain land for community park purposes is predicated upon such lands being present and within the immediate vicinity of where community parks are needed or planned. Specific to McMinnville's situation, the Parks, Recreation and Open Space Master Plan identifies the location for a future community park. This site is generally situated within the west hills of McMinnville, far from any identified floodplain.⁴
- As regard DLCD's recommendation to adjust the City's allocation of parkland need based upon the potential for sharing park facilities with the School District and Linfield College, the City finds the following:
 - Linfield College is located in southern McMinnville, adjacent to a future elementary school site and existing industrial uses to the south, developed residential neighborhoods to the east, and commercial and residential uses to the west. This is a well-established neighborhood and there exists no additional vacant land on which to construct a neighborhood or community park. As indicated below, Linfield College intends to retain ownership of the balance of its currently vacant lands for its future campus needs.

³ Similar damage has happened in prior years, but we are able to document this only through conversation with the Parks and Recreation Director; no photographs are available to document the extent of damage, however.

⁴ The Plan does not identify a specific site within the west hills on which this future community park would be located. Even so, the nearest floodplain lands are more than two miles away.

- The residents of McMinnville enjoy many of the athletic facilities available on McMinnville School District and Linfield College campus property. These include gymnasiums, track, stadiums (for football), and field house (swimming, diving). However, the City's parkland needs are specific to neighborhood parks, community parks, and greenway/greenspace/natural areas. These are not land needs of the School District or Linfield College and are specific to the City. The schools and Linfield College do not provide, nor, as observed below, is there potential for, sharing of such parkland needs.
- The City's adopted Parks, Recreation and Open Space Master Plan does not include a recommendation for a community park within or adjacent to the Linfield campus. Other community parks exist to the west (Discovery Meadows Park, less than one mile distance) and Joe Dancer Park and Kiwanis Park to the northeast (approximately one mile distance). This area of McMinnville is already well served by such parks.
- City staff has consulted with the McMinnville Parks and Recreation Director, McMinnville School District Business and Finance Director, and Linfield College Vice-President of Finance as regard the potential of sharing park facilities.⁵ In summary, Linfield College intends to retain the balance of its campus property for its own use. Further, they express doubts that any joint use of facilities would work. The McMinnville School District provided a similar response.
- In addition to consulting with the above individuals, the City has looked to its own Parks, Recreation and Open Space Plan. Based upon this plan's review of such facilities, it finds the following: "It should be noted that the existing level of service for recreation facilities includes school facilities, many of which are in substandard condition and may not adequately meet community needs."

Section 5. That the McMinnville Comprehensive Plan Map shall be amended as follows:

- (a) That Map ID numbers 1 and 2, as shown on Table 7, page 5-15, be amended from a Commercial designation to an Industrial designation.
- (b) That Map ID number 3, as shown on Table 7, page 5-15, be amended from a Residential designation to an Industrial designation.
- (c) That Map ID number 8, as shown on Table 7, page 5-15, be amended from an Industrial designation to a Mixed Use designation.
- (d) That Map ID numbers 11, 12, 13 and 14, as shown on Table 7, page 5-15, be amended from a Commercial designation to a Mixed Use designation.
- (e) That Map ID number 17, as shown on Table 7, page 5-15, be amended from a Commercial designation to a Residential designation.

⁵ Conversations with Mr. Jay Pearson, McMinnville Parks and Recreation Director, April 13, 2005; and Mr. David Horner, McMinnville School District Director of Business Services, April 14, 2005; and email from Mr. Carl Vance, Linfield College Vice-President, Finance and Administration, April 15, 2005.

- (f) That Map ID number 18, as shown on Table 7, page 5-15, be amended from a Residential designation to an Industrial designation.
- (g) That Figure 13, page 7-30, be amended consistent with the above noted plan amendments.

Section 6. That the McMinnville Zoning Map shall be amended as follows:

- (a) That Map ID number 1 as shown on Table 7, page 5-15, be amended from a C-3 zone to an M-1 zone.
- (b) That Map ID number 2, as shown on Table 7, page 5-15, be amended from a C-3 zone to an M-1 zone.
- (c) That Map ID number 3, as shown on Table 7, page 5-15, be amended from an R-3 zone to an M-1 PD zone.
- (d) That Map ID number 8, as shown on Table 7, page 5-15, be amended from an M-2 PD zone to an A-H zone.
- (e) That Map ID numbers 11 and 14, as shown on Table 7, page 5-15, be amended from a C-3 zone to an A-H zone.
- (f) That Map ID numbers 12 and 13, as shown on Table 7, page 5-15, be amended from a C-3 PD zone to an A-H zone.
- (g) That Map ID number 17, as shown on Table 7, page 5-15, be amended from a C-3 PD zone to an R-4 zone.
- (h) That Map ID number 18, as shown on Table 7, page 5-15, be amended from an R-4 PD zone to an M-2 zone.

Section 7. That pages 6-4 through 6-7 of the Economic Opportunities Analysis, and Appendix B, Table 14 of the MGMUP be amended consistent with the text found in Exhibit "B," a copy of which is attached hereto and incorporated herein by this reference.

Section 8. That, for purposes of administering the provisions of ordinance, the amendments described herein shall not take effect until and unless approved by the Land Conservation and Development Commission as part of the City's current periodic review work program related to the expansion of the McMinnville Urban Growth Boundary.

Section 9. That this ordinance shall be subject to the terms and conditions of Ordinance No. 3823 entitled "Initiative and Referendum" for a period of thirty (30) days.

Passed by the Council this 11th day of January, 2006, by the following votes:

Ayes: Hansen, Hill, Menke, Olson, Yoder

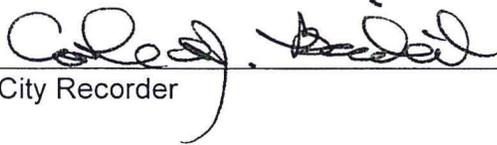
Nays: _____

Approved this 11th day of January, 2006.



COUNCIL PRESIDENT

ATTEST:



City Recorder

Approved as to form:



CITY ATTORNEY

Exhibit B

McMinnville Economic Opportunities Analysis Addendum

An Element of the City of McMinnville
Comprehensive Plan
January 2006

ECONOMIC OPPORTUNITIES ANALYSIS

Background

The City of McMinnville and Yamhill County Commission adopted the *McMinnville Economic Opportunities Analysis* (EOA) as part of the overall Growth Management and Urbanization Plan. The City received comments from 1000 Friends and DLCD pertaining to the section of the plan as regard employee per acre and employee per square foot assumptions (Appendix B, pages B-17 and B-18) and the EOA (pages 6-4, 6-6 and 6-7).

The City notes that provision of a floor area ratio (FAR) analysis is not required by statute and is not utilized in the EOA land needs model or otherwise relied upon for calculation of projected land use needs. Discussion of FARs would more appropriately occur during the policy phase of this project.

Considerable debate concerning the employment land need revolved around employee per acre assumptions. Table 4 shows existing employee per acre assumptions for McMinnville in 2003. The data show that the City had about 18 employees per net acre for commercial development and about 4 employees per net acre for industrial. These figures are considerably lower than the assumptions made in the EOA and Appendix B of the MUGMP.

Table 4. Actual employee per acre ratios, 2001

Plan Designation	2001	2001	EPA
	Employment (est)	Developed Acres	
Commercial	8,863	482.7	18.4
Industrial	4,450	1226.9	3.6
Public	964	na	
Total	14,277	1709.6	8.4

Source: Tables 5-7 and 6-4 of the McMinnville Economic Opportunities Analysis, 2001 employment figures extrapolated from 1999 base year.

The City of McMinnville makes the following findings based on the employee per acre analysis shown in Table 4:

- The actual employee acre ratios for commercial and industrial uses are lower than the assumptions to estimate commercial and industrial land need. The implications of this finding is that the assumptions may underestimate the amount of land needed for commercial and industrial uses if future development occurs at historical densities.

- McMinnville's growth management policies are intended to encourage future commercial and industrial development at higher densities. Given this policy, the higher employee per acre assumptions used for the land need forecasts are appropriate.

Thus, the employee per acre analysis (Table 4) supports the assumptions used in the Economic Opportunities Analysis and Appendix B of the MUGMP.

Proposed Amendments

Economic Opportunities Analysis

The text that follows is taken from pages 6-4 through 6-7 of the EOA. The proposed amendments are consistent with testimony by City staff and ECONorthwest at the September 2004 Land Conservation and Development Commission hearing. That testimony underscored that the land needs estimates were based solely on the employee per acre assumptions. The proposed amendments that follow are consistent with the original methodology and are intended to clarify the methods.

These amendments are:

"The next step in the analysis is to convert employment into land demand. Several assumptions must be made to convert employment growth to demand for land by the four land use categories shown in Table 6-1:

- **Percent of total employment growth that requires no commercial or industrial built space or land.** Some new employment will occur outside commercial and industrial built space or land. For example, some construction contractors may work out of their homes, with no need for a shop or office space on non-residential land. The Census reports 4.4% of workers in McMinnville worked at home in 1990. Metro, in its September 1999 Urban Growth Report Update applies a sector-level "home occupation" factor in its analysis of land needed for non-residential uses. The factor ranges from 0% for the Government sector to 15% for the Service sector. We use an aggregate assumption of 5% for this study.

This figure is slightly higher than the 4.4% reported by the Census in 1990 for McMinnville, and lower than the aggregate assumption of 11% for Metro. Census data, however, indicate that cities tend to have much lower rates than the Metro assumptions. The statewide percentage of persons that worked at home was 3.6% in 1990 and ranged from a low of 0% in 18 incorporated cities to a high of 15% in Coburg. The assumption used in this report accounts for a slightly increased rate of home employment.

- **Percent of employment growth on non-residential developed land currently developed.** Some employment growth will be accommodated on existing developed land, as when an existing firm adds employees without expanding

space. There is little empirical research on the amount of employment growth accommodated in existing developments. This factor overlaps with other assumptions: if a jurisdiction has high vacancy rates or large amounts of square footage per employee, then more of the future employment growth can be accommodated in existing buildings. We assume rates between 7% and 10% depending on the land use category.

- **Vacancy rate.** Some employment growth can be accommodated in vacant buildings on non-residential land; for example, a new business can open in a vacant store. Interviews with local realtors suggest that vacancy rates in McMinnville, as elsewhere, are cyclical. For example, while vacancy rates for commercial and industrial structures in McMinnville have been relatively low (less than 5%) in recent years, vacancy rates during a good portion of the 1980s were over 10%. Local realtors suggested that 5% is a good assumption for long-term commercial and industrial vacancy rates in McMinnville.
- **Employees per acre.** This variable is defined as the number of employees per acre on non-residential land that is developed to accommodate employment growth. There are few empirical studies of the number of employees per acre, and these studies report a wide range of results. Ultimately the employees/acre assumptions reflect a judgment about average densities and typically reflect a desire for increased density of development. Employees/acre ratios used in a recent analysis of land demand for the City of Salem were 22 for commercial and office, 11 for industrial, and 35 for government.¹ The Lane Council of Governments assumed an aggregate employee per acre ratio of about 25 for the 1992 *Eugene-Springfield Metropolitan Area Industrial Lands Study*.

For this study we assume the same employee per acre ratios as the Salem study: 22 for commercial and office, 11 for industrial, and 35 for public.

- ~~• **Floor area per employee.** The few studies that exist report a wide range of results for the amount of built space (square footage) per employee. This assumption reflects a judgment about average densities and typically reflects a desire for increased density of development. Square feet per employee assumptions used in a recent analysis of land demand for the City of Salem were 350 for commercial and office, 650 for industrial, and 400 for government.~~

~~For this study, we use the same floor area per employee assumptions as the Salem study: 350 sq. ft. for commercial and office, 650 sq. ft. for industrial, and 400 sq. ft. for public.~~

- ~~• **Implied Floor Area Ratio (FAR).** This is a measure of the floor area ratio (FAR) calculated by the assumptions of employees per acre and built space per~~

¹ *Salem Futures Buildable Lands Analysis*, Mid-Willamette Valley Council of Governments, October 2000.

~~employee. This measure is included to indicate the reasonableness of the assumptions for land and built space per employee.~~

- **Percent of employment growth on redeveloped land.** Some employment growth will be accommodated on land that is redeveloped—for example, an existing building that is renovated or torn down and replaced with a new building. Redevelopment potential can be estimated from the supply side or the demand side.

Supply side methods typically use an improvement-to-land value ratio threshold to identify lands with redevelopment potential. Lands below the threshold are considered potentially redevelopable: the lower the value of improvements relative to the value of land, the more likely is redevelopment. An improvement-to-land value ratio of 1 to 1 is a common threshold. This method has several limitations, the chief of which is that a *higher probability* of redevelopment is not a *certainty* of redevelopment. Not all land (perhaps not even a majority of it) below the threshold will redevelop, and some of it above the threshold *will* redevelop. Many factors—for example, location, economic conditions, and technology—affect the functionality of land. The improvement-to-land value ratio only considers the value of improvements on the site.

More robust supply-side models look at the value of improvements on the site and nearby sites. This approach considers the broader character of the area and the relative value of improvements on the subject site compared to uses surrounding the site. This approach typically considers properties with improvement values 50% or less of surrounding sites as having redevelopment potential.

Less common, but in our opinion superior for the purposes of estimating future consumption of buildable land, are demand-side methods, which assume that a certain percentage of new employment will be accommodated on sites that are classified as developed. This approach considers complicating factors such as home employment, increases in the efficiency of space use, increases in employment density, as well as redevelopment. Metro uses this approach for its studies. The details are discussed in a 1999 Metro memorandum titled *Nonresidential Refill (Redevelopment and Infill)*.

Based on conversations with local realtors and review of studies by Metro and the City of Salem, we assume that redevelopment will accommodate 5% of the forecasted growth in employment for all employment types.

- **Redeveloped land relative density.** Redevelopment of land generally increases the employment density on that land. An assumption of 50% indicates that employment density on redeveloped land will be 50% greater than the assumption of density applied to vacant land.

Table 6-2 summarizes the assumptions used to develop non-residential land demand estimates.

Table 6-2. Assumptions for non-residential land demand

Assumption	Land Use Type			
	Commercial	Office	Industrial	Public
% of total emp growth that requires no non-res built space or land	5%	5%	5%	1%
% of emp growth on existing developed land	5%	5%	7%	7%
Vacancy rate	5%	5%	5%	5%
Emp/ acre	22.0	22.0	11.0	35.0
Sq. ft. floor area/ emp	350	350	650	400
Implied Floor Area Ratio (FAR)	0.18	0.18	0.16	0.32
Redeveloped Land				
% emp growth on redev. land	5%	5%	5%	5%
Relative density increase (emp/acre,	50%	50%	50%	50%

Source: ECONorthwest.

Table 6-3 shows the results of applying the relevant assumptions (summarized in Table 6-2) to allocate the projected employment growth to 2023. McMinnville will have approximately 6,141 employees to accommodate in new building space, with approximately equal shares (about 30% each) for commercial, office, and industrial uses. The assumptions lead to the result that about 18% of future employment growth (1,120 jobs) will be accommodated through expansions or redevelopment on existing lands, and by home based employment. This assumption is slightly lower than the 21% Metro uses for the redevelopment and infill in its buildable lands studies. Approximately 364 new jobs will be accommodated on redeveloped land.

Table 6-3. Allocation of employment growth in McMinnville, 1999–2020

Land Use Type	Total emp growth	Requires no non-res built space or land	On existing developed land	On redev. land	Requires vacant non-res land
Commercial	2,179	109	109	109	1,852
Office	2,092	105	105	105	1,777
Industrial	2,212	111	155	111	1,835
Public	778	8	54	39	677
Total	7,261	333	423	364	6,141

Source: ECONorthwest.

Table 6-4 shows the amount of new land and built space needed for each land use type in McMinnville over the 2003–2023 period. The amount of land needed (in acres) is calculated by dividing employment growth that will require new space (the last column of Table 6-3) by the employees/acre assumption in Table 6-2 (middle row) for each land use type, with an adjustment for vacancy. Square feet of building

space needed is calculated by multiplying employment growth that will require new building space by the square feet per employee assumption in Table 6-2 for each land use type, with an adjustment for vacancy.

Table 6-4. McMinnville vacant land and new built space need by land use type, 2003–2023

Land Use Type	Acres vacant non-res of land		Sq.-Ft. of new building space	
Commercial	88.6	24%	682,316	24%
Office	85.0	23%	654,684	23%
Industrial	175.6	48%	1,255,526	44%
Public	20.4	6%	285,053	10%
Total	369.6	100%	2,877,579	100%

Source: ECONorthwest.

Table 6-4 shows that about 370 acres of vacant non-residential land-new development and 2.88 million square feet of building space are needed to accommodate the 6,141 new employees forecasted for the next 20 years to be accommodated in buildings that will be constructed on vacant land. Industrial uses are projected to need the most building space, almost 1.26 million square feet. About 1,120 new employees will be accommodated on existing developed or redeveloped land.”

Staff also recommend amendments to Appendix B of the MUGMP. The specific pages are on B-17 and B-18. The recommended amendments are shown below. These amendments are:

“Land needed for employment, 2003-2023²

Table 13 shows total employment growth by land use type in McMinnville for 2003, and 2023. The forecast of employment is derived from employment data shown in Table A-4 of the memorandum titled “*Justification for Population and Employment Projections.*” The employment projection indicates McMinnville will add 7,420 new employees between 2003 and 2023.

² Land need includes lands designated for commercial and industrial uses needed for employment and for public and semi-public uses that will locate on commercial and industrial lands.

Table 13. Total employment growth by land use type in McMinnville UGB, 2003–2023

Land use category	Growth			
	2003	2023	2003-2023	Percent
Commercial	3,302	5,540	2,239	30%
Office	5,873	7,978	2,105	28%
Industrial	4,600	6,870	2,269	31%
Public	966	1,773	807	11%
Total	14,741	22,161	7,420	100%

Source: ECONorthwest.

The land need estimates that follow are based on the same set of assumptions described in Chapter 6 of the *McMinnville Economic Opportunities Analysis*.

Table 14 shows the amount of new land and built space needed for each land use type in McMinnville over the 2003–2023 period. The results indicate McMinnville will need approximately 367 gross acres to accommodate employment for the 2003–2023 period. An additional 122 acres of commercial and industrial land is needed for public and semi-public uses in addition to those needed for employment shown in Table 14.³

Table 14. McMinnville vacant land and new built space-needed for employment by land use type, 2003–2023

Land Use Type	Acres vacant non-res of land		Sq. Ft. of new building-space	
Commercial	88.6	24%	682,316	24%
Office	85.0	23%	654,684	23%
Industrial	175.6	48%	1,255,526	44%
Public	20.4	6%	285,053	10%
Total	369.6	100%	2,877,579	100%

Source: ECONorthwest."

³ ECO estimates land needed for public and semi-public uses (not including parks) at 197.2 total acres. Not all of this land need will occur on commercial and industrial lands. ECO estimates that public and semi-public uses will require 75.2 residential acres. Thus, 197.2 – 75.2 = 122.0 non-residential acres).

ORDINANCE NO. 4796

An ordinance adopting the "McMinnville Growth Management and Urbanization Plan," appendices, and supporting findings as part of the McMinnville Comprehensive Plan.

RECITALS:

In August of 2000, the McMinnville Planning Department contracted with ECONorthwest to prepare a residential buildable lands and land needs analysis that would provide a legislative review of its comprehensive plan in order to determine if adequate land exists within the McMinnville urban growth boundary sufficient to support future residential growth. The analysis would also serve to update elements of the McMinnville Comprehensive Plan, Volume I related to housing, community facilities, and urbanization.

The first draft of the "McMinnville Residential Land Needs Analysis" was completed in January of 2001, and was presented to the McMinnville Planning Commission and City Council at a public work session held on January 23, 2001. Joint public hearings before the Planning Commission and City Council were held on February 27, 2001, and April 10, 2001, at which considerable public testimony was received regarding the draft analysis. In addition, a public hearing before the Citizens' Advisory Committee (CAC) was held on March 20, 2001, at which additional public testimony concerning the draft analysis was received. A final public hearing on this analysis was held before the Planning Commission and City Council on May 22, 2001, at which time the "McMinnville Residential Land Needs Analysis" was adopted. Subsequent to that action, the Oregon Department of Land Conservation and Development appealed the City's decision to the Oregon Land Use Board of Appeals (LUBA). On December 19, 2001, LUBA remanded the City's decision.

In response to this remand, the City conducted community-wide public forums on June 3, 2002, and July 8, 2002, in an effort to solicit input as regard McMinnville's future growth and how it should best be managed. Following those public forums, at which over 150 people participated, a joint work session was held on September 17, 2002, with the City Council, Planning Commission, McMinnville Urban Area Management Commission, Citizens' Advisory Committee, and Yamhill County Board of Commissioners to review the results of those forums and to provide direction to staff regarding the preparation of the "McMinnville Growth Management and Urbanization Plan."

The draft "McMinnville Growth Management and Urbanization Plan" was presented to the reviewing bodies noted in the preceding paragraph at a public work session held on June 18, 2003. An additional joint public work session was held regarding this plan on July 21, 2003. Joint public hearings with these same reviewing bodies were held on August 4 and 5, 2003, to receive public testimony regarding the draft plan.

At a final joint public hearing, held on August 12, 2003, and after studying the testimony provided, and the contents of the draft plan, the McMinnville Citizens' Advisory Committee, Planning Commission, McMinnville Urban Area Management Commission, and Yamhill County Board of Commissioners recommended to the City Council that the plan be adopted, subject to certain amendments, and that findings be prepared for their adoption on October 14, 2003. The amendments to the draft plan included the following: 1) That the "Thompson Property" be added to the proposed urban growth boundary expansion; 2) that an amount of land similar to that contained in the Thompson property be excluded from the Southwest sub-area; 3) that all maps and text be revised accordingly; and, 4) that the changes recommended by staff in the memorandum entitled "Response to comments received during McMinnville Growth Management and Urbanization Plan public hearings," dated August 12, 2003, be incorporated into the plan, with the exception of the recommendation pertaining to the exclusion of floodplain land from the proposed boundary expansion (include such land in boundary expansion).

The McMinnville City Council met on October 14, 2003, to review and adopt the findings and statement of reasons in support of the "McMinnville Growth Management and Urbanization Plan" as provided herein; now therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That the "McMinnville Growth Management and Urbanization Plan," dated May 2003, as described and amended in the following description, a copy of which is attached hereto and incorporated herein by this reference, is hereby adopted as part of the McMinnville Comprehensive Plan, Volume I. Further:

- (a) Appendix A, "Population and Employment Justification," is adopted as an update to the "McMinnville Residential Land Needs Analysis," dated May 2001, and the "McMinnville Economic Opportunities Analysis," dated November 2001.
- (b) Appendix B, "Revised Buildable Land Analysis," is adopted as an update to the "McMinnville Residential Land Needs Analysis," dated May 2001, and the "McMinnville Economic Opportunities Analysis," dated November 2001. Table 13 of Appendix B is further amended to reflect revised employment forecasts, and Table 24 is amended to reflect adjustments to public and semi-public land needs as described in the Planning Department's "Response to comments received during McMinnville Growth Management and Urbanization Plan public hearings memorandum dated August 12, 2003.

- (c) Appendix C, "Alternative Sites Analysis," is adopted to satisfy the requirements of ORS 197.298 and the requirements of Statewide Planning Goals 2 and 14.
- (d) Appendix D, "Proposed Plan Policy Amendments," is adopted, amending chapters IV (Economy of McMinnville), V (Housing and Residential Development), VI (Transportation System), and IX (Urbanization) of Volume II of the McMinnville Comprehensive Plan that are required in order to implement the "McMinnville Growth Management and Urbanization Plan." Plan policies 31.00, 33.00, 36.00(3), 45.00, and 188.02 are further amended as follows:
1. Amend plan policy 31.00 to read as follows:

"31.00 Commercial developments shall be designed in a manner which minimizes **bicycle**/pedestrian conflicts . . ."
 2. Replace plan policy 33.00 with the following:

"33.00 Encourage efficient use of land for parking; small parking lots and/or parking lots that are broken up with landscaping and pervious surfaces for water quality filtration areas. Large parking lots shall be minimized where possible. All parking lots shall be interspersed with landscaping islands to provide a visual break and to provide energy savings by lowering the air temperature outside commercial structures on hot days, thereby lessening the need for inside cooling."
 3. Amend plan policy 36.00(3) to read as follows:

36.00 The City of McMinnville shall encourage a land use pattern that: [. . .]

(3) Provides **efficient use of land for** adequate parking areas." . . .]
 4. Amend plan policy 45.00 to read as follows:

"45.00 The City of McMinnville shall ~~study the feasibility of developing~~ **provide for** bicycle and pedestrian paths and/or lanes between residential areas and designated Neighborhood Activity Centers and between residential areas and downtown McMinnville."
 5. Amend plan policy 188.02 to read as follows:

"188.02 The following uses should shall be avoided in a neighborhood activity center: [. . .]

- (e) Appendix E, "Proposed Zoning Ordinance Amendments," is adopted, thereby amending Chapters 17.06, 17.12, 17.15, 17.18, 17.21, 17.33; creating a new Chapter 17.22; and, implementing a new "Neighborhood Activity Center Planned Development Overlay." Sections 17.12.060, 17.15.060, 17.18.060, and 17.21.060 of the McMinnville zoning ordinance are further amended by adding the following sentence to the existing text:

"This requirement does not apply to accessory dwelling units."

- (f) Appendix F, "Proposed Comprehensive Plan Map Amendments and Zone Changes," is adopted, thereby amending the City's comprehensive plan map and zone map and implementing certain planned developments as follows:

1. That the properties described as parcels 1 and 2 as shown on Figure 1, which is attached hereto and incorporated herein by this reference, be amended from an industrial designation to a commercial designation.
2. That the properties described as parcels 3, 4, 5, 6 and 18 as shown on Figure 2, which is attached hereto and incorporated herein by this reference, be amended from an industrial designation to a residential designation.
3. That the property described as parcel 7 as shown on Figure 3, which is attached hereto and incorporated herein by this reference, be amended from an industrial designation to a residential designation.
4. That the property described as parcel 9 as shown on Figure 4, which is attached hereto and incorporated herein by this reference, be amended from a mixed use designation to a residential designation.
5. That the property described as parcel 10 as shown on Figure 5, which is attached hereto and incorporated herein by this reference, be amended from a mixed use designation to a residential designation; and that the properties described as parcels 11, 12, 13 and 14 as shown on Figure 5 be amended from a mixed use designation to a commercial designation.

6. That the property described as parcel 8 as shown on Figure 6, which is attached hereto and incorporated herein by this reference, be amended from a mixed use designation to an industrial designation; and that the properties described as parcels 15 and 16 as shown on Figure 6 be amended from a mixed use designation to a residential designation.
7. That the property described as parcel 17 as shown on Figure 7, which is attached hereto and incorporated herein by this reference, be amended from a residential designation to a commercial designation; and that the properties described as parcels 19 and 20 as shown on Figure 7 be amended from an industrial designation to a residential designation.
8. That the properties described as parcels 1 and 2, as shown on Figure 1 of this Ordinance are hereby rezoned from an M-1 (Light Industrial) zone to a C-3 (General Commercial) zone.
9. That the property described as parcel 3, as shown on Figure 2 of this Ordinance is hereby rezoned from an M-1 PD (Light Industrial Planned Development) zone to an R-3 (Two-Family Residential) zone. That the properties described as parcels 4, 5 and 6, as shown on Figure 2 of this Ordinance are hereby rezoned from an M-1 PD (Light Industrial Planned Development) zone to an R-4 PD (Multiple-Family Residential Planned Development) zone subject to the following conditions:
 - i. Residential density shall be limited to no more than a total of 25 dwelling units for these three parcels, combined, unless an approved secondary access is provided to the satisfaction of the McMinnville Fire Department.
 - ii. Prior to development of these parcels, the owner(s) shall submit a master plan to the McMinnville Planning Department for review and approval. The master plan shall clearly depict proposed land uses, density, circulation, and other details deemed necessary by the City. The plan shall include all three parcels. To the extent practicable, the master plan shall be consistent with the goals, principles, and design concepts contained in the "Brickworks Property Redevelopment Study," May 1999.
10. That the property described as parcel 18, as shown on Figure 2 of this Ordinance is hereby rezoned from an M-2 (General Industrial)

zone to an R-4 PD (Multiple-Family Residential Planned Development) zone. Vehicular access to this property shall be limited to Chandler Avenue.

11. That the property described as parcel 7, as shown on Figure 3 is hereby rezoned from an M-2 (General Industrial) zone to an R-4 PD (Multiple-Family Residential Planned Development) zone.
12. That the property described as parcel 9, as shown on Figure 4 of this Ordinance is hereby rezoned from an AH (Agricultural Holding) zone to an R-4 PD (Multiple-Family Residential Planned Development) zone subject to the following conditions:
 - i. Vehicular access shall be coordinated through adjacent properties.
 - ii. High-density housing shall be encouraged.
 - iii. Development shall require buffering from adjacent industrially zoned land to the west and from adjacent commercially zoned land to the south.
13. That the property described as parcel 10, as shown on Figure 5 of this Ordinance is hereby rezoned from an AH (Agricultural Holding) zone to an R-1 PD (Single-Family Residential Planned Development) zone. That the properties described as parcels 11, 12 and 14, as shown on Figure 5 of this Ordinance are hereby rezoned from an AH (Agricultural Holding) zone to a C-3 (General Commercial) zone. That the property described as parcel 12, as shown on Figure 5 of this Ordinance is hereby rezoned from an AH (Agricultural Holding) zone to a C-3 PD (General Commercial Planned Development) zone, subject to the following conditions:
 - i. No direct access onto Highway 18 is permitted.
 - ii. All business, service, repair, processing, and merchandise displays shall be conducted wholly within an enclosed building except for off-street parking and loading, temporary display and temporary sales provided it is undercover of a projecting roof and does not interfere with pedestrian or automobile circulation, and outside storage of non-retail goods, provided it is screened from visibility beyond the property line.
 - iii. That a minimum of 20 percent of the site shall be landscaped.

- iv. That uses shall be limited to those permitted by Chapter 17.45.030(A) and (C) (farming, and sewage pump station), and Chapter 17.45.040(A), (C), and
14. That the property described as parcel 8, as shown on Figure 6 of this Ordinance is hereby rezoned from an AH (Agricultural Holding) zone to an M-2 PD (General Industrial Planned Development) zone.
15. That the property described as parcel 17, as shown on Figure 7 of this Ordinance is hereby rezoned from an R-4 (Multiple-Family Residential) zone to a C-3 PD (General Commercial Planned Development) zone. That the properties described as parcels 19 and 20, as shown on Figure 7 of this Ordinance are hereby rezoned from an M-2 (General Industrial) zone to an R-4 (Multiple-Family Residential) zone.

Section 2. That the "McMinnville Growth Management and Urbanization Plan – Findings," dated October 14, 2003, a copy of which is attached hereto and incorporated herein by this reference, is hereby adopted as part of the McMinnville Comprehensive Plan, Volume I.

Section 3. That the McMinnville comprehensive plan map is amended to reflect a revised urban growth boundary consistent with the boundary contained in the "McMinnville Growth Management and Urbanization Plan," as amended by the addition of the Thompson property and deletion of parcels in the southern portion of the Southwest sub-area, a copy of which is attached hereto and incorporated herein by this reference.

Section 4. That the "McMinnville Growth Management and Urbanization Plan" is further amended to reflect changes to certain information, text, tables, and maps as caused by the inclusion of the Thompson property into the proposed urban growth boundary, and removal from the proposed boundary the two parcels located in the southern portion of the Southwest Sub-area. These changes are summarized in the document entitled "McMinnville Growth Management and Urbanization Plan – Addendum," dated October 14, 2003, a copy of which is attached hereto and incorporated herein by this reference.

Section 5. That this ordinance shall be subject to the terms and conditions of Ordinance No. 3823 entitled, "Initiative and Referendum," for a period of thirty (30) days.

Passed by the Council this 14th day of October 2003, by the following votes:

Ayes: Aleman, Hansen, Olson, Springer

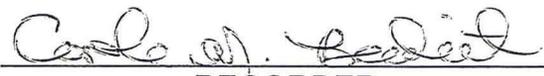
Nays: _____

Approved this 14th day of October 2003.



MAYOR

Attest:



RECORDER

Approved as to form:



CITY ATTORNEY

Court of Appeals Record, please go to the link below:

<https://www.mcminnvilleoregon.gov/planning/page/court-appeal-records>