Attention: Periodic Review Specialist 31 January 2019
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301
Email: DLCD.PR-UGB@state.or.us
re: Objections to Metro regarding Ordinance 18-1427 (UGB Amendment)

1) MY PREVIOUS INVOLVEMENT:

I submitted a 23-page document To Metro in objection regarding the Beaverton application for UGB expansion on Cooper Mountain in its current stated position (as of that time). I also testified in the public hearing on 7 December 2018. I held several neighborhood meetings to educate residents and obtain their feedback. And I led a team to collect 285 signatures in opposition to the UGB expansion on Cooper Mountain. I also testified at the Oregon Transportation Bill Hearings and Town Halls to inform our legislators of the intense need for transportation improvements in the High Growth Areas around Cooper Mountain. Note: I also concur with Michael J. Donoghue's letter of Objection to you so I will try not duplicate – here are my additional specifics:

2) OBJECTIONS to Metro UGB Ordinance:

a) While there were several issues in my written testimony, the key focus of my objection is the lack of adequate protection for the many resources providing various forms of upland habitat. What is lacking from the UGB decision Ordinance is enforceable verbiage to protect "NON-RESOURCE LAND" in Urban Reserves or within UGB. What's at issue is, until the County or City agencies have the resources to fund the studies to identify, document and continually update the Significant Natural Resource (SNR) spaces within their governance, there is no holding place nor protection for potential candidates. As a matter of fact, I cannot find any documentation referring to Non-Resource Land in any of the related maps used by the governing agencies. My 23-page report documented a 25-acre section of edge habitat with 96% tree cover (per i-Tree app), another area with pond and trees as well as a large area of Oak and prairie. All of these are on different sections of the mid-Cooper Mountain section now being moved into the UGB. These areas may or may not qualify for SNR, but they can clearly be demonstrated as *resource values* – for wildlife habitat, at the very least. And these areas currently are not exempted from "tree-clearing and medium density" development. Note: currently, Washington County has no tree code.

b) My written paper also addressed the fact that the Washington County GIS maps are inaccurate and outdated as they relate to water sources. I walked my property with several agency planners and we could see some of these water sources had with moved with time or new springs had erupted.

c) There is no protection for wildlife corridors and connectivity. Cooper Mountain has a clear corridor for wildlife from the Cooper Mountain Nature Park all the way down to the Tualatin River. The SCM developments have already bisected (and/or plan to further bisect) the major corridor, but there are several sections which can still be saved with protection and wildlife crossings.

d) Washington County 2018-2019 & 2019-2020 Work Plans are beginning to address the SNR issue as well as laying out the framework for potential tree protection in unincorporated areas. But this is still in the future. The City of Beaverton is planning on resourcing the natural resource studies for the area. But there is no provision for protection of Non-Resource Land until these areas are fully protected as SNR. And the Community Plans written to-date have had only soft language to allow for this protection thus leaving agency planners and Planning Commissions with no enforceable policy with penalty or consequences to developers.
e) Mitigation calculations are based on current values not on amortized value of carbon storage over time, oxygen production over time, etc. The amortized values are far higher than the usual mitigation dollars assessed. And the value of a wetland 5-10 miles away from a current wildlife corridor does not provide the connectivity essential for biodiversity.

I am on record as the leader of the 175th Neighborhood Association regarding the lack of Transportation infrastructure for Cooper Mountain and the High Growth Communities. I am doing all that I can to ensure that Washington County and Metro will forge ahead on that issue at a blistering pace to reduce the pain level that the existing residents are already encountering. As can be seen by the accompanying Washington County LUT Annual Plan, they are conducting a multi-year study, so there will be no immediate solutions. We know that several intersections fall below Oregon mobility standards now – even before the new homes are built in SCM and before the new High School is in full capacity. There appear to be no criteria for slowing development to meet Oregon State mobility standards.

3) **Recommend a specific change that would resolve your objection**

Ordinance 18-1427 (UGB Amendment) should have Conditions of Approval:

a) As part of the Washington County 2019-2020 LUT Annual Plan, identify the Non-Resource Land on Cooper Mountain – and any other areas subject to impending development. All future SNR studies include the Non-Resource Land areas and clarify Land Use with appropriate enforceable protections. All future UGB decisions should have information regarding Non-Resource Land available, including criteria.
b) The Metro UGB decision itself needs enforceable statement of protection of resources. One example: Oregon has but 1% of its original oak population remaining – and Cooper Mountain has quite a few oaks and prairie sections in the new UGB expansion area. There should be verbiage to protect these endangered species and their environs.
c) All cities' Community Plans need more enforceable verbiage regarding protection of resources. The verbiage is too soft and the good intentions of the planners and the community are overturned when challenged. Currently, the words *should* and *could* are not enforceable and when actual development happens, the planning agencies and Planning Commissions must yield as there is not enforceable policy to empower them. There needs to be consistent state-wide table of penalties and consequences for transgressions with clear-cut definitions to assist decision-making bodies. It was very disconcerting for me when I heard a City's Planning Commission ask the question, "Are we allowed to protect that wetland?"
d) Revisit Metro Title 13 as it relates to protection of headwaters This statute has no identification/protection for necessary headwaters. Particularly at risk on Cooper

Mountain is the headwaters of McKiernan Creek (flowing to the Tualatin River) which begins around the Cooper Mountain Nature park.

e) Establish state policy/criteria and ensuing UGB Ordinance Condition of Approval that transportation mobility standards must be attainable within (x) years of development approvals – with penalties and consequences if not met.

Below I have included excerpts from the Department of Land Conservation and Land Development regarding Non-Resource land just for easy reference – as well as an excerpt from the DRAFT of the Washington County Land Use and Transportation 2019-2020 WorkPlan Regarding Significant Natural Resources to help asses status of their endeavors.

Thank You for your attention and I would be very happy to provide any supporting documentation or to arrange any sessions with residents to assist in this endeavor. I do believe that the new Beaverton and Washington County Planning Communities are now moving in the right direction but they definitely need the enforceable policy to back them up. And, as 90% of the residents will agree, we need to manage this growth – slow it down to allow for the infrastructure and the protection of natural resources to maintain quality of life for the existing and future residents of Oregon while supporting the economic growth of our wonderful state.

Please feel free to contact me at: (503) 310-1560.

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https://www.oregon.gov/lcd/FF/Pages/Non-Resource-Land.aspx

NON-RESOURCE LAND:

Counties may designate rural land that is not farm or forest land as "non-resource land." This is land that, for a variety of reasons, does not satisfy the definition of farm or forest land contained in statewide planning goals and rules. It therefore is not subject to the planning and zoning requirements in Statewide Planning Goal 3 - Agricultural Lands or Statewide Planning Goal 4 - Forest Lands.

Goals besides those for agricultural and forest lands continue to apply, though. The land may have other resource values – for wildlife habitat, for example. A statute identifies these lands as "non-resource lands," but since they could have other resource values, "rural resource land" has been adopted in some circles as a more apt name.

Non-resource land has low productivity for raising crops, livestock, and forest trees. This is because of physical properties of the soil and climate. Land made unsuitable for farming or forestry by surrounding development can be designated as an "exception area" by the county instead.

When a county designates non-resource land, it must be consistent with state law.

- Goal 14 - Urbanization: requires that non-resource land be maintained as rural in character, that allowed uses not interfere with orderly and efficient development of nearby urban areas, and that uses will not conflict with commercial farming or forestry activities.
- Goal 5 - Natural Resources, Scenic and Historic Areas, and Open Spaces: requires that a county continue to protect fish and wildlife habitat and other natural resources.
- Goal 6 - Air, Water and Land Resources Quality: requires that non-resource land designations consider the carrying capacity of the air, water, and land.
- Goal 7 - Areas Subject to Natural Hazards: calls for counties to address risks to life and property from natural disasters and hazards.

All of these goals influence whether land receives a non-resource designation and what uses get allowed by zoning.

Designating Non-resource Land on the Comprehensive Plan

Statewide Planning Goal 3 defines what needs to be included in an inventory of agricultural lands in a county comprehensive plan. Agricultural lands have soils capable of producing farm crops or supporting livestock. Lands with less productive soils may also be considered agricultural land if they are necessary for farm practices or are near more productive soils.

Statewide Planning Goal 4 applies to forested land that is suitable for commercial forest uses including adjacent or nearby lands that are necessary to permit forest operations or practices. It also applies to other forested lands that maintain soil, air, water and fish and wildlife resources.

Land that does not satisfy the definition of either agricultural or forest land is eligible to be designated non-resource land on a county comprehensive plan.

Zoning Non-resource Land

Counties designate most rural land for farm or forest use in accordance with Statewide Planning Goal 3 or Goal 4. Exclusive farm use and forest zoning helps preserve land for farm and forest industries, key employers and producers in our state. Some rural land is not farm or forest land, however. Counties

have designated some of this as "non-resource land" on comprehensive plans and given it zones that permit uses not allowed in exclusive farm use or forest zones.

As introduced above, the zoning that carries out a non-resource land designation must consider a range of factors besides unsuitability for farming and forestry. Natural resource values such as water quality and wildlife habitat are also supported by rural lands. The uses a county chooses to permit, and level of intensity of those uses, must be limited to preserve these values.

Several counties in the state have adopted non-resource land zoning. These zones generally permit housing, so they would be considered rural residential zones. Counties permit creation of new parcels in non-resource land zones that are smaller than typically is allowed in exclusive farm use or forest zones.

Washington County DRAFT LUT Annual Work Plan 2019 – 2020 EXCERPT –

S1.3 Significant Natural Resource regulations assessment Implementation of issue paper recommendations regarding County Significant Natural Resources regulations.

Recommendations could include changes to County regulatory process and requirements, mapping, CDC requirements, community plans, or other elements of the Comprehensive Plan. A particular focus will be on how upland wildlife habitat areas have historically been considered. Issue paper and follow-on work will address 11/14/18 LUBA ruling on case No. 2018-089 and the need to develop clear and objective standards. Work will consider Beaverton request regarding tree protection and protection of significant natural resources in the Cooper Mountain new UGB area prior to annexation by the city. This work will also review past work on tree protection regulations and review/compare tree protection regulations of other jurisdictions.

Response to community concerns. Issue paper to be released with intent to seek Board direction. Depending on the recommendations of the issue paper, some aspects of the follow-on work may be longer term. The city of Beaverton proposes to work with the County to identify appropriate techniques and jurisdiction on their request.

S1.4 Cooper Mountain transportation study Identify potential alignments and funding sources for transportation connections between South Hillsboro, South Cooper Mountain, and River Terrace.

This study will evaluate both existing and potential new roads between 175th Avenue and River Road, including an option raised by community members for an “around the mountain” route that would reduce traffic on 175th Avenue and provide more direct connections.

Grant funding secured for future phases (Task L1.2). Multi-year project. Study builds on findings from the Transportation Futures Study. Ordinance in 2019, with potential future ordinance in 2020.

From:	Fran Warren
To:	DLCD PR-UGB
Subject:	Objection to UGB Decision
Date:	Thursday, January 31, 2019 2:12:08 PM
Attachments:	Fran DCLD objection to UGB Decision.pdf

Please record my submission of this objection to the Metro Decision on Ordinance 18-1427 (UGB Amendment) of 13 December 2018.

Please let me know if there is anything further that I need to do to register this objection. Thank You, Fran Warren