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January 9, 2025

Via Hand Delivery

Barbara Bateman, Director
Oregon Department of Land Conservation and Development
635 Capitol Street Northeast Suite 150
Salem, Oregon 97310

Re: Metro Council Ordinance 24-1520, Sherwood Urban Growth Boundary Amendment

Dear Director Bateman,

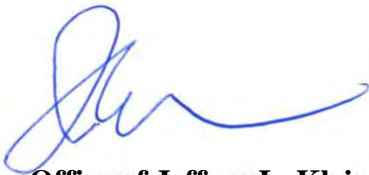
This letter presents the Objections pursuant to OAR 660-025-140 of the **West of Sherwood Farm Alliance, David Nemarnik, Claudio Ponte and Juliet Ponte**, to the Metro Urban Growth Boundary Amendment Decision, Metro Council Ordinance No. 24-1520.

The original Objections are hereby handed to the Department and/or its legal counsel today, the choice being dependent upon accessibility and front desk staffing. An electronic copy has been or will be transmitted as a courtesy for the Department.

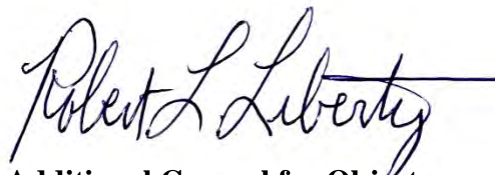
A copy has also been transmitted to Roger Alfred, Metro's legal counsel.

For the Department and the Commission's convenience, we have provided a table of contents on the following page.

Respectfully submitted,



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The Statewide Importance of This Proceeding

The decisions the Department of Land Conservation and Development (DLCD) and the Land Conservation and Development Commission (LCDC) will make on the parties' objections to the Metro Council's approval of this 1,291-acre UGB expansion at the southwestern edge of the Metro regional UGB, will have statewide, not just regional importance. The Department and Commission will set statewide precedents when you answer the questions before you:

- What is a sound factual basis for a UGB expansion?
- In making the decision about whether and where to expand a UGB, do Metro and other local governments have to consider whether the housing which would be built, whether in proposed UGB expansion areas or through infill and redevelopment, will be made available at prices and rents affordable to most Oregonians (households earning 120% or less of median income)?
- Do elected officials have the responsibility to carry out the planning duties assigned to them by law? For example, must they actually consider, discuss and choose among alternative approaches and locations for meeting urban land needs? Or can they rely on a legal fiction—a putative fig leaf—that they fulfilled those responsibilities through their staff's creation of a post-hearing report that those officials in turn never reviewed or discussed?
- Does *Clark v. Clackamas County* stand for the proposition that Metro or any other local government can limit its review of alternative measures and alternative locations to meet a regional need for land for housing and employment to a single urban reserve?
- Do Goal 14, the Goal 14 Administrative Rule and the UGB provisions in ORS Chapters 197 and 197A require the consideration of alternative lands, parcels or areas to meet an urban land need? Or do they allow local government to compare and choose only *entire* urban reserve areas?
- Do any parts of LCDC's Climate Smart and Equitable Communities program apply to decisions on whether to expand a UGB?
- Does Metro's Urban Growth Management Functional Plan, acknowledged by LCDC, require it to consider the importance of farmland in its urban reserve areas when choosing between alternative UGB expansion areas?
- Does Oregon's compact urban growth policy have the force of law, or not?
- Can landowners eliminate Goal 5 protections of upland habitat and exempt themselves from Metro's LCDC-acknowledged Title 13 regulations, simply by clearcutting their land?
- What does Goal 1 mean and require in terms of providing citizens with a fair and transparent opportunity to participate in land use proceedings, as compared to more

powerful government officials and development interests who contribute heavily to local officials' campaigns?

Metro's Decision-Making Process

The objections presented by the West of Sherwood Farm Alliance (Alliance) are voluminous. This is not an instance of simply overdoing it, or lawyers with too much time on their hands. The number and nature of the Alliance's objections reflect the actual process and politics of the Metro Council's decision making. That reality may be obscured by the volume of decision points and the length of the record. Thus, we need to be clear at the outset.

In 2023 the Metro staff and Council decided that they would focus their UGB review process on any submitted concept plans for UGB expansions in the urban reserves around the region. They did not create a parallel process to consider how urban land needs might be met through better use of land already inside the UGB.

In late 2023, Sherwood presented a version of its Sherwood West Concept Plan UGB expansion proposal to Metro. Within a month, at the very end of 2023 and beginning of 2024, Sherwood's staff began making presentations to Metro's various advisory committees and meeting with Metro staff and Councilors. This process was aided by the fact that Sherwood's mayor was an active member of the Metro Policy Advisory Committee (MPAC), speaking up consistently for actions that would result in the endorsement of Sherwood's expansion.

This advocacy proceeded concurrently with the drafting of Metro's Urban Growth Report (UGR) and a refinement to the Sherwood West Concept Plan. Metro provided grants to help fund the changes to the Concept Plan.

On April 3, 2024, Sherwood formally submitted its revised Sherwood West Concept Plan to Metro. This turned out to be the only UGB expansion concept plan Metro received. Metro nonetheless continued to adhere to its original approach. Thus, this single proposal would be the sole focus of its deliberations.

Thereafter, the Sherwood West proposal proceeded in tandem with and in coordination with Metro staff's analyses and recommendations. On the very day the draft Urban Growth Report (UGR) was released for public comment, a Metro Councilor announced his strong endorsement of the Sherwood UGB expansion. He had received tens of thousands of dollars of campaign contributions from development interests.

Thereafter, the UGR was revised to closely fit and justify the Sherwood West Concept Plan.

On August 26, 2024, Metro's Chief Operating Officer announced her endorsements of the Sherwood West UGB expansion.

After a public hearing on that recommendation on September 26 (at which Metro's Committee of Racial Equity excoriated Metro for marginalizing them and revealing an indifference to their own racial equity commitments) the Metro Council tentatively endorsed the COO recommendation by a 6 to 1 vote on October 8.

It was not until 10 days after the Council's October 8 deliberation that Metro staff published on its website 720 pages of analysis of alternative urban reserves. This only took place after a representative of a Stafford property owner had objected to the way Metro had confined itself to reviewing only the Sherwood West expansion proposal.

After the final public hearing on November 21, Metro staff, working with Sherwood staff, submitted additional material to the record to rebut statements made by opponents at the September hearing. Once again, this highlighted the nature of the work of Metro Council and staff; Metro was not a neutral judge of the merits of the Sherwood UGB expansion, but an advocate for it, reflecting a top-down decision made long before.

The final Council vote to approve this expansion, on December 5, 2024, was a mere formality.

Metro Council's decision was more the result of a political process than the result of an objective planning process based upon Oregon law and Metro's own requirements. This in turn colored its proceedings and provides the backdrop for the Alliance's objections.

West of Sherwood Farm Alliance and Supporters' Participation in Metro's Proceedings

OAR 660-025-140(2)(d) requires persons filing objections to Metro's decision to "[d]emonstrate that the objecting party participated orally or in writing in the local process leading to the final decision."

The minutes of the [May 22, 2024 Metro Policy Advisory Committee meeting](#) record oral testimony in opposition to the Sherwood West Concept Plan (agenda item "6.3 Presentation of City UGB Expansion Proposals") by persons affiliated with, supporting or in agreement with the West of Sherwood Farm Alliance:

"Jeff Kleinman, attorney representing West of Sherwood Farm Allianace [sic]"

"David Nemarnik, Sherwood resident"

"Leif Hanson, resident of Sherwood"

"San Inouye, resident of Sherwood"

The [minutes of the June 26, 2024 Metro Policy Advisory Committee meeting](#) record testimony in opposition to the Sherwood West UGB expansion by:

David Nemarnik, Sherwood, read testimony from Jeffert [sic] Kleinman, the attorney representing the West of Sherwood Farm alliance.

Emily de Hayr, Sherwood

Juliet Ponte, Sherwood

Steven A Gotter, Sherwood Farm Alliance

Brian Fields, Sherwood

The [minutes of the July 24, 2024 Metro Policy Advisory Committee](#) record oral testimony in opposition to the Sherwood West UGB expansion by:

Julie Horowitz, Sherwood resident

Al Pearson

Peter Dinsdale, Sherwood resident

The minutes of the September 26, 2024 Metro Council meeting record oral testimony in opposition to the proposed Sherwood West UGB expansion from:

David Nemarnik

Diane Jarvis

Todd Christiansen

The [minutes of the November 21, 2024 Metro Council meeting](#) record testimony on Metro Ordinance 24-1520 by:

“Jeffery Kleinman, MRC: Testified in opposition to the Sherwood West expansion”

Written, including emailed testimony, was submitted by:

Claudio Ponte, November 20, 2024, email to Roger Alfred and Ted Reid

Laurie Marsh, November 20, 2024, email to Roger Alfred and Ted Reid

Alan and Jo Pearson, November 20, 2024, email to Roger Alfred and Ted Reid

George and Jean Schroeder, November 20, 2024, email to Roger Alfred and Ted Reid

Karla Bauer, November 21, 2024, email to Roger Alfred and Ted Reid

Brad Allan, November 21, 2024 and November 26, 2024, emails to Roger Alfred and Ted Reid

This list is not necessarily comprehensive but is sufficient to demonstrate party status of the West of Sherwood Farm Alliance and its supporters.

In these objections the West of Sherwood Farm Alliance and the individual objectors will be referred to as “the West of Sherwood Farm Alliance” or “the Alliance.”

Objections to Metro's UGB Expansion Decision

Objection A

The Metro Council itself did not evaluate alternative sites or consider reasonable alternative measures to use land already in the boundary to meet identified regional needs as required by state statutes, Goal 14 and appellate court precedent.

1. State statutes, statewide Planning Goal 14, "Urbanization," as interpreted by LCDC and the Court of Appeals, Metro's Urban Growth Management Functional Plan require the evaluation of alternative boundary locations and reasonable measures to use land inside the UGB.

Metro's urban growth boundary capacity analysis must comply with statewide planning Goal 14, "Urbanization" (emphasis added):

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197A.320 or, for the Metropolitan Service District, ORS 197.298, and with consideration of the following factors:

- (1) Efficient accommodation of identified land needs;*
- (2) Orderly and economic provision of public facilities and services;*
- (3) Comparative environmental, energy, economic and social consequences; and*
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.*

Goal 14 also requires a showing of:

- (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local for cities applying the simplified process under ORS chapter 197A, a 14-year forecast;*
- (2) In determining need, local governments may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary."*

The same need factors are found at ORS 197A.350(6)(a) and (b.)

Metro incorporates these requirements into its LCDC-approved Urban Growth Management Functional Plan (a part of the Metro Code):

*Urban Growth Management Functional Plan
Metro Code 3.07.1425 Legislative Amendment to the UGB - Criteria*

(a) This section sets forth the factors and criteria for amendment of the UGB from state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) and the Regional Framework Plan.

....

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

(Emphases added.)

The Metro Council has stated in this and prior proceedings, that it gives great weight to concept plans based on its experience with the Damascus urban growth boundary area, as was discussed in *Clark v. LCDC* 327 Or App 708 (2023). But in that case LCDC also confirmed that Metro is still required consider alternative locations in other urban reserve areas for meeting the need on land inside the UGB. *Clark v. LCDC* 327 Or App at 715 (2023). It is worth noting that the Clark case concerned the evaluation and comparison of four different UGB expansion areas.

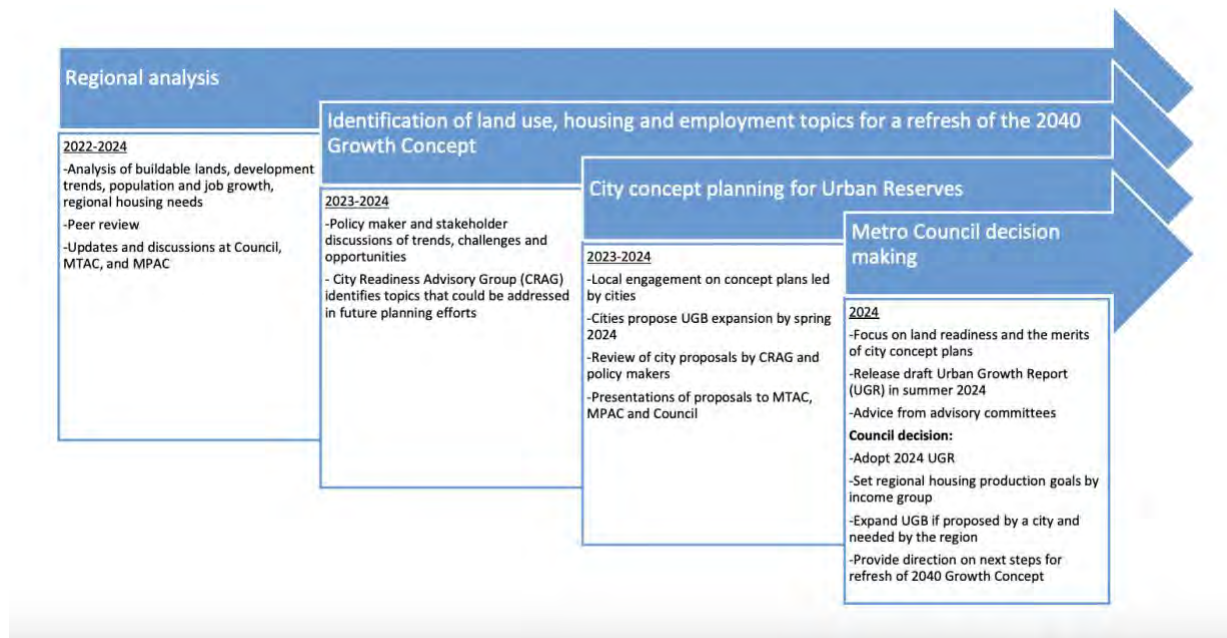
2. The Metro Council itself never evaluated alternative sites, nor did it consider reasonable measures to meet the regional needs identified in the UGR on land within the existing UGB.

The agendas, minutes, video recordings and timeline of Metro's UGM decisions leaves no doubt that the Metro Council never evaluated alternative sites under the Goal 14 or its own Urban Growth Management Functional Plan locational factors in other urban reserves or considered reasonable measures to make better use of land already inside the UGB, before approving the Sherwood West Concept Plan.

As detailed below, there was never any Metro Council discussion and evaluation of alternative sites and measures at its prior meetings, nor at the meetings of its many advisory committees.

There were, however, multiple presentations of the Sherwood West Concept Plan, which was submitted to Metro in November of 2023. That was followed by multiple presentations to the Metro Council and its advisory committees starting in December 2023, one year before the Metro Council's approval of that proposal. (See timeline.)

On, February 22, 2023 Metro staff presented to MPAC a summary of the process that would be used in the 2024 urban growth management (UGM) decision. It included this flow chart:



Under the heading “City concept planning for Urban Reserves” it notes “Cities propose UGB expansion by spring 2024” followed by, not preceded by, “Release of draft Urban Growth Report (UGR) in summer of 2024.”

That document also stated “staff proposes that this process is centered on city readiness. As such, there will be a heavy emphasis on the merits of city proposals for concept planned UGB expansions.” *Id.*, at page 3.

The flowchart does not include any reference to consideration of measures to more efficiently use land inside the UGB or to any consideration of a range of alternative sites for locational adjustments, only the presentation and consideration of city expansion proposals.

Metro’s decision in 2023 to limit its consideration of how to meet regional need to submitted applications (concept plans) which was described in the August 26, 2024 Metro Chief Operating Officer/Staff Recommendations, which preceded the publication of the alternative analysis by about 9 weeks:

....in 2010 the Metro Council adopted a policy to only expand the UGB into urban reserve areas that have been concept planned by a local government and that demonstrate readiness to be developed. In the current 2024 UGB cycle, the City of Sherwood is the only city that has prepared a concept plan and proposed a UGB expansion, and they have shown that these elements are in place. Sherwood’s readiness for new urban growth provides an opportunity to address the regional land needs identified in the draft 2024 Urban Growth Report (UGR).

In November 2023, Sherwood transmitted its Sherwood West Concept Plan to Metro.

On December 13, 2023, a year before Metro’s approved the Sherwood West UGB expansion proposal, Sherwood’s planning director presented the Sherwood West Concept Plan to MPAC.

There is no discussion of alternative sites or measures.

On April 3, 2024, Sherwood submitted a revised Sherwood West Concept Plan to Metro,. It is the only proposal submitted before the May 31, 2024 deadline and the only alternative for meeting any land needs to be later identified in the Urban Growth Report.

All subsequent presentations and deliberations were focused on how the Sherwood West Concept Plan could meet the region’s land needs.

On July 9, 2024, Metro staff released the draft Urban Growth Report (UGR) and opened public testimony on it, but not on any alternatives. This was after seven months of various hearings and presentations on the Sherwood West Concept Plan.

The draft UGR contained this list of Appendices, which indicated that the analysis of “Goal 14 UGB candidate expansion areas” and “Metro code analysis of UGB candidate expansion areas” were both “pending.” 2024 Draft Urban Grow Report at page iv.

LIST OF APPENDICES

- Appendix 1: Regional population, household, and employment forecast
- Appendix 1A: Summary of expert panel review of regional forecast
- Appendix 2: UGB capacity estimation methods and results
- Appendix 3: Employment land demand methods and results
- Appendix 4: Employment and economic trends
- Appendix 5A: Residential development indicators
- Appendix 5B: Demographic indicators
- Appendix 6: Employment site characteristics
- Appendix 7: Goal 14 analysis of UGB expansion candidate areas [pending]
- Appendix 7A: Metro code analysis of UGB expansion candidate areas [pending]
- Appendix 8: Regional housing needs analysis
- Appendix 8A: Regional analysis of existing housing needs
- Appendix 9: Sherwood West employment area analysis
- Appendix 10: Housing market filtering assessment

On August 26, 2024, Metro’s Chief Operation Officer (“COO”) published her recommendation supporting adding the Sherwood West Concept Plan area to the UGB. That recommendation did not include any discussion of any alternatives to the Sherwood West Concept Plan.

On September 26, 2024, the Metro Council held its “Public Hearing for 2024 Urban Growth Management: Chief Operating Officer Recommendations.” No alternative sites or infill and redevelopment measures to meet regional need were presented to the public in the staff report and COO recommendation, no alternative sites were presented for public comment.

On October 8, 2024, the Metro Council held a work session show that a majority of the Council made a preliminary decision to approve the Sherwood West UGB expansion, without ever evaluating alternative sites or measures:

Council President Peterson summarized that the majority of Council supported introducing an ordinance to bring Sherwood West within the UGB based on a medium growth forecast. Council President Peterson then requested that the councilors share their thoughts on the conditions of approval.

Council work session [Minutes October 8, 2024](#) at page 5.

On October 18, 2024, about a month after the public hearing, and ten days after the Metro Council’s work session on October 8, 2024 and almost two months after the COO’s recommendation, Metro staff posted on Metro’s website “Appendix 7 to Draft 2024 Urban Growth Report Goal 14 Boundary Location Factors Analysis of UGB Expansion Candidate Areas” and Appendix 7A “Appendix 7A to Draft 2024 Urban Growth Report Metro Code Factors Analysis of UGB Expansion Candidate Areas.” These appendices include the following parts

- Introduction and Methodology
- Attachment 1: Map of Urban and Rural Reserves
- Attachment 2: Goal 14 Boundary Location Factors Analysis Narratives (27, with maps)
- Attachment 3: Goal 14 Boundary Location Factors Analysis Results
- Attachment 4: Mackenzie Utility Analysis Report “2024 UGR Decision Appendix
- Attachment 2 Part 1 Goal 14 Locational Factors”

Appendix 7 and its attachments and Appendix 7A are more than 700 pages in length.

Obviously, the alternatives analysis was not presented to the Councilors at their work session and there was no discussion of alternative sites or measures, because it hadn’t been published.

At the Council at Metro’s November 21, 2024, public hearing Appendix 7 was part of the meeting packet, but Metro staff did not present any alternative sites for evaluation by the Metro Council, did not discuss alternative measures and the Metro Council never discussed any alternative sites or measures. “[Minutes, Thursday, November 21, 2024](#)” pages 9-12, [Metro Council hearing video recording](#) at 54:46 to 2:02:35.

The Metro Councilors did not discuss alternative sites or measures at its December 5, 2024 deliberations when it approved the Sherwood West UGB expansion. [Minutes, Thursday December 5, 2024](#) at pages 7-9; [Video recording of December 5, 2024 Metro Council meeting](#) at 1:44:15 to 2:13:16.

On December 5, 2024, the Metro Council met to deliberate and take action on the draft UGM ordinance endorsing the Sherwood West Concept Plan UGB expansion. There was no staff presentation on alternative sites or measures and no discussion by any of the six Councilors voting in favor about alternative sites or measures. [Video recording of the December 5, 2024 Metro Council meeting](#) 1:44:15 to 2:13:15

The basic error in the Metro Council's decision making was described by Metro Councilor Nolan at the Council's December 5, 2024, meeting:

We are supposed to start by asking do we need more land in the urban growth boundary or is the land we have in the urban growth boundary sufficient to meet our need for housing and employment needs. We started instead with asking for proposals, and one could look at the process then as fitting our answer to the first question into the proposals that we got.¹

[December 5, 2024 Metro Council meeting video](#) at 1:51:37 - 1:52:09

She described how the Metro Council made its decision without consideration of any alternatives:

On our own process made it impossible for this Council to give any authentic consideration or deliberation to alternative opportunities for expansion if there was a need. We said, we put in place a process that we would invite proposals from cities and limit ourselves to consideration of only concept plans submitted by cities making it impossible for us to look at alternatives. Umm. . . We never had a presentation about alternatives here, we never had deliberations, alternatives were never on the agenda for this Council, we never deliberated about them, we never considered it,....

[December 5, 2024, Metro Council meeting video](#) at 1:57:19 – 1:58:15

DLCD and LCDC should not accept the legal fiction, contradicted by all the evidence, that the Metro Council somehow evaluated various alternative measures and sites because their ordinances references documents they never discussed. To accept that fiction would encourage (or more accurately reinforce) the practice of local officials making land use decisions unrelated to the laws, regulations, criteria, standards and policies which should govern them,

3. Proposed remedy.

¹ That remark is supported by this excerpt from Metro's findings of fact and law in support of its decision: "The outcome is a regional capacity deficit for single unit detached and middle housing that totals approximately 3,100 units. The concept plan adopted by the Sherwood City Council for Sherwood West indicates that it can provide a total of 3,120 single family, middle housing, and multifamily units." Exhibit F to Ordinance No. 24-1520 page 10. As noted above, Sherwood proposed that number of housing units in its draft concept plan in December 2023, which is later revised and submitted on in May 2024, two months before the draft UGR was released.

LCDC should remand Metro’s decision and direct Metro staff, advisory committees and the Metro Council to consider sites in alternative Urban Reserves, or various other measures to meet regional needs inside the existing UGB, to the extent LCDC finds those needs have been properly determined by Metro.

The Metro Council’s decision should be remanded to the Metro Council to:

- Identify and evaluate alternative measures that will accommodate all or some of the regional needs (for additional housing and employment identified in the UGR) on land within the UGB.
- Correct the methodology for selecting or eliminating sites within urban reserves for evaluation.
- Apply the criteria used to implement the standards in Goal 14, the Goal 14 Administrative Rule, ORS 197A.350(6) and the Urban Growth Management Functional Plan.
- To the extent a UGB expansion is merited (because of limitations on the effectiveness of alternative measures) to evaluate and select the alternative lands that can be used to satisfy regional needs.

Objections B.1, B.2, B.3., B.4

Accepting (for the sake of argument) the legal fiction that the Metro Council considered the alternatives, Metro’s alternatives analysis is fundamentally flawed.

As described in a prior objection, and as a matter of fact shown in the video recordings of the Council, the Metro Council never considered both alternative sites or alternative measures to meet the regional needs identified in the Urban Growth Report.

However, if for the sake of argument, we accept the legal fiction that the Metro Council “considered” these alternatives sometime after October 18, 2024 by adopting them at their December 5, 2024 final meeting, then what they considered and adopted was fundamentally flawed.

Objection B.1.

Metro failed to consider reasonable measures that would meet regional needs for housing and employment inside the existing UGB.

ORS Chapter 197A.350(6) states:

(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, Metro shall take one or both of the following actions to accommodate the additional housing need:

(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. Etc.

(b) Amend its regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. If Metro takes this action, Metro shall adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197A.348 (2) and data in subsection (5)(a) of this section. Etc.

The same requirements are found ORS 197.296(6)(a) and (b) and LCDC's Goal 14 Administrative Rule.

As described previously, in mid-October Metro staff released 720 pages of “analysis” of 27 Urban Reserves considering their suitability to meet the regional housing and employment need staff had identified months earlier. (Appendices 7 and 7A and attachments.)

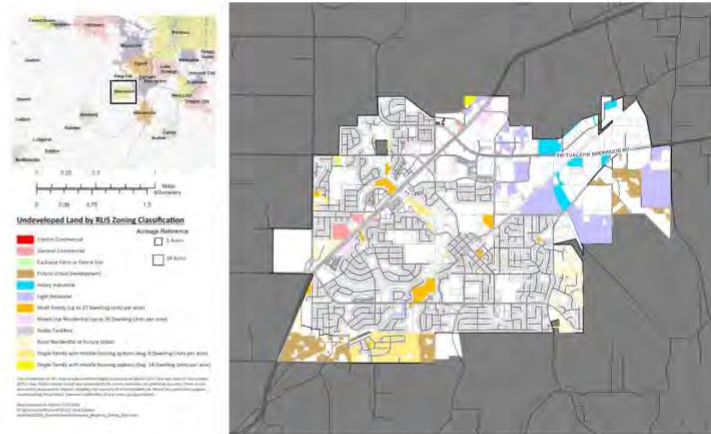
However, there is no comparable analysis of “new measures” that would meet this need without expanding the UGB.

The potential and advantages of meeting these regional needs within the existing UGB are illustrated by the following five examples.

- Example 1: The Alliance’s capacity analysis of vacant land already inside the Sherwood city limits and adjacent UGB expansion areas.

The Alliance commissioned a map of vacant land inside the Sherwood City limits and the Brookman annexation area and Tonquin Employment Area (areas Metro previously added to the UGB next to Sherwood.)

Metro Resource Center Map of Vacant Land in Sherwood Planning Area Prepared August 2024



The Sherwood Planning Area is the land inside Sherwood city limits, the Brookman UGB expansion concept area and Tonquin Employment Area

Vacant Land Available for Housing In Sherwood Planning Area

Metro Generalized RLIS Zoning	Acres
Mixed Use Residential	22.53
Multi Family Residential	36.07
Single Family Residential	146.76
Total Residential	205.35
Future Urban Development	111.43
Rural	18.16
Total Vacant Land Available for Housing	334.94

Based on that information the Alliance prepared a housing and employment capacity analysis of those lands, which it presented to Metro in September.

That analysis used actual housing types built in Sherwood and the region, including affordable housing projects built using Metro housing bond measures, and examples of cottage housing published by DLCD. The analysis adjusted for gross to net acres in picking densities by assuming only 75% of gross acres would become net, developed acres.

Here are the summary tables for how that existing vacant land inside Sherwood and adjoining unincorporated areas inside the UGB could satisfy the regional need for additional housing, and in types of housing that better meet regional household incomes:

Middle Housing Vacant Land Capacity

Home type	acres	homes
100 ADUs with 2% of existing 5000 sf homes; 50 (4%) with 1,234 new SF homes	0	150
Cottage clusters at 24 homes/acre gross density	10	240
Duplexes on 6,000 sf lots homes/acre gross density	15	174
Three-plexes on 7,200sf lots at gross density	15	272
Four-plexes on 7,200 sf lots at gross density	10	116
Total Middle Housing	50	953

Sherwood Vacant Land Capacity for Housing

Home type	Acres	Homes	Share
Single-family detached	200	1,859	41%
Single-family attached	20	460	10%
Middle housing homes	50	953	21%
Market Rate Multi-family homes	50	1,300	28%
Affordable MF homes for farmworkers, teachers, clerks	9	410	9%
Totals	329	4,572	100%

DLCD should review the details of the capacity analysis to confirm that the examples and assumptions were reasonable.

Obviously, there is no need to assume all regional need could be met within Sherwood and adjacent areas inside the UGB. But it does illustrate what modest amount of land and reasonable changes to zoning and incentives for infill and redevelopment could meet the region's needs.

- Example 2: The analysis of the results of the first year of implementation of Portland's Residential Infill Project (RIP) showed dramatic shifts in the volumes, type, prices and densities of housing built under those regulations.

In 2023 Portland commissioned a report on the effects of its comprehensive zoning reform effort, the Residential Infill Project (RIP.) The RIP incorporates many of the same residential zoning reform requirements adopted by the 2019 legislature, so these results have relevance to all other cities in the region.

The report titled "RESIDENTIAL INFILL PROJECT Year-One Report" was published June 27, 2023, about six months before Metro officially began its urban growth management decision process.

The report, which the Alliance shared with Metro, showed how liberalization of Portland's residential zoning yielded dramatic shifts in the volume, type, prices and densities of housing built under the new regulations.

The "key takeaways" are reproduced here:

Critical Takeaways

- Excluding ADUs, the **majority of housing units** permitted in the R2.5, R5, and R7 zones in the first year since adoption of RIP were in Middle Housing projects.
- **Fourplexes** accounted for more than $\frac{3}{4}$ of middle housing units in these zones.
- Middle housing uses land nearly **three times more efficiently** than single houses.
- **ADUs are still an important part of the housing mix**, producing an equal number of units as middle housing.
- But unlike ADU's, **over 99% of middle housing units had 2 or more bedrooms**, enabling growing or multigenerational households.
- Building size limits imposed by RIP have **prevented very large, and more expensive single dwelling homes** from being built.



Image Source: Zillow

4

The table below shows that during the first year of the program Portland issued permits for 646 housing units, of which 53% (342) units were for the type of housing units not allowed under prior zoning.

RIP PERMIT DATA ANALYSIS

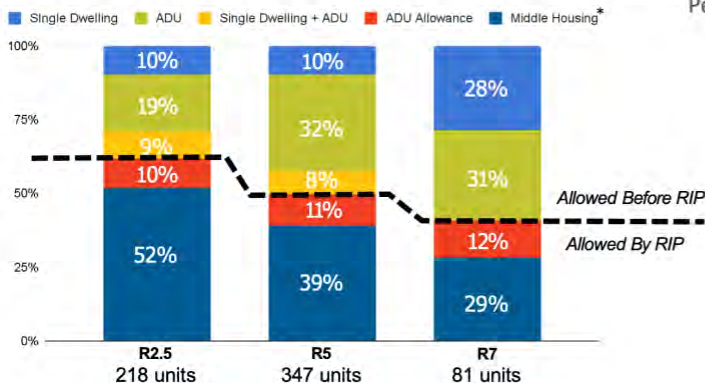
RIP Permits at a Glance



Key Finding #3

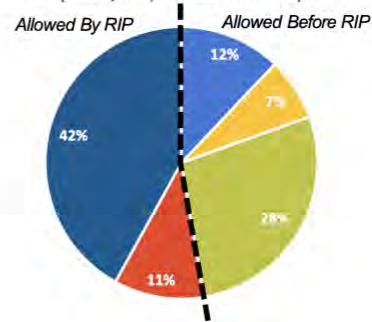
Units allowed by RIP represent the majority of permitted units

Percent of Units Permitted by Housing Type in RIP Zones



*Middle Housing category includes corner duplexes

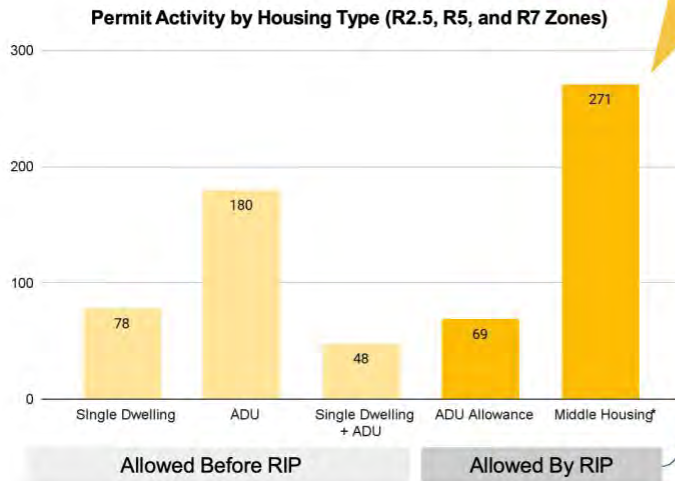
Percent of Units Permitted by Housing Type (R2.5, R5, R7 combined)



18

Three-quarters of the permitted middle housing units were for four-plexes.

Permit Activity Overview



*Middle Housing category includes 4 corner duplexes
Source: City of Portland Building Permit Data R2.5-R7 Zones, 8/21-7/22

RIP-Enabled Units Permitted by Housing Type

Aug 1, 2021- July 31, 2022

	ADU Allowances	69
	Duplex	34
	Triplex	27
	Fourplex	204
	Sixplex	2

5

Regarding the cost of market provided housing, the following finding is directly relevant to Sherwood and Metro's failure to consider how limits on floor area ratio maximums could reduce market prices for the single family detached homes Metro concluded were needed in the region:

PRE-RIP CONTEXT ANALYSIS

FAR Limits and Impacts to Home Sales Prices

Key Finding #2

Detached single-family homes with high FARs tend to sell for higher prices due to their size. By limiting the largest of these detached single-family homes, RIP prevents more expensive homes from being built and makes Middle Housing more competitive.

Detached single-family homes over the current FAR limit sold for substantially more than those below the limit. On average, the difference in sales price was over \$117,000.



Metro should have considered Portland's experience with the RIP, as part of an analysis of alternative measures that would meet Metro's finding of the need for 2,700 single family homes and 400 middle housing units. That research should also have informed Metro's analysis of the capacity of existing land supplies in the region, which brings us to the next example,

- Example 3: Portland’s housing capacity analysis showed it can meet the entire region’s housing needs within its boundaries.

In December 2023 Portland adopted its “Residential Buildable Lands Inventory: Methodology and Summary Results” as adopted in Ordinance 191547.

That analysis, as required by law, was based on consideration of constraints on development of individual parcels and pro forma feasibility analysis and actual sale prices and rents. The summary appears on page 20 of the document:

Net Residential Development Capacity

The results of the Buildable Lands Inventory show an estimated capacity for an additional 236,977 housing units in the City of Portland.

Table 8. Residential Capacity by District

District	Capacity (Dwelling Units)
Central City	67,052
East	38,527
North	22,621
Northeast	27,400
Southeast	47,785
West	33,593
Total	236,977

Source: BPS analysis

This housing capacity for one city inside the UGB is in sharp contrast with “Table 15: Capacity deficits or surpluses for current and future housing needs under the assumed scenario (2024-2044)” on page 41 of the Urban Growth Report:

	UGB Housing Need (Scenario 3)			
	single-detached	middle housing	multifamily	Total
Future need: baseline forecast (see Table 13)	57,400	33,250	60,450	151,100
Units lost to 2 nd and vacation homes	1,072	1,769	443	3,285
Historic underproduction	726	2,089	12,160	14,975
Households experiencing homelessness	-	40	8,653	8,693
Total Housing Need (rounded)	59,200	37,100	81,700	178,000
Needed housing mix	33%	21%	46%	100%
Total UGB capacity (rounded; see Table 9)	56,500	36,700	82,300	175,500
Deficits (rounded)	(2,700)	(400)	600	

Note: numbers are rounded to avoid implying too much precision

How can the region as a whole have a deficit, when one city demonstrates a housing capacity of 237,000 units and the region has a need for 178,000 units?

That was followed in August 2024, two months before Metro published its alternatives analysis, by the “City of Portland 2024 Housing Production Strategy As-Adopted Resolution No. 37673.” (Both documents were submitted to Metro by the Alliance.).

Ted Reid from Metro, who helped draft the UGR, served on the Technical Advisory Committee for the document as did several representatives from DLCD. (page 3.)

It includes a section titled “A. Promote Affordable Housing (0-80% AMI)” which identified strategies for meeting the housing needs of households with incomes at or below 80% of Median Area Income, strategies which Metro never considered as alternative measures.

The Alliance also provided Metro with other housing capacity analyses from Hillsboro, and Gresham to consider as sources of additional capacity for housing.

- Example 4: Metro itself demonstrated how it could meet regional needs on lands inside the UGB simply by assuming that over one-half of the commercial land need would be supplied by using surplus industrial lands.

Page 61 of the Urban Growth Report describes Metro’s method for addressing the 286 acre regional shortfall in commercial lands:

Commercial land options

Informed by this analysis, the Metro Council has indicated its intention to plan for the baseline forecast and find a need for a UGB expansion:

- *Add the 135-net-acre commercial employment portions of Sherwood West urban reserve to the UGB; and,*
- *Consistent with observed development trends, assume that a small portion (about 150 acres) of the region's industrial land surplus is available for commercial employment uses, thereby addressing any remaining commercial capacity gap.*

Metro could have used identical reasoning to assume that all or some of the residential land needs could also be met on the 3,931 acres of surplus industrial lands in the region shown on Table 19 on page 55.

- Example 5: Metro's failure to consider whether or how to avoid asking taxpayers and fee payers to spend \$334 million on new "catalyst infrastructure" for the 538 acres of regionally needed land for homes, commercial development and high tech manufacturing.

Goal 11 and the locational factors in Goal 14 and the Metro Code require consideration of the "orderly and economic provision of public facilities and services"

Appendix O of Sherwood's UGB expansion proposal to Metro, the city's "Preliminary Infrastructure Funding Strategy." includes the memo "Sherwood West Concept Plan: Preliminary4 Infrastructure Funding Strategy" dated February 13, 2024, prepared by the Leland Consulting Group. Page 2 includes this text and a table:

Catalyst Projects

Based on City priorities and existing infrastructure availability, it is anticipated that the North, West, and Southwest districts will develop first. Through public investment and private development, attention in these districts will help lay the foundation for the long-term evolution of Sherwood West. This analysis, therefore, takes a close look at the infrastructure that will help these areas serve as catalysts for subsequent development elsewhere in Sherwood West.

Table 1. Estimated Infrastructure Costs by District and Category

	Water		Sanitary Sewer		Storm		Parks		Transportation		Total District Costs
	Costs	%	Costs	%	Costs	%	Costs	%	Costs	%	
North	\$10,745,000	8%	\$18,162,500	13%	\$10,932,500	8%	\$23,428,890	17%	\$72,850,000	54%	\$136,118,890
Far West	\$8,367,000	20%	\$4,801,500	11%	\$2,775,000	6%	\$0	0%	\$26,920,000	63%	\$42,863,500
West/Southwest	\$29,164,800	19%	\$10,099,350	7%	\$6,177,500	4%	\$23,815,610	15%	\$85,787,301	55%	\$155,044,561

Those costs total \$3334,026,951, a third of a billion dollars.

Metro never considered how much taxpayer money might be saved by finding a few ways to provide an additional 3,100 homes (which Sherwood would locate on 340 acres), 135 acres of

commercial land and 100 acres of land for high tech manufacturing, inside the UGB at sites that already have water supplies, stormwater treatment, sewers, roads and parks.

Objection B.2.

The alternatives analysis should have considered how the different regional needs could be met on alternative lands in various urban reserves, not considered and compared entire urban reserves.

1. The Metro staff alternatives compared entire alternative Urban Reserve areas with the Sherwood West concept plan urban reserve.

Appendix 7, Introduction and Methodology, pages 6-21, describe how the Metro staff analyzed and compared entire urban reserves, not “parcels”, “lands”, “locations”, or areas” to the Sherwood West urban reserve.

This led to comparison of urban reserve areas in their entirety, as shown in Table 3 in Attachment 3.

This is confirmed by this statement on page 21 of Appendix 7:

The analysis clearly identifies the following seven urban reserves as unsuitable for urbanization in the short term:

- *Boring*
- *Boring – Highway 26*
- *Damascus*
- *Norwood*
- *Rosemont*
- *Stafford*
- *Tonquin*

These urban reserves are therefore not further evaluated for possible inclusion in the UGB in the Metro Code Factors analysis in Appendix 7A.

2. The governing legal authorities do not direct Metro to compare alternative urban reserves to each other, but rather to consider alternative “locations”, “parcels” “lands” and “areas” that will meet regional needs and that best satisfy the locational factors.

Metro’s urban growth boundary capacity analysis must comply with statewide planning Goal 14, “Urbanization” (emphasis added):

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197A.320 or, for the Metropolitan Service District, ORS 197.298, and with consideration of the following factors:

- (1) Efficient accommodation of identified land needs;*
- (2) Orderly and economic provision of public facilities and services;*
- (3) Comparative environmental, energy, economic and social consequences; and*
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB*

ORS 197A.350 “Determination of housing capacity and accommodation of needed housing by Metro” includes (6)(a):

- (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, Metro shall take one or both of the following actions to accommodate the additional housing need:*
 - (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, Metro shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. . . .*

The statutes refers to sufficient buildable lands, not sufficient urban reserves.

ORS 197A.355 specifies the priority of land to be included within Metro urban growth boundary if Metro establishes that a regional need cannot be satisfied by land already in the UGB:

- (1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary of Metro except under the following priorities:*
 - (a) First priority is land that is designated urban reserve land under ORS 197A.245, rule or Metro action plan.*

Again, the priority is for “land,” not “urban reserves.”

LCDC’s Administrative Rules are very clear that Metro is required to considered alternative “land” not alternative urban reserves:

[660-024-0060](#)

Metro Boundary Location Alternatives Analysis

(1) When considering a Metro UGB amendment, Metro must determine which land to add by evaluating alternative urban growth boundary locations. For Metro, this determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:

(a) Beginning with the highest priority of land available, Metro must determine which land in that priority is suitable to accommodate the need deficiency determined under OAR 660-024-0050.

(b) If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the need deficiency, Metro must apply the location factors of Goal 14 to choose which land in that priority to include in the Metro UGB.

Metro incorporates these requirements into its LCDC-approved Urban Growth Management Functional Plan (a part of the Metro Code):

Urban Growth Management Functional Plan

Metro Code 3.07.1425 Legislative Amendment to the UGB - Criteria

(a) This section sets forth the factors and criteria for amendment of the UGB from state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) and the Regional Framework Plan.

. . . .

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

Metro staff made the leap that the consideration of alternative urban reserve areas meant choosing between entire urban reserves, instead of areas within urban reserves. But that is not what the statutes and Goal 14 require. Nor is it what logic requires, as shown in the next section.

3. The regional needs for which alternative locations and parcels needed to be found.

The Urban Growth Report adopted by the Metro Council found the following regional housing need (page 41):

Housing capacity gap results

Metro is relying on Scenario 3 as the basis for its growth management decision since it represents the most likely conditions for population growth, growth capacity, and housing mix. Table 15 summarizes this scenario and the resulting housing capacity deficits.

Table 15: Capacity deficits or surpluses for current and future housing needs under the assumed scenario (2024-2044)

	UGB Housing Need (Scenario 3)			
	single-detached	middle housing	multifamily	Total
Future need: baseline forecast (see Table 13)	57,400	33,250	60,450	151,100
Units lost to 2 nd and vacation homes	1,072	1,769	443	3,285
Historic underproduction	726	2,089	12,160	14,975
Households experiencing houselessness	-	40	8,653	8,693
Total Housing Need (rounded)	59,200	37,100	81,700	178,000
Needed housing mix	33%	21%	46%	100%
Total UGB capacity (rounded; see Table 9)	56,500	36,700	82,300	175,500
Deficits (rounded)	(2,700)	(400)	600	

Note: numbers are rounded to avoid implying too much precision

As shown, under the assumed scenario there is a regional capacity deficit for single-unit detached and middle housing that totals 3,100 units.

Metro concluded that this regional need would be met by the Sherwood West Concept Plan residential land supplies, based on their density assumptions:

Table 4. Sherwood West Housing Estimates

	Density Range (Net)	Total Acres (Net)	% of Residential Acres	Total Housing Units (with % of Middle Housing in Neighborhood areas)			
				0% MH	10% MH	20% MH	50% MH
Multi-Family	16.8 to 24	33	10%	798	798	798	798
Middle Housing	5.5 to 11	16	5%	173	173	173	173
Cottage Cluster	12.8 to 16	23	7%	362	362	362	362
Med/High Density Nbhd	5.5 to 11	23	7%	248	279	311	406
Medium-Density Nbhd	5.6 to 8	102	30%	816	990	1,163	1,683
Low-Density Nbhd	3.5 to 5	144	42%	720	1,008	1,296	2,160
TOTAL		340	100%	3,117	3,610	4,103	5,582
Total Average Density				9.2	10.6	12.1	16.4
Total Average Density with Open Space				7.8	9.0	10.3	13.9

SHERWOOD WEST CONCEPT PLAN **46**

The Metro Council did not explain how or why it requires 340 net acres of land to build 3,100 homes, at an average net density of 9.2 units per acre when Sherwood's own concept plan

indicated that this land could accommodate 5,582 housing units, assuming 50% of the homes are middle housing with an average density of 16.4 units per acre.

In conducting its analysis of alternative locational urban reserve areas, Metro assumed average residential densities of 20 units per acre, not 9.2 or 16.4. See e.g. Appendix 7 Attachment 2 page 4, also described in Attachment 4.)

Those densities are substantially lower than the density of cottage cluster housing that LCDC uses in its informational materials (part of the Alliance's analysis of capacity of land already inside Sherwood's UGB.)

In addition, Metro found a regional need for:

- 135 acres of commercial land (Urban Growth Report page 61)
- 2 sites of 50 or more acres for high tech manufacturing (Urban Growth Report pages 59-60)

The question Metro should have addressed was what sites in the 27 urban reserve areas could meet these regional needs while better satisfying the location criteria.

4. A cursory review of lands inside the urban reserves shows many potential sites that meet these regional needs while better satisfying the locational criteria.

The Alliance believes no UGB expansion is justified or needed and that land already inside the UGB, indeed land already inside Sherwood's own boundary, is sufficient to meet regional needs. Thus, the following arguments are offered to illustrate the error in Metro's analysis, not to support a UGB expansion elsewhere.

Consider the Bendemeer Urban Reserve area, as summarized and shown in Appendix 7 Attachments 1 (Goal 14 locational factors analysis of urban reserves) and Appendix 7A (Metro locational factors analysis of urban reserves):

The Bendemeer Urban Reserve is comprised of 73 contiguous tax lots, all but four of which are entirely within the reserve. Of those tax lots entirely within the reserve, nearly 60 percent are less than two acres, more than 80 percent are less than five acres, four are larger than 40 acres, and one is nearly 120 acres.... Access to the reserve is provided by NW West Union Road, NW Cornelius Pass Road, and NW 185th Avenue."

BENDEMEER URBAN RESERVE

Total Reserve Area	573 acres
Total Tax Lot Area in Reserve (without Right-of-Way)	545 acres
Gross Vacant Buildable Area	318 acres
Net Vacant Buildable Area	237 acres

DLCD staff can examine the data presented for the other 26 urban reserves and can find many, many, more lands, parcels and areas that could be used to meet various elements of the regional need.

5. Proposed Remedy.

LCDC should remand the decision back to the Metro Council for the Council to consider how various lands within urban reserves could be used to meet regional needs, while best meeting the locational factors in Goal 14, state statute and Metro's Urban Growth Management Functional Plan.

Objection B.3.

Metro wrongly assumed that because farm and forestlands were included in Urban Reserves there was no need to apply its own locational factor calling for it to consider the relative value of the farm and forest lands in different urban reserve areas when choosing whether or where to expand the UGB.

Metro Code section 3.07.1425(c) states:

If the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need considering the following factors:

(7) Protection of farmland that is most important for the continuation of commercial agriculture in the region;

By its own admission, Metro staff did not consider this factor in evaluating alternative urban reserves, because:

The urban and rural reserves adoption process designated the most important land for commercial agriculture as rural reserves, and the most suitable land for urbanization as urban reserves. Designation of an area as an urban reserve means farmland within this reserve area is not the most important for the continuation of commercial agriculture in the region compared to farmland located elsewhere. Therefore, protection of farmland within in any of the urban reserves is not, for the purposes of responding to this Metro Code factor, considered important for the continuation of commercial agriculture in the region. Each reserve fully satisfies (i.e., scores highly on) this factor.

If the urban reserve designation settled that question, why did Metro include factor (c)(7)? Metro is attempting to ignore one of its own factors, which expressly requires it to compare the farmland in different urban reserves to identify and protect the "farmland that is most important for the continuation of commercial agriculture in the region."

The West of Sherwood Farm Alliance provided testimony that lands in the expansion area are highly productive, growing crops that cannot be grown in other places in the US. In addition, the

loss of these lands reduces the land base needed to sustain the economic base and services required to maintain a farm economy.

Proposed remedy:

LCDC should make a finding that Metro erred in assuming that it did not need to apply the farmland protection factor in Metro Code .07.1425(c) to its consideration of alternative boundary adjustment locations and remand the decision to the Metro Council with direction that, if it finds a UGB expansion is needed, it must *protect the lands most important for the continuation of commercial agriculture in the region*.

Objection B.4.

The analysis of areas in Appendix 7A under Metro’s locational factors contains additional legal errors, contradictions and unsupported conclusions under the other locational factors.

The Alliance offered these critiques of Metro’s analysis of alternative urban reserves in its comments to the Metro Council, organized by the factors to it requires itself to consider when analyzing alternative boundary adjustment locations, in Metro’s Urban Growth Management Functional Plan:

3.07.1425(c) (1) Efficient accommodation of identified land needs;

Metro concludes that adding 1,291 acres of farmland, forestland, wildlife habitat and low-density residential development over mostly hilly land in the Sherwood urban reserve is more efficient to meet 575 acres of need (340 acres residential, 135 acres commercial, 100 acres of high-tech manufacturing sites), than any possible combination of other lands. A review of the parcel maps and other information about the urban reserves contradicts rather than supports that conclusion.

3.07.1425(c)(2) Orderly and economic provision of public facilities and services;

Appendix O of Sherwood's UGB expansion proposal to Metro, the city's "Preliminary Infrastructure Funding Strategy," includes the memo "Sherwood West Concept Plan: Preliminary4 Infrastructure Funding Strategy" of February 13, 2024, prepared by the Leland Consulting Group. At page 2, the memo includes the following text and a table:

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Table 1. Estimated Infrastructure Costs by District and Category

	Water		Sanitary Sewer		Storm		Parks		Transportation		Total District Costs
	Costs	%	Costs	%	Costs	%	Costs	%	Costs	%	
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West/Southwest	\$29,164,800	19%	\$10,099,350	7%	\$6,177,500	4%	\$23,815,610	15%	\$85,787,301	55%	\$155,044,561

These “catalyst” project costs total is about \$334 million. That is about \$7 million per acre (partial costs) to meet a regional need on 583.3 acres (assuming for the sake of argument that Sherwood’s land need estimates are appropriate.)

Before the Metro Council, for the purpose of both this argument and the preceding one, we incorporated by reference the infrastructure analysis prepared and filed by Ron Bunch. Mr. Bunch’s analysis establishes that the above cost estimates are low.

Where and when did Metro compare the total of Sherwood’s estimated catalyst costs with the infrastructure costs per acre of the alternate sites in the reserves?

Last spring, the West of Sherwood Farm Alliance submitted testimony to Metro staff and MPAC showing that Metro expanded the UGB in 2017 to include an 82-acre site for Sherwood’s new \$250,000,000 high school based on the Sherwood School District’s projected increases in enrollment. Those increases did not materialize. Instead, enrollment is forecasted to begin falling in 2027. This illustrates the very high cost to taxpayers of poorly justified UGB expansions.

3.07.1425(c)(3) Comparative environmental, energy, economic and social consequences;

To address this factor, Metro should have explained why supporting high-cost housing development plus jobs and commercial development at the edge of the UGB would satisfy its own and LCDC’s climate change policy and strategy, considering how it would increase automobile commuting to jobs in Sherwood with resultant production in climate-changing pollutants, impacts on Chicken Creek and other wildlife habitat, and what effect it might have in worsening economic, racial and ethnic geographic segregation which Metro has quantified and reported on its own website.

Any argument that locating additional jobs at the edge of the region will help achieve a better jobs-housing balance and therefore reduce environmental impacts from commuting is utterly without merit. It is contradicted by evidence we have submitted based on Census data showing no correlation between a balance of jobs and housing and commute lengths. The explanation is simple - working people change jobs every few years and for the most part do not move to be closer to their new jobs, especially given that many households have two members who are working.

(See also the separate objection based on differential race, ethnicity and class equity impacts which is relevant to this factor.)

3.07.1425(c) (4) Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside the UGB designated for agriculture or forestry pursuant to a statewide planning goal.

Metro did not identify the nature of conflicts and compatibility of commercial agriculture in the vicinity of Sherwood with the proposed development in the Concept Plan and compare them with other sites in other urban reserves. Maps of those reserves show areas without any existing agriculture or forestry. These tend to be rural residential areas, and areas buffered by rural residential areas.

Road widenings required for the development of the Sherwood West UGB expansion would generate additional adverse impacts on adjoining farmland of the type documented in “Effect of Widening the Urban Link Segment of Roy Rogers Road on Farm Practices and Cost,” from Washington County, dated June 24, 2016 (in the submitted materials.)

3.07.1425(c) (5) Equitable and efficient distribution of housing and employment opportunities throughout the region;

Concentrating new housing and jobs at the very edge of the region in a very expensive housing market (discussed elsewhere in this letter and supporting documents and in written testimony from Housing Land Advocates) cannot represent an equitable and efficient distribution of housing and employment opportunities, as simple logic dictates and was shown by the remarkably emphatic testimony of Metro’s own Committee on Racial Equity.

3.07.1425(c) (6) Contribution to the purposes of Centers and Corridors;

The proximity to centers and corridors criteria in 3.07.1425(c)(6) are applied in a way that excludes some Urban Reserve areas, despite their greater proximity to a corridor than Sherwood West, because those corridors are already partially developed with low density uses. But that is the same situation as in Sherwood. All Metro centers and corridors have existing development. In fact that is a major reason why they were given their designation in the first place. This means infill and redevelopment are a primary strategy for development in centers and corridors.

(7) Protection of farmland that is most important for the continuation of commercial agriculture in the region;

The Alliance makes a separate objection based on this criterion.

(8) Avoidance of conflict with regionally significant fish and wildlife habitat; and

There are many alternate sites among the urban reserves that have less important regionally significant fish and wildlife habitat than the riparian and upland areas of Chicken Creek, the major tributary to a nationally recognized wildlife habitat, the Tualatin River National Wildlife Refuge. A review of the maps and narratives in Appendix 7A shows the obvious, that there are

other lands not near a National Wildlife Refuge or a critical tributary to a refuge.

In support of this argument, the Alliance submitted information about the national significance of the Tualatin River National Wildlife Refuge, which is fed by Chicken Creek and very close to the proposed UGB expansion area. The US Fish and Wildlife Service Tualatin River National Wildlife Refuge *Comprehensive Conservation Plan* and other background information were submitted as to Chicken Creek.

We also adopted by reference the arguments, testimony and evidence that Tualatin River Keepers presented to Metro and have reiterated in their objections to DLCD and LCDC. We do so again here.

3.07.1425(c) (9) Clear transition between urban and rural lands, using natural and built features to mark the transition.

The Concept Plan UGB expansion area will be divided from the rest of Sherwood by State Highway 99 West and the ravines and riparian areas of Chicken Creek. In fact Sherwood proposes building a very expensive pedestrian overpass in order for pedestrians to cross the highway. These facts cannot be reconciled with a conclusion that this expansion area provides the requisite clear transition. It simply does not.

The defects in the alternative sites analysis demonstrate parallel violations of Statewide Planning Goals:

Goal 1 Citizen Involvement (inadequate opportunity for citizens to review the alternatives analysis)

Goal 2 Land Use Planning

Goal 3 Agricultural Lands

Goal 4 Forest Lands

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces

Goal 11 Public Facilities and Services

Goal 12 Transportation

Goal 13 Energy Conservation

Goal 14 Urbanization

Proposed remedy.

LCDC should remand the Metro Council's decision and direct the Council to conduct an appropriate, unbiased analysis of the lands within Metro's Urban Reserves, directly comparing them to lands contained in the proposed Sherwood West expansion area. The Council should be directed to adequately address the locational factors, using realistic and internally consistent assumptions about infrastructure costs, the value of environmentally sensitive lands, and the other factors, all with adequate time for review and comment by the public.

Objection C

The Metro Council's failure to consider whether housing built in the Sherwood West UGB expansion area would be affordable to households that are not affluent, violates Goal 10, the Goal 10 Administrative Rules, multiple statutes and Metro's Urban Growth Management Functional Plan.

1. Multiple legal authorities require Metro to consider how a UGB expansion will satisfy housing needs of different income groups in the region.

Goal 10, the Goal 10 Administrative Rules, the Metro Regional Framework Plan and Urban Growth Management Functional Plan that require a consideration of the *affordability* of the housing for different income levels.

Statewide Planning Goal 10 OAR 660-015-0000(10) (emphasis added.)

To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

. . . .

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

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

Metro Regional Framework Plan:

1.3 Housing Choices and Opportunities

It is the policy of the Metro Council to:

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

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

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

Metro Urban Growth Management Functional Plan (emphases added):

3.07.1110 Planning for Areas Designated Urban Reserve

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

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

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

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

Metro's Code and policy documents refer to "housing needs" and "needed housing which should conform to statutory definitions of "needed housing":

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

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

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

(b) "Needed housing" includes the following housing types:

(A) Detached single-family housing, middle housing types as described in ORS 197A.420 and multifamily housing that is owned or rented;

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

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

- (1) *As used in ORS 197A.350 and this section, “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:*
 - (a) *Attached and detached single-family housing, middle housing types as described in ORS 197A.420 and multiple family housing for both owner and renter occupancy;*
 - (b) Government assisted housing;
 - (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.493;
 - (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions;
 - (e) Agriculture workforce housing; and
 - (f) Single room occupancies as defined in ORS 197A.430.

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

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

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

- (a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and*
- (b) Conduct an analysis of existing and projected housing need by type and density range, in accordance with all factors under ORS 197A.348 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.*

These statutes, Goal 10 and the Goal 10 Rule and Metro’s own Regional Framework Plan and Urban Growth Management Functional Plan required Metro to determine whether the housing built according to the Sherwood West Concept Plan will address regional needs housing affordable to households of different income levels.

2. The Oregon Department of Administrative Services, Metro and Sherwood have identified housing needed at specific income levels.

At its May 22, 2024, meeting MPAC heard a presentation on the draft Oregon Housing Needs Analysis methodology from Sean Edging, a staff member at DLCD. [According to the minutes of that meeting:](#)

He shared the methodology process for determining the Oregon Housing Needs Analysis (OHNA) methodology and discussed House Bill 2001/2889. He shared that Metro has a different approach in state law and discussed the OHNA policy implications. The presenter discussed Goal 10 for Housing, which is to provide for the housing needs of citizens of the state. He also explained the Housing Acceleration Program and OHNA Rulemaking.

.....

Edging highlighted the development of the comprehensive toolkit comprising various policies, actions, tools, and investments aimed at supporting and facilitating housing production at the city level. He underscored the ongoing refinement of this toolkit, emphasizing the importance of providing tangible policies that local governments can readily implement. Edging stated that they would share these resources after the meeting.

The next item MPAC discussed was a presentation of the Sherwood West Concept Plan.

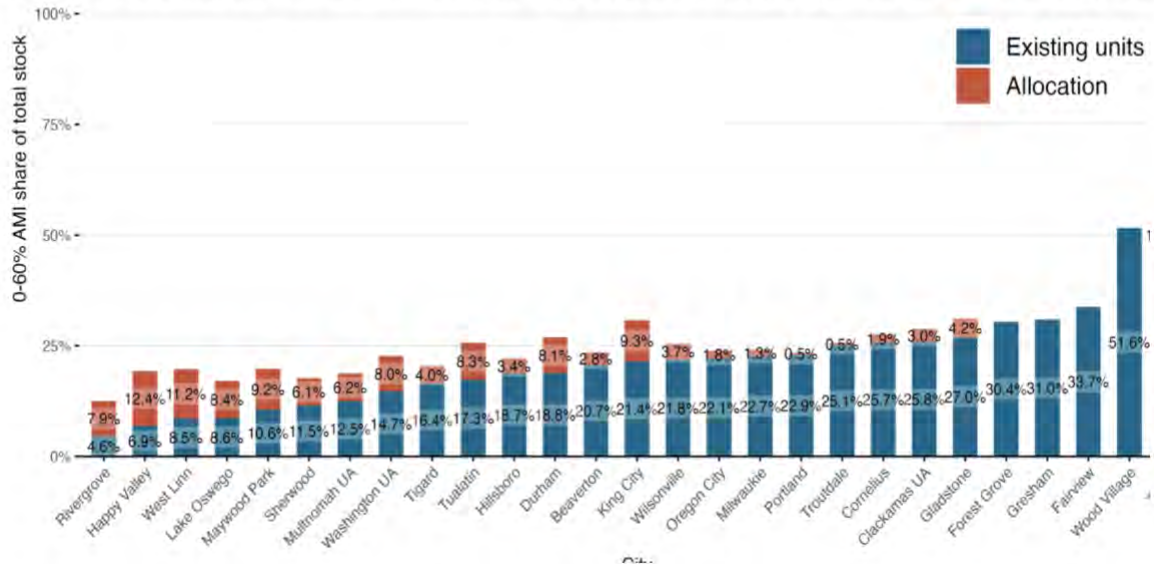
The Oregon Department of Administrative Services published the “Oregon Housing Needs Analysis: Interim Methodology” in July 2024, (around the same time Metro published its draft Urban Growth Report.) It includes this table summarizing the housing needs in the Portland metro region:

Figure 18. Metro Region 20-Year Needed Housing Units by Income Level and Component

Income Level	Current Need		Future Need			Total Need
	Underproduction	Units for Homelessness	Second & Vacation Homes	Demographic Units	Pop. Growth Units	
0-30%	4,274	9,806	-	6,569	11,837	32,486
31-60%	5,391	881	-	8,893	16,025	31,190
61-80%	2,738	331	-	6,221	11,210	20,499
81-120%	2,254	-	2,297	10,879	19,605	35,035
120%+	703	-	1,107	24,193	43,597	69,600
Metro	15,360	11,018	3,404	56,754	102,273	188,810

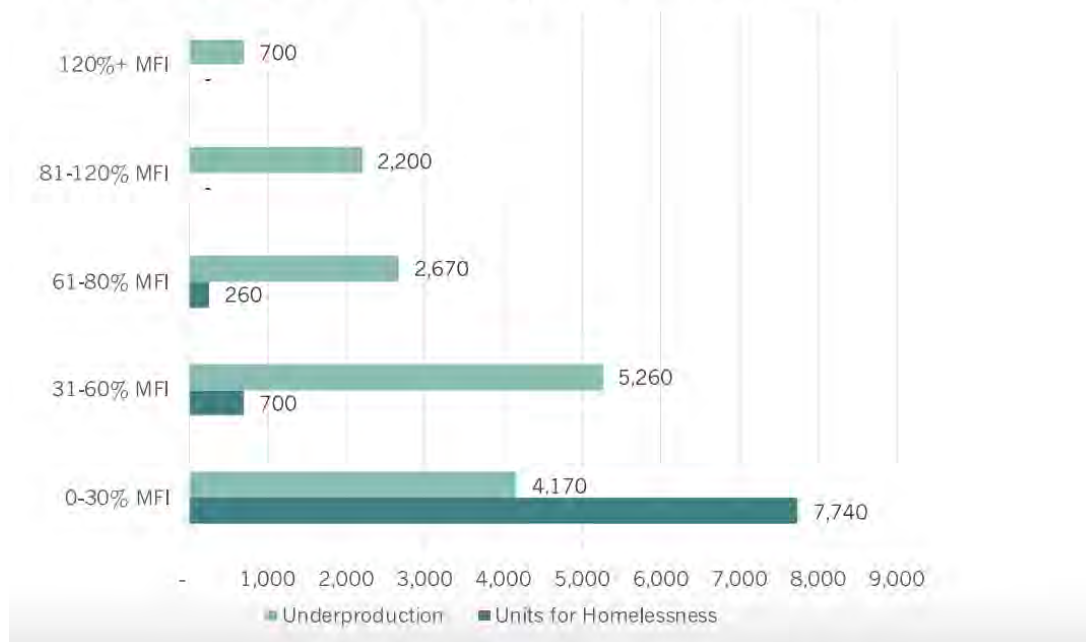
Figure 13 in the DAS report presented Sherwood’s proportional share of needed housing for incomes at or below 60% median family income:

Figure 13. Distribution of Units Affordable at Less Than 60% AMI by City– Current vs After Target Met



Metro quantified the region’s “existing housing need” in Figure 2 Appendix 8A of the Urban Growth Report:

Figure 2. Metro Existing Housing Need by Income Level (Rounded)



As part of its decision the Metro Council referenced the UGR’s finding about the type of housing the region needed:

WHEREAS, the 2024 UGR estimates that approximately 60 percent of the region’s new renter households and 33 percent of new owner households will have incomes below \$60,000 and, depending on household size, households in this income bracket are classified by the U.S. Department of Housing and Urban Development as low income or very low income;

Metro Ordinance No. 24-1520, page 2.

However, it never connected that need determination to what Sherwood proposed for housing in its Concept Plan for the UGB expansion area,

Sherwood’s 2019 Housing Need Analysis includes this estimate of housing need by income level, but that table is based on median family income that is over a decade out of date.²

² “The analysis in Table 4 based on American Community Survey data about income levels in Sherwood, using income information shown in Table B- 17. Income is categorized into market segments consistent with HUD income level categories, using the Portland Region’s 2014 Median Family Income (MFI) of \$69,400.” Sherwood Housing Needs Analysis (2019) page 29, Exhibit F of Sherwood’s Concept Plan submittal. Other parts of Sherwood’s HNA rely on data from 2009-2013. Sherwood HNA at page 25

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

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

Source: ECONorthwest
MFI is Median Family Income

3. The housing proposed in the Sherwood West Concept Plan.

This how the housing to be built in the Sherwood West UGB expansion area was described on page 45 of the Concept Plan.

Housing

Planning for a variety of housing options that will meet the needs of a wide range of Sherwood West residents was a key objective of the concept planning process. Providing housing opportunities for first-time home buyers, seniors who may prefer to age in place or downsize their housing, and moderate-income households will require a wider range of housing types than has typically been provided in Sherwood. Examples of housing types that have designated places in Sherwood West include: single detached homes on smaller lots, cottage clusters, townhomes, duplexes, triplexes, fourplexes, garden apartments, and mid-rise apartments. These types will be in addition to the standard single detached housing that has typified Sherwood's development so far.

Table 4 summarizes the housing proposed in the Sherwood West Concept Plan by type, density range and acreage:

Table 4. Sherwood West Housing Estimates

	Density Range (Net)	Total Acres (Net)	% of Residential Acres	Total Housing Units (with % of Middle Housing in Neighborhood areas)			
				0% MH	10% MH	20% MH	50% MH
Multi-Family	16.8 to 24	33	10%	798	798	798	798
Middle Housing	5.5 to 11	16	5%	173	173	173	173
Cottage Cluster	12.8 to 16	23	7%	362	362	362	362
Med/High Density Nbhd	5.5 to 11	23	7%	248	279	311	406
Medium-Density Nbhd	5.6 to 8	102	30%	816	990	1,163	1,683
Low-Density Nbhd	3.5 to 5	144	42%	720	1,008	1,296	2,160
TOTAL		340	100%	3,117	3,610	4,103	5,582
<i>Total Average Density</i>				<i>9.2</i>	<i>10.6</i>	<i>12.1</i>	<i>16.4</i>
<i>Total Average Density with Open Space</i>				<i>7.8</i>	<i>9.0</i>	<i>10.3</i>	<i>13.9</i>

SHERWOOD WEST CONCEPT PLAN **46**

There is nothing in Sherwood’s Concept Plan explaining how the housing built in the expansion area will meet the needs of different income categories identified in Sherwood’s own Housing Needs Analysis, the Urban Growth Report or the Department of Administrative Services draft regional housing needs report. There is no mention of other forms of “needed housing” including farmworker housing, subsidized rent-restricted public, private and nonprofit housing or manufactured homes and manufactured home parks and single room occupancy units.

According to Metro’s most recent report on the regional affordable housing bond measure there is no affordable housing project that has been built nor any application to build one in Sherwood, using the regional bond measure.

The Alliance’s attorney Jeff Kleinman submitted written testimony that Sherwood officials expressed their determination that there will be no apartments built in Sherwood West and that they hoped to the UGB expansion approved before there are further density requirements imposed by Metro of the Legislature.

This sentiment was also expressed by Sherwood’s Planning Director in a presentation to the Metro Technical Advisory Committee at its August 2024 meeting.

There is nothing in the materials presented by Sherwood that would support a conclusion that the market rate housing built there would address any of the existing housing need for household income at or below the median household income.

4. Information on home prices and rents in Sherwood compared to the rest of the region.

The Alliance submitted to Metro readily available information about home prices and rents in Sherwood, compared to the rest of the region, summarized in this table:

Home Sale Prices

City	Median Sale Price for Homes Redfin 11/14/2024
Sherwood	\$731,500
Beaverton	\$530,000
Gresham	\$481,900
Hillsboro	\$523,480
Milwaukie	\$523,115
Oregon City	\$585,000
Portland	\$509,900
Tigard	\$615,000
Tualatin	\$575,000
Wilsonville	\$635,495
City	Average Sale Price of Homes Zillow 11/14/2024
Sherwood	\$632,013
Beaverton	\$540,803
Gresham	\$460,310
Hillsboro	\$532,909
Milwaukie	\$506,086
Oregon City	\$599,441
Portland	\$524,402
Tigard	\$610,989
Tualatin	\$639,154
Wilsonville	\$637,718

Apartment Rents

City	Average Rent Apartments.com Nov. 2024	Median Rent Zillow Rentals Nov. 2024
Sherwood	\$1,797	\$2,395
Beaverton	\$1,519	\$2,113
Gresham	\$1,362	\$1,647
Hillsboro	\$1,681	\$2,395
Milwaukie	\$1,461	\$1,795
Oregon City	\$1,513	\$1,725
Portland	\$1,508	\$1,795
Tigard	\$1,569	\$2,290
Tualatin	\$1,586	\$2,087
Wilsonville	\$1,582	\$2,500



\$1,980 ± \$157

Median Gross Rent in Sherwood city, Oregon

\$1,370 ± \$18

Median Gross Rent in Oregon

DP04 | 2022 American Community Survey 5-Year Estimates

5. Remedies: Options for remand for consideration of how to meet regional housing needs as defined by income groups.

LCDC should remand the Metro Council's decision back to the Council to address the needs of housing by median household income ranges, stated by DAS and in its own UGR and consider whether and how they could best be met in the Sherwood UGB expansion area, or in whole or in part, in other parts of the region.

LCDC may chose to remand the decision until Metro's work can be based on the final Oregon Housing Needs Assessment.

In considering affordability, LCDC should direct Metro to measures promoting adaptive reuse of existing homes and structures, prefabricated structures, the potential supply of other types of needed housing including single room occupancy units, income restricted units, cooperative housing, sites for manufactured home parks. Metro should be directed to consider commuting costs as a constraint on income available for housing and its own information on which programs and incentives have proven effective in offsetting higher housing costs with lower household transportation costs.

Objection D

In determining regional land needs for housing and employment, Metro failed to consider and address the potential contribution to the supply of housing and employment land, including commercial land and land for high tech manufacturing, in the North Plains UGB expansion.

As part of its Urban Growth Report Metro examines the demand for and supply of land for housing and employment in the seven-County region and then makes an allocation of the demand, and thus the supply of land to the Metro UGB.

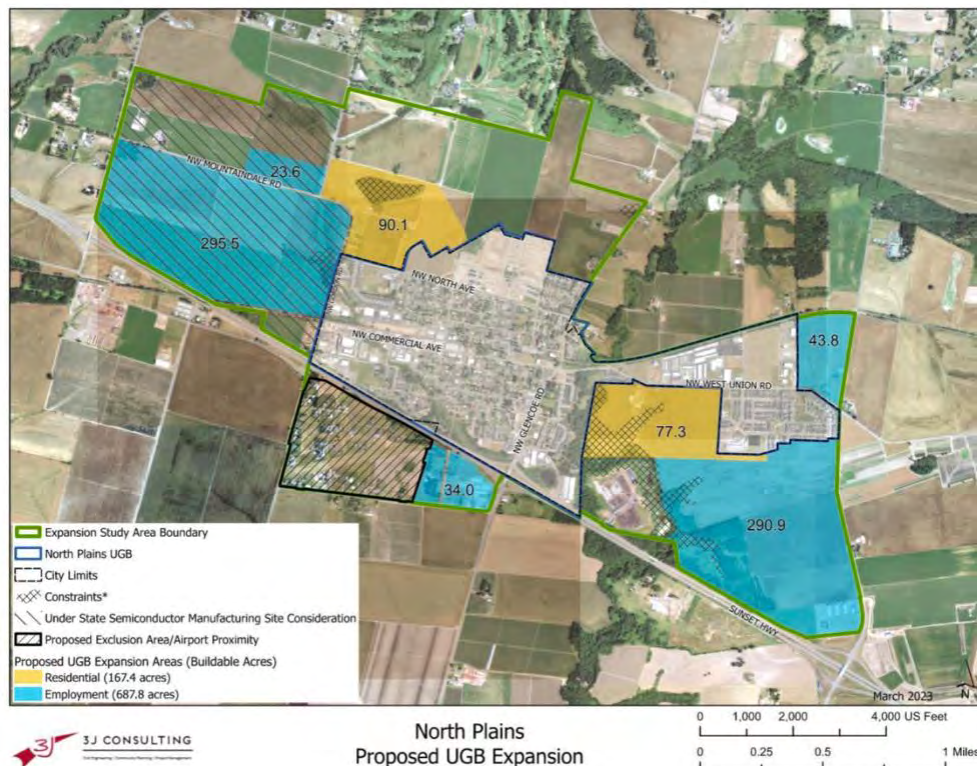
However, Metro's UGR did not discuss the land need and supply relationship between its approval of the Sherwood West UGB expansion and the North Plains UGB expansion, a city just a few miles from the Metro UGB, even though the Alliance called that question before Metro's

advisory committees and the Metro Council on November 21, 2024, (when it submitted the approved UGB expansion report to the Council.³)

That expansion is not endorsed by the Alliance.

The expansion has been and is being contested at the ballot box and in the courts.

But if there is a possibility that it might be approved in whole or part, Metro was obliged to consider its impacts on regional land supplies.



The North Plains UGB expansion, like Sherwood’s proposed UGB expansion was designed to provide land for commercial and industrial employment:

In addition to the amount of land needed, the 2020 EOA also identified target services and industries for future economic growth consistent with City Council’s Vision directive that export-oriented employers need to be pursued and recruited to broaden and strengthen its economy and employment opportunities. These services and industries include:

³ Ordinance NO. 490 “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, AMENDING THE URBAN GROWTH BOUNDARY AND APPROVING ASSOCIATED COMPREHENSIVE PLAN TEXT AMENDMENTS” and “North Plains Urban Growth Boundary Expansion: Final Report” June 2023 Exhibit A to Ordinance 490.

- *Export-oriented employers*
 - o *Computer & Electronic (C&E) Mfg.54 (5-100+ acres typical site range)*

Table 6. Employment Land Need (Recommended by PAC in May 2021)

Land Use	Acres
Commercial	172.4
<i>Office</i>	91.5
<i>Institutional</i>	21.2
<i>Retail</i>	72.3
Industrial	515.4
<i>Flex/Business Park</i>	167.6
<i>General Industrial</i>	324.5
<i>Warehouse</i>	52.9
Total Employment Land Need	687.8

The employment lands include seven parcels of 50 acres or more in the North and East Subareas. Like Site A5 and A6 in Sherwood, they are flat and unserved by infrastructure. However, unlike Sherwood's sites, they are very short distances away from Highway 26 and closer to the existing tech cluster in Hillsboro.

The North Plain UGB expansion was also intended to serve regional needs for housing of types and at densities very similar to those which the Sherwood West Concept Plan is supposed to address:

North Plains UGB Expansion Report

Table 4 UGB Expansion Area Residential Densities

Zoning Designation	Average Density	Acres	Dwelling Units
R-7.5 (Low Density)	5.5 dwelling units per net acre	84.5	464
R-5 (Medium Density)	8.0 dwelling units per net acre	14.0	112
R-2.5 (High Density)	17.4 dwelling units per net acre	12.3	214
Total	7.1 dwelling units per net acre	110.8	790

North Plain UGB Expansion Final Report page 6.

The failure to consider the inconsistent and contradictory facts and plans means Metro's decision does not have the adequate factual base required by Goal 2 and violates multiple coordination requirements in statute, administrative rules, and as interpreted by LUBA.

The supporting materials for this argument also support the argument about the inadequacy of Metro's October 2024 alternatives analysis.

Finally, recent legislation requires Metro to develop a regional housing coordination strategy. I have not determined when this strategy is required or what its status is today, but if it has been adopted or is in process as Metro should be directly addressing this coordination requirement:

ORS 197A.365 “(1) Metro shall develop and adopt a housing coordination strategy under this section no later than one year after the deadline for completing a housing capacity determination under ORS 197A.350.”

Proposed remedies:

LCDC should either remand Metro’s UGR determinations directing the Council to coordinate and achieve factual consistency between Metro’s and North Plains’ assumptions about regional land needs and supplies for housing, commercial development and 50-acre high tech manufacturing sites, or direct your staff to carry out that reconciliation itself in consultation with the two governments, pending on the outcome of current litigation or reconsideration by the new city council in North Plain.

Introduction to Objections E.1, E.2, E.3, E.4, E.5

1. Metro found the region had a surplus of 3,931 acres of industrial land in excess of what was needed by 2044.

Below is the summary of the industrial lands need analysis in the Urban Growth Report adopted by the Metro Council on December 5, 2024, at page 55:

Industrial land gap analysis results

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

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

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

The Metro Council deliberated about which growth forecast to direct the Chief Operating Officer to use as the basis of its decision and by consensus chose the baseline growth forecast. This means the Metro Council found there was a surplus of 3,931 acres of industrial land in the current UGB.

2. The Metro Council justified adding the 227.1 acres of employment land to the UGB in the Sherwood West Concept Plan North District because it would meet a regional need for two 50-acre flat sites with various “unique characteristics.”

Despite its conclusion that the region had a surplus of industrial land overall, the Metro Council found that the region had a need for two additional 50-acre parcels for high tech manufacturing, based on various studies referenced in its findings.

In its findings in Exhibit F at page 12, Metro relied on a report by the Semiconductor Task Force:

The report identifies a short-term need for four sites of 50-100 acres that would be suitable for integrated device manufacturers or major semiconductor equipment manufacturers. The Metro Council concurs with and adopts these conclusions.

As described in the 2024 UGR, there are currently only six available sites within the UGB that are 50 acres or larger with slopes under seven percent that could be available for industrial uses of the type identified by the Semiconductor Task Force.

Metro also relied on a report by ECONorthwest, that concluded:

. . . the Sherwood West employment area provides specific site characteristics that would meet the regional need for large 50-acre parcels with slopes under seven percent, minimal need for site aggregation, and proximity to transportation facilities and existing semiconductor companies. This assessment indicates that Sherwood West has characteristics that are more suitable for needed high-tech industrial growth than other lands inside the existing UGB. Making the two 50-acre sites in Sherwood West available for high-tech manufacturing use would help address the existing shortage of such sites for regional economic development.

Exhibit F page 12.

Metro found that two such sites (50 acres or larger with less than 7% slopes and the other characteristics suitable for high tech manufacturing were available in the 130 acres of land in the Sherwood West Concept Plan North District:

The City of Sherwood's concept plan for Sherwood West proposes to provide 130 net acres of land on the north end of the expansion area that will be designated for employment uses and would be available to accommodate the type of high-tech industrial and flex building uses identified by the Task Force. That 130-acre area includes two potential sites that are larger than 50 acres, nearly flat, and proximate to high-tech clusters on the west side.

Exhibit F page 12.

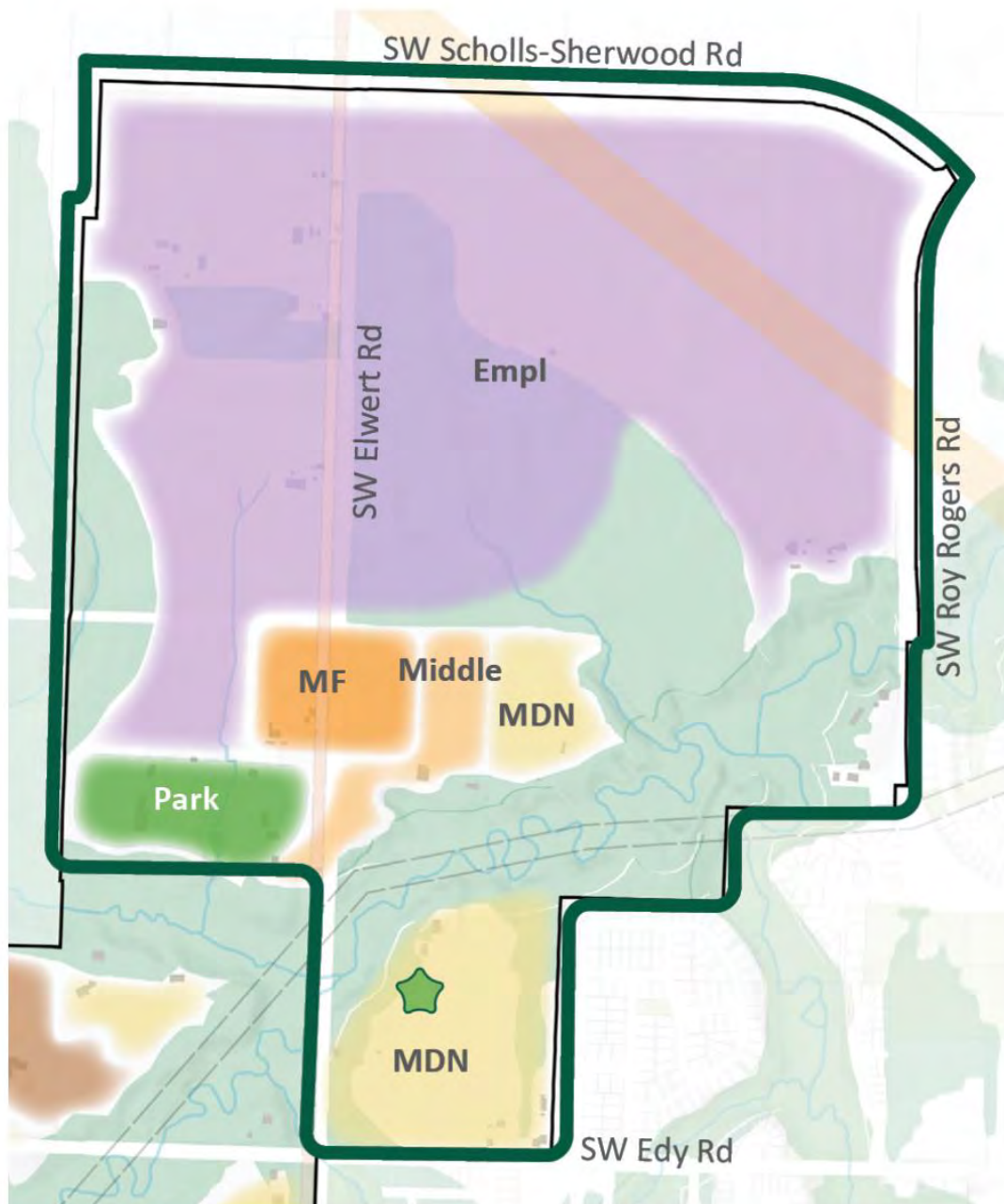
3. Identifying the “130-acre area” that “includes two potential sites that are larger than 50 acres.”

The Alliance has not been able to find a map of the 130 net acre site which could provide the two allegedly needed 50 acre or large parcels. Exhibit D to the decision is a map of regional employment and manufacturing areas, that does not even include the Sherwood West UGB expansion area.

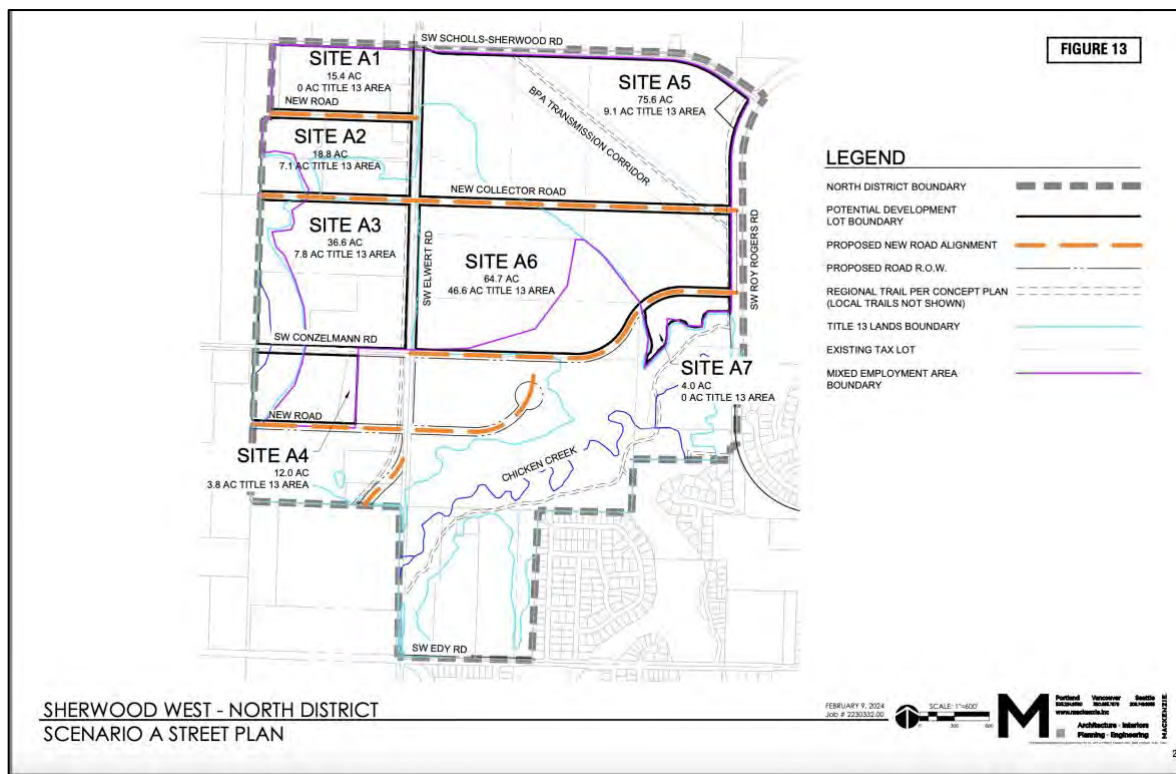
However, this 130 net acre area can be deduced from other documents.

The north end employment area described by Metro is the North District of the Sherwood West Concept Plan, shown here as Figure 9 on page 42 of the Sherwood West Concept Plan:

Figure 9. North District



The Concept Plan supporting materials identified seven employment sites in the North District employment area:



The acreage of each site and the share of each site which is upland and riparian protected by Metro Title 13 “Nature in Neighborhoods” (discussed in one of the following objections) is presented in this table:

TABLE 1: SCENARIO A POTENTIAL DEVELOPMENT SITES				
Site	East or West of SW Elwert Road	Gross Area (acres)	Title 13 Area (acres)	Area outside Title 13 Area (acres)
A1	West	15.4	0	15.4
A2	West	18.8	7.1	11.7
A3	West	36.6	7.8	28.8
A4	West	12.0	3.8	8.2
Total (West)	West	82.8	18.7	64.1
A5	East	75.6	9.1	66.5
A6	East	64.7	46.6	18.1
A7	East	4.0	0	4.0
Total (East)	East	144.3	55.7	88.6
Total		227.1	74.4	152.7

No combination of sites total 130 acres, but Sites A5 and A6 are the only sites larger than 50 acres. They have a combined area of 140.3 “gross” acres and which would could contain 130 net acres making up the “130-acre area” that “includes two potential sites that are larger than 50 acres, nearly flat, and proximate to high-tech clusters on the west side.”

Objection E.1.

Metro approved a UGB expansion for 227.1 acres of industrial land in excess of the 130-acre sites it justified to create two 50-acre high tech manufacturing sites.

As described previously, Metro found a regional need for the 130 acres, apparently in Sites A5 and A6 in the North District mixed employment area, justified by their potential to provide two 50-acre high tech manufacturing sites.

That leaves no justification for the Mixed Employment land in the North District in excess of 130 acres. That excess could be 97.1 acres (227.1 acres in Table 1 less 130 acres) or it could be combined acreage of Sites A1, A2, A3, A4 and A7, 86.8 acres.

Proposed remedy:

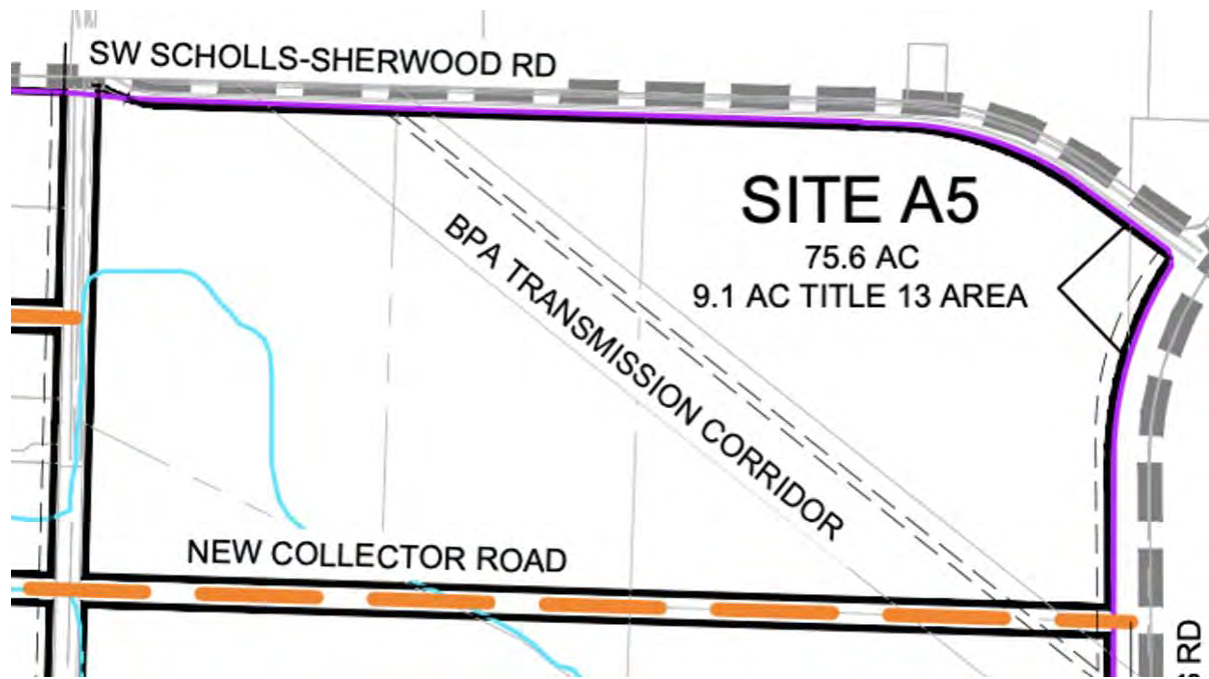
If the Sherwood West UGB expansion area will remain under consideration by the Metro Council, LCDC should instruct Metro to remove the mixed-use employment lands in the North District in excess of those identified as the potential high-tech manufacturing sites, along with all other lands in excess of those identified to meet regional needs,

Objection E.2.

The undisputed facts in the record contradict the conclusion that the Sherwood West Concept Plan Site A5 contains a potential site of 50 acres or more suitable for high tech manufacturing because of a BPA powerline bisects the site, in addition to the area with Title 13 habitat.

Site A5 is 75.6 acres and is made up of four parcels ranging in size from 0.5 acres to 36.3 acres, and part of another 12.9 acre parcel. These parcels are in three ownerships. Of the 75.6 acres, 66.5 acres do not have any Title 13 habitat.

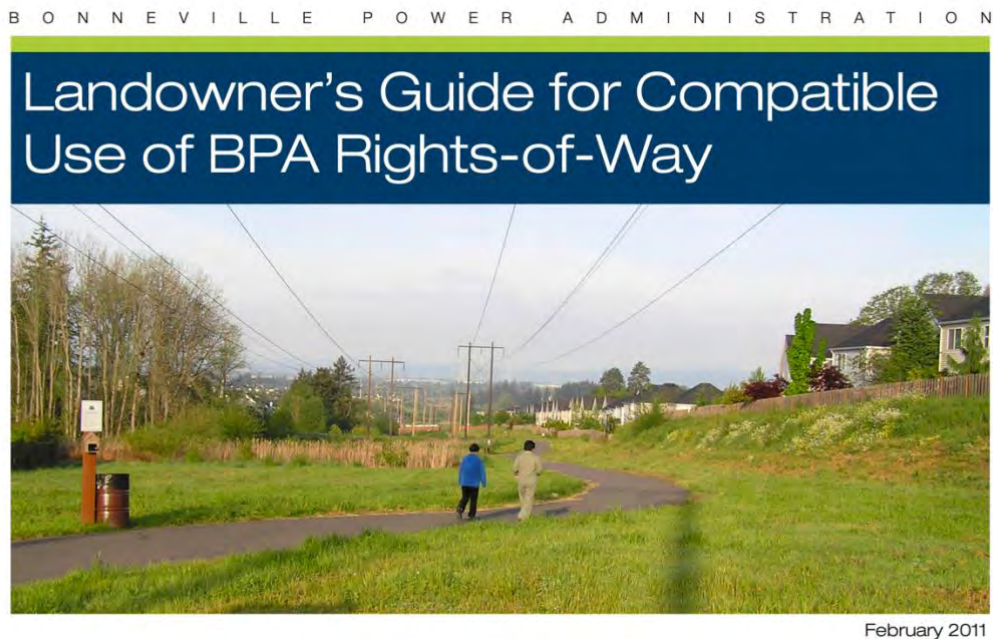
However, Site A5 is bisected by a Bonneville Power Administration high-capacity electricity transmission line corridor, clearly shown in Figure 13:



This is the view in Google Earth of the transmission line where they cross SW Scholls-Sherwood Road looking east-southeast, which the Alliance submitted to the Metro Council:



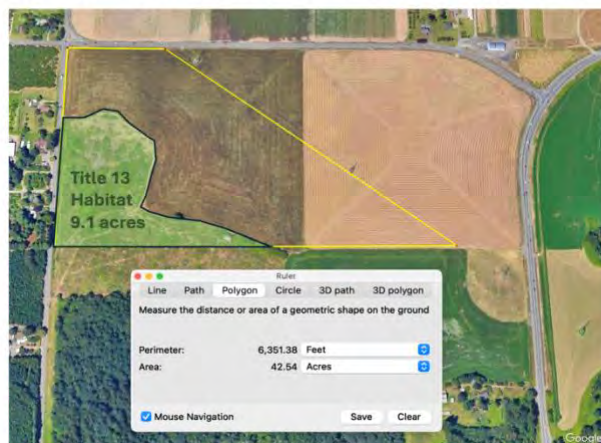
The BPA Landowners Guide for Compatible Use of BPA Right-of-Way (submitted to Metro by the Alliance) to illustrates what BPA considers compatible uses of land under high capacity transmission lines:



Neither Sherwood nor Metro demonstrated how industrial manufacturing buildings could be built under BPA powerlines on Site A5, given that BPA's guidelines call for "at least 50 feet of clearance from BPA's poles, structures or guy wires, whether it be vegetation, roads, fences, utilities, pipelines, or any other improvements.

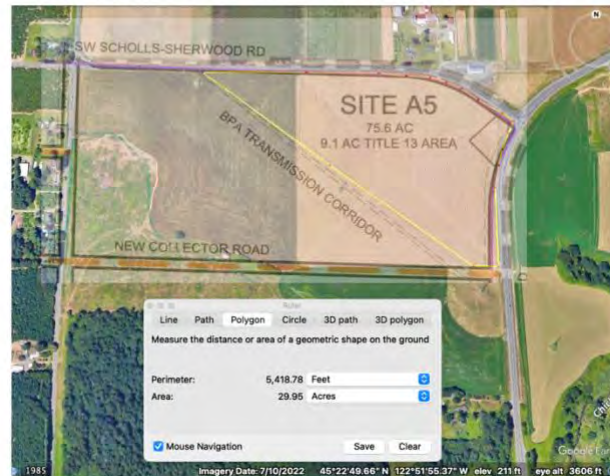
In materials submitted to the Metro Council, the Alliance showed how it estimated the corridor would cut Site A5 into two development sites. One is east of the power lines right-of-way and is estimated to be 29.95 acres:

Site A5 with Google Earth estimate of acreage southwest of BPA corridor and Title 13 Habitat acreage from Figure 13. Total usable acres is 33.44 acres.



The other portion, west of the power lines right-of-way, would be 42.54 acres, of which 7.74 acres (85% of 9.1 acres) is protected from disturbance by Metro's Title 13, leaving a usable parcel of 33.44 to 34.8 acres.

Overlay showing Figure 13 site A5 layout with acreage northeast of BPA corridor:
Note the mapped BPA transmission corridor slightly out of alignment with actual corridor.



The facts show that Metro's conclusion that Site A5 provides a 50-acre site suitable for high tech manufacturing are contradicted by the facts. This is a violation of Goal 2 which requires a sound factual foundation for planning decision.

Proposed remedy:

LCDC should find that Metro staff's findings on the suitability of Site A.5 are contradicted by undisputed facts in the record and direct the Metro Council to consider alternate measures to find such sites within the UGB or other sites in other Urban Reserves that could satisfy the specified regional need. LCDC should also require the Metro Council to reconsider its conclusion on a regional need for additional high-tech manufacturing in the light of recent circumstances and the Governor's decision not to site additional land under SB 4.

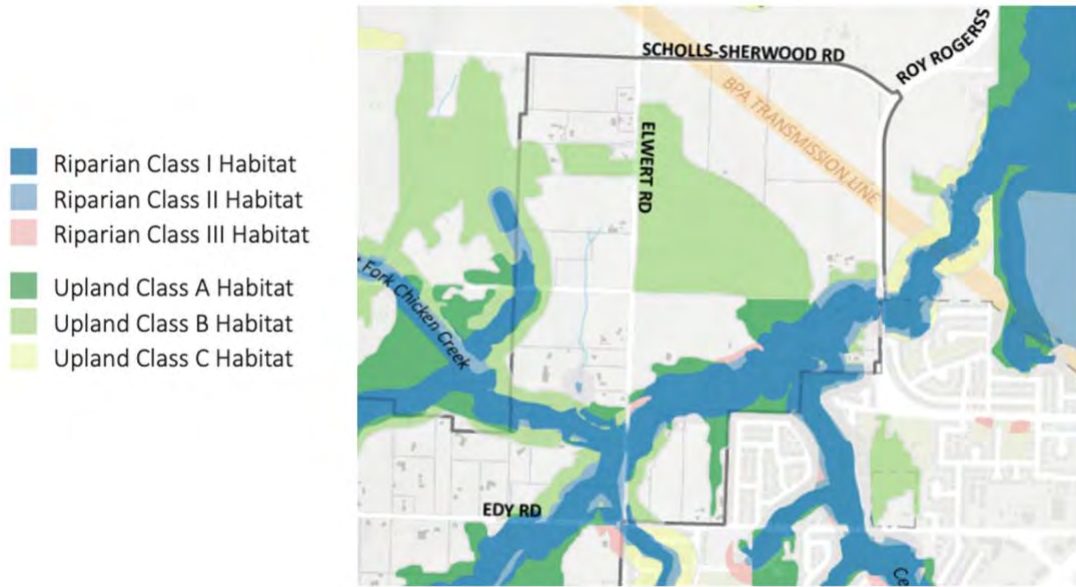
Objection E.3.

The undisputed facts in the record contradict the conclusion that Sherwood West Concept Plan Site A6 contain a potential site 50 acres suitable for high tech manufacturing because 85% of it is habitat that must be protected from disturbance by Metro's Title 13, acknowledged by LCDC as part of Metro's compliance with Goal 5.

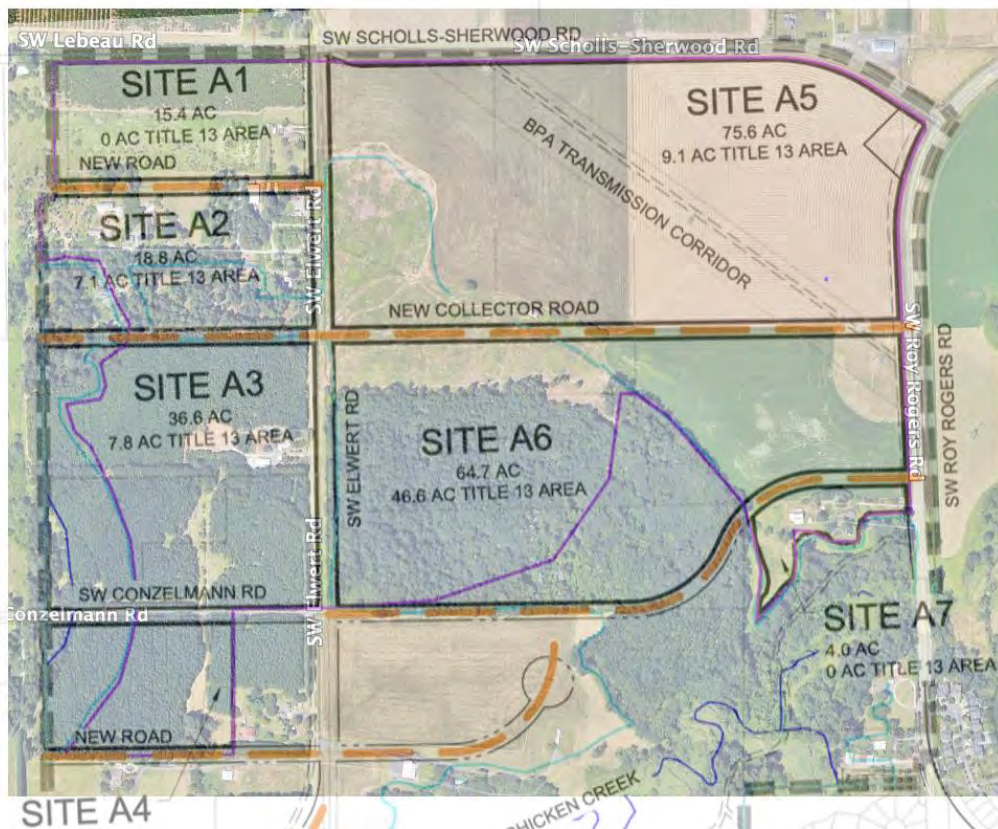
1. Relevant facts in the record about Site A6.

Metro designated Upland and Riparian habitat areas in the North District are shown in Figure 4 on page 27 of the Sherwood West Concept Plan. Below is a section of that map showing habitat in the North District:

Figure 4. Natural Resources Existing Conditions



In the material submitted to Metro on November 21, the Alliance provided the Metro Council with this image overlaying the employment sites on a July 10, 2022, Google Earth image of the North District, which provides some context for uses on the ground currently.



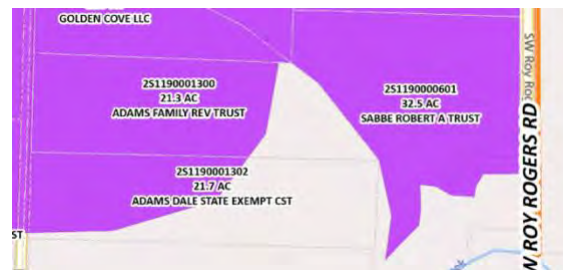
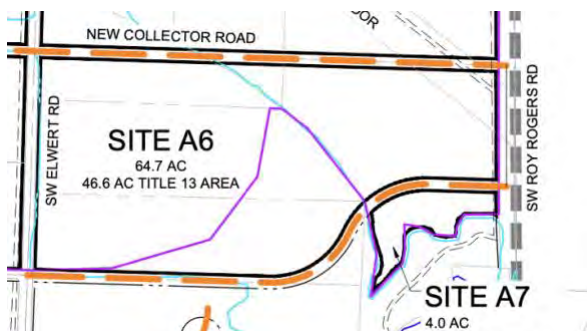
The Alliance also showed that as of a 2016 Google Earth image there was an intact upland forest on other parts of Sites A5 and A6 that correspond to the northern lobe of mapped habitat:



As shown in both Figure 13 and Table 1 from Sherwood’s consultants’ analysis Site A6 is 64.7 gross acres of which 46.6 acres, 72%, is Title 13 habitat and only 18.1 acres is outside Title 13 habitat protections.

2. Site A6 does not contain 50 or more acres of employment land so it is logically impossible to conclude that it is site of 50 or more acres.

A comparison of Figure 7 with Figure 13 clarifies what is indicated by the violet line in the site map, that a large portion of A6 is not designated an employment area at all, a triangle nearly bisecting the site, between about one quarter or one third of it:



Therefore, Site A6 almost certainly does not contain 50 acres of designated employment land. Neither Metro nor Sherwood explained how an employment site of this shape could be efficiently developed.

Proposed remedy:

LCDC should find that Metro staff's findings on the suitability of Site A.6. are contradicted by undisputed facts in the record and direct the Metro Council to consider alternate measures to find such sites within the UGB or other sites in other Urban Reserves that could satisfy the specified regional need. LCDC should also require the Metro Council to reconsider its conclusion on a regional need for additional high-tech manufacturing in the light of recent circumstances and the Governor's decision not to site additional land under SB 4.

Objection E.4.

Application of the LCDC-acknowledged provision of Metro's Title 13 and the Tualatin Basin Natural Resource Conservation Program limits the buildable land on Site A6 to considerably less than 50 acres, contradicting Metro's conclusion that Site A6 contains a developable parcel of at least 50 acres.

Title 13 "Nature in Neighborhoods" is a subsection of Metro Code section 3.07, Metro's Urban Growth Management Functional Plan, 3.07.1310 through 3.07.1370.

Subsection 3.07.1370 "Future Urban Growth Boundary Expansion Areas"

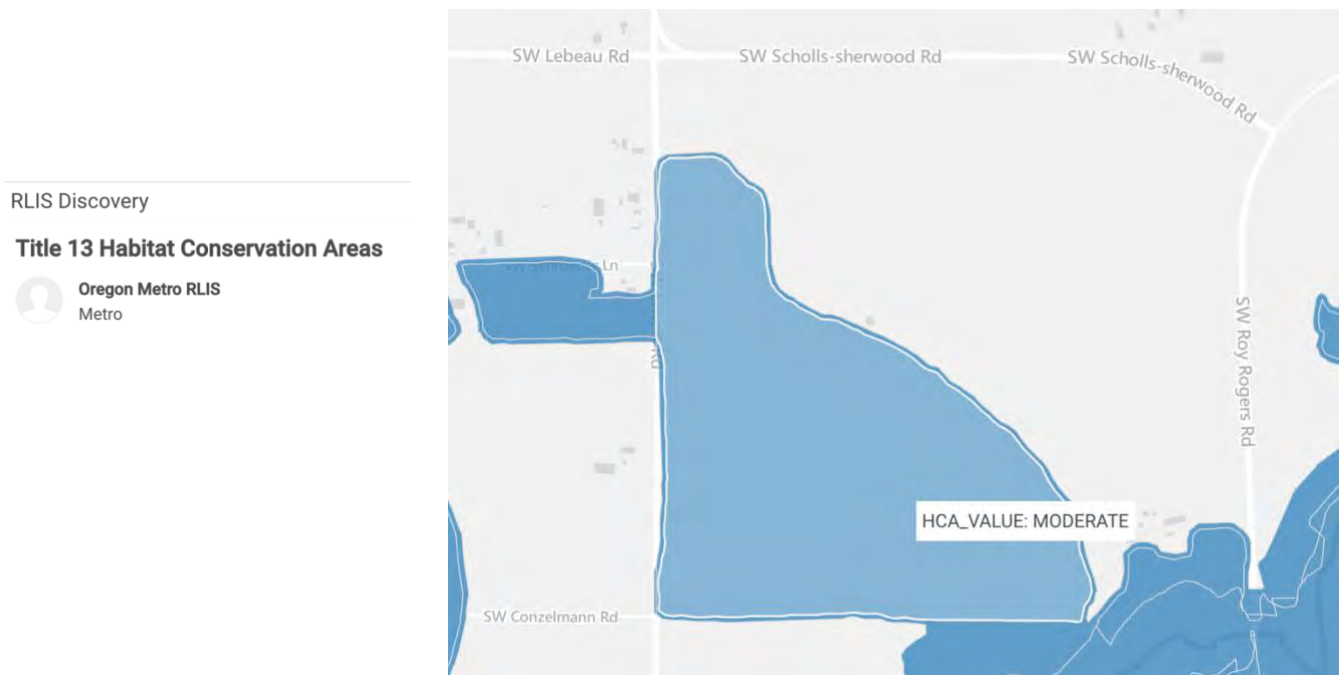
In addition, the Metro Council has also determined that the regionally significant fish and wildlife habitat identified as upland wildlife Class A and B habitat that is currently outside of the Metro UGB shall be designated as Habitat Conservation Areas at such time that those area are brought with the Metro UGB.

3.07.1330(b)(5) of Title 13, "Implementation Alternatives for Cities and Counties" specifies that Sherwood must demonstrate:

its existing or amended comprehensive plan and amended or new implementing ordinances substantially comply with the performance standards and best management practices described in Metro Code Section 3.07.1430 and that maps that it has adopted and uses substantially comply with the Metro Habitat Conservation Areas map and that its plan and implementing measures will "achieve protection and enhancement of Class I and II riparian habitat areas, and of Class A and B upland wildlife habitat areas in territory added to the Metro UGB after December 28, 2005 substantially comparable with the protection and restoration that would result from the application of a program that complied with Metro Code Sections 3.07.133(b)(1) or (b)(2).

In addition, Title 13 requires Sherwood to “amend its comprehensive plan and implementing ordinances to comply with the maps and provisions of the TBNRCC [Tualatin Basin Natural Resources Coordinating Committee] Goal 5 Program] adopted by the TBNRCC on April 4, 2005” and which was adopted by Metro/acknowledged by LCDC on XXX 2007.

Those provisions use habitat conservation protection levels of low, moderate and high, to mapped habitat areas. According to [Metro’s adopted Habitat Conservation Areas map](#), the Class B Upland Habitat in Sites A6 and A5 is classified as “moderate”:



According to the Title 13 Model Ordinance only 15% of a Moderate HCA area within one lot can be “disturbed” as of right Assuming that the separate ownerships and parcels of Site A⁴ could be assembled and combined into a single parcel⁴ then only 15% of 46.6 acres of moderate class habitat on Site A6 could be disturbed by development, about 7 acres.

That would provide a total of about 25 acres for development of a manufacturing facility, far less than the 50 acre site Metro used to justify its decision.

In its locational factor analysis in Appendix 7A, Metro staff stated that the boundaries of upland habitat could be adjusted to reflect logging, making more of the site available for development.

⁴ Information in Sherwood’s submittal, presented in the next objection, shows Area 5A is made up of all or parts of four different parcels that are in three or four different ownerships. Title 13 applies the percentage of allowable disturbance to the lot. For purpose of simplicity of argument, the Alliance will treat Site A6 as a single “lot.” Additional complication, which the Alliance does not need to address, arises from the lack of information about the size of the triangular area outside the employment designation for Site A6.

This is also being proposed in amendments to Title 13 for the Tualatin Basin.

If so, and if approved by LCDC, it will allow, in fact encourage, any landowner to negate the protection of forested upland habitat under Goal 5 and Title 13 by clearcutting the forest, And as noted in a prior objection, in its buildable land methodology set out in Appendix 7, Title 13 lands were classified largely as unbuildable, subject to potential reconsideration, including as a result of logging.

Metro or Sherwood may argue that Title 13's and the Tualatin Basin Natural Resource Program allow for at least two-thirds of the moderate class upland habitat to be destroyed (not just disturbed) for industrial development, in order to create a 50-acre development site.⁵

It is questionable whether the 2006 Metro Council or LCDC would have approved Title 13 if that had been the understanding of its level of protection and if logging would have been admitted as a way of evading Goal 5 protections.

Proposed remedy:

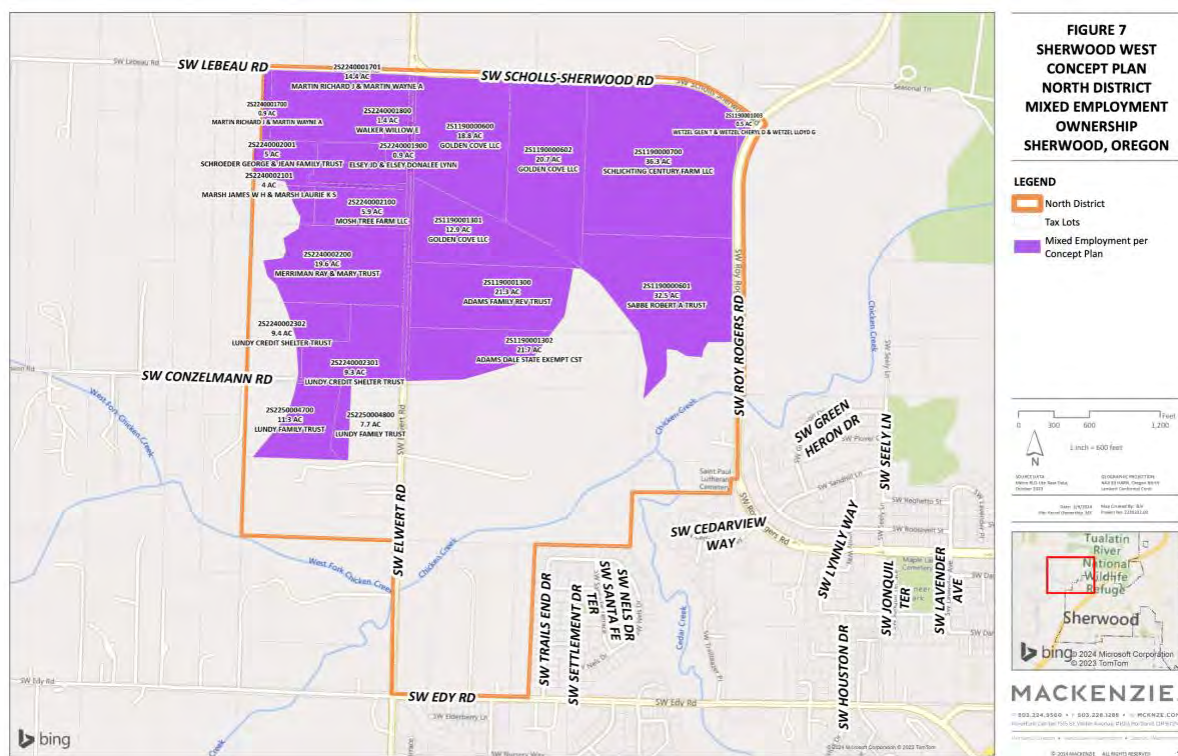
LCDC should find that Metro staff's findings on the suitability of Site A.6. are contradicted by undisputed facts in the record and direct the Metro Council to consider alternate measures to find such sites within the UGB or other sites in other Urban Reserves that could satisfy the specified regional need. LCDC should also require the Metro Council to reconsider its conclusion on a regional need for additional high-tech manufacturing in the light of recent circumstances and the Governor's decision not to site additional land under SB 4.

Objection E.5

Metro's conclusion that Site A5 and A6 are justified as supplying suitable regionally needed sites for high tech manufacturing are contradicted by its rejection of the suitability of similarly parcelized sites with Title 13 habitat protection in other urban reserves.

The employment area in the North District is divided up into many parcels in different ownerships as shown in this map in Sherwood's submittal materials, with the violet area indicated the employment area:

⁵ Site A6 according to Table 1, Site A6 has 18.1 acres of land outside Title 13 and 46.4 acres of Title 13 lands. It would require converting 31.9 acres of Title 13 land to create 50 developable acres, which is 68.75% of 46.4 acres.



According to Figure 7 and Table 1, Site A5 is made up of all or parts of five parcels, ranging in size from 0.5 acres to 36.3 acres, making the average parcel size 15.12 acres and Site A6 is made up of all or parts of five parcels, ranging in size from 12.9 to 32.5 acres, with the average parcel size being 12.94 acres.

As previously discussed, site A5 and A6 have substantial proportions of land with Title 13 habitat protected resources on them.

Yet these lands were considered suitable, even though similar sites, such as larger parcels in the Bendemeer Urban Reserve were considered unsuitable.

The Metro staff's alternative Urban Reserve analysis contradicts its conclusion that Sites A5 and A6 are appropriate and developable locations for high tech manufacturing.

Proposed remedy:

LCDC should find that Metro staff's findings on the suitability of Sites A.5 and A.6. are contradicted by undisputed facts in the record and direct the Metro Council to consider alternate measures to find such sites within the UGB or other sites in other Urban Reserves that could satisfy the specified regional need. LCDC should also require the Metro Council to reconsider its conclusion on a regional need for additional high-tech manufacturing in the light of recent circumstances and the Governor's decision not to site additional land under SB 4.

Objection F

Metro's conditions of approval do not prevent Sherwood from using Sites A5 and A6 for uses other than the high-tech manufacturing that was the justification adding these lands to the UGB.

The Metro Council imposed the following condition intended to limit the uses in the 130-acre area it believed had the potential to provide two 50 acre or larger high tech manufacturing sites:⁶

Industrial areas: The City shall plan the area depicted in Exhibit D as a Title 4 Industrial area in compliance with requirements in Metro code 3.07.430. City land use regulations, annexation procedures, or other means shall provide for creation of at least two sites of 50 gross acres or larger. The resulting sites shall be protected from division. Data centers, storage facilities, and warehousing, distribution, and fulfillment centers shall be prohibited as the primary use on these large sites.

Exhibit B to Ordinance Number 24-1520, page 1. (Note: Exhibit D is a map of the region's employment, industrial and regional significant industrial lands that does not show any of the employment lands in the Sherwood West Concept Plan UGB expansion area.)

However, the Council mistakenly erred by prohibiting "Data centers, storage facilities, and warehousing, distribution, and fulfillment centers" instead of limiting it to the kind of high-tech manufacturing that was the justification for the parcels' addition to the UGB; silicon chip manufacturing and similar high tech manufacturing,

This will allow Sherwood to approve a range of other uses of the type the Sherwood West Concept Plan lists as appropriate for its Mixed Use employment area:

Mixed Employment, which involves a mix of office, light industrial, and flex space uses within the same development or area of the city, emerged as an important theme of the Concept Plan. The economic opportunities study (Appendix G) identified mixed employment as a key economic development and job creation opportunity for Sherwood West.

Sherwood West Concept Plan at page 47.

Appendix G, "Sherwood West Concept Plan: Economic Opportunities and Challenges" (page 2) identified these target tenants in the mixed employment area:

- **Target tenants** are wide-ranging, including service providers, contractors, tech companies, logistics, light manufacturers, designers, healthcare users, etc. Other users in the City's target industry list—including advanced manufacturing, life

⁶ Assuming, without conceding that Metro has the authority, capacity or legal means of enforcing these conditions when Sherwood is considering an application for a land use permit.

sciences, R&D, software/media design, professional and business services, food products, outdoor wear design, etc.—are also appropriate.

Proposed remedy:

The various other objections and remedies presented by the Alliance should eliminate these sites from consideration for inclusion in the UGB. However, LCDC should instruct Metro that should they be included Metro must specify the authorized uses on the property that they referenced in their findings, that is, a very limited range of high tech manufacturing.

Objection G

The Metro Council’s decision violated state and regional policies favoring compact and efficient urban development favoring infill and redevelopment.

The Metro Council’s approval of a 1,291 acre UGB expansion at the outermost edge of the regional UGB in order to provide less than 600 acres of supposedly needed land, including low-density residential development of detached single-family homes, contradicts state and Metro policies favoring compact and efficient urban development.

ORS 197.012 “Compact urban development” provides:

In areas of the state that are growing rapidly, state agencies, as defined in ORS 171.133, cities and counties should, within constraints of applicable federal law and regulations, state law and rules and local ordinances:

(1) Consider directing major public infrastructure investments, including major transportation investments, to reinforce compact urban development; and

(2) Consider giving priority to investments that promote infill or redevelopment of existing urban areas to encourage the density necessary to support alternative modes of transportation.

Statewide Planning Goal 14 “Urbanization” provides (emphasis added):

Goal: To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Boundary Location The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197A.320or, for the Metropolitan Service District, ORS 197.298, and with consideration of the following factors: (1) Efficient accommodation of identified land needs; etc. 2)

Goal 11, Public Facilities and Services contains a complementary policy.

Metro's Regional Framework Plan explains that it is part of Metro's compliance with the statewide planning goals:

State law provides that the Regional Framework Plan must comply with statewide land use planning goals. The Oregon Land Conservation and Development Commission acknowledged the Regional Framework Plan and its implementing ordinances on December 8, 2000. Under the Metro Charter and state law, cities and counties within Metro's boundaries are required to comply and be consistent with Metro's adopted Urban Growth Management Functional Plans and the Regional Framework Plan. . . .

Chapter 1 "Land Use" of Metro's Regional Framework Plan contains Metro's policies on urban form:

1.1 Compact Urban Form

It is the policy of the Metro Council to:

1.1.1. Ensure and maintain a compact urban form within the UGB.

1.1.2 Adopt and implement a strategy of investments and incentives to use land within the UGB more efficiently and to create a compact urban form.

1.1.3 Facilitate infill and re-development, particularly within Centers, Corridors, Station

Communities, Main Streets and Employment Areas, to use land and urban services efficiently, to support public transit, to promote successful, walkable communities and to create equitable and vibrant communities.

. . . .

1.1.8 Promote a compact urban form as a key climate action strategy to reduce greenhouse gas emissions.

Metro's 2014 *Climate smart strategy* expressed and confirmed this commitment to compact urbanization because of its obvious benefits to reducing emissions from commuting within the region (page 11):

The 2040 Growth Concept includes land use and transportation building blocks that express the region's aspiration to incorporate population growth within existing urban areas as much as possible and expand the urban growth boundary only when necessary

Remedy:

LCDC should find that Metro Council's UGB expansion does not comply with the state's nor its own policies favoring compact and efficient urban development and infill and redevelopment within the UGB. LCDC should remand this expansion to the Metro Council for reconsideration of alternative measures promoting infill and redevelopment that comply with those policies

Objection H.

The Metro Council's decision to expand the UGB in one of the most affluent parts of the region and to endorse the use of taxpayer money from less affluent areas to support development in that area violates Metro's policies on racial equity and its Strategic Plan for Racial Equity, Diversity and Inclusion.

1. The Metro Council's policy on the equitable distribution of benefits and burdens of growth and its Strategic Plan for Racial Equity, Diversity and Inclusion.

Metro's Regional Framework Plan include six desired outcomes for the region which are to govern the exercise of its powers:

Chapter 1 Land Use

It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

. . . .

6. The benefits and burdens of growth and change are distributed equitably.

In June 2016 the Metro Council adopted its *Strategic plan to advance racial equity, diversity and inclusion* which includes this commitment:

Metro is committed to arriving at an equitable and prosperous Portland region where everyone has opportunities to enjoy a good quality of life. Taking a racial equity approach by removing barriers and increasing equitable outcomes for people of color in the region is the most intentional and effective path to get there.

It is not possible to reconcile the substance of the Metro Council's decision with this

2. Sherwood is one of the most affluent and least diverse parts of the Metro region.

The Alliance's objections to the Metro Council's approval of the development of unaffordable detached single family dwellings at low densities in the Sherwood West UGB expansions area. Including information showing that home prices and rents in Sherwood were among the highest in the region, higher even than neighboring suburbs of Tigard, Tualatin and Wilsonville.

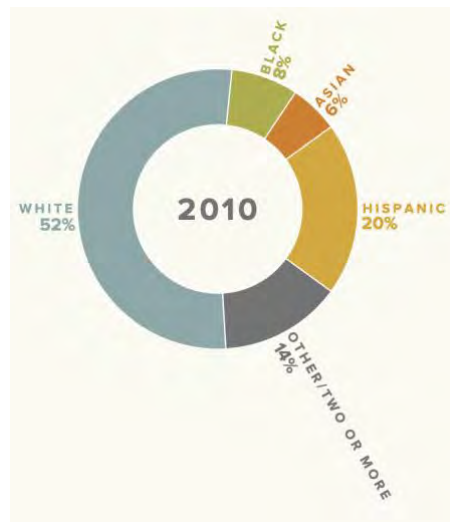
US Census data also shows that Sherwood is among the least diverse cities in the region:

Race and Ethnicity in Sherwood



White alone (not Hispanic or Latino)	16,334	80%
Hispanic or Latino	2,014	10%
Asian	974	5%
Some other race	659	3%
American Indian and Alaska Native	171	0.8%
Black or African American	141	0.7%
Native Hawai'ian and Other Pacific Islander	8	0.04%

Compare this to the ethnic diversity of the region in 2010, 15 years ago, included in the introduction to Metro's *Climate Smart Strategy*:



Perhaps the most stark statistical expression of the difference between Sherwood and other cities in the region is the demographic composition of Sherwood High School, compared to other high schools across the region, taken from the Oregon Department of Education's "Oregon At-A-Glance School Profiles" for 2022-23 academic year (provided to the Metro Council by the Alliance.) Here is a distillation of that demographic information⁷:

⁷ Even more than the above statistics, DLCD and LCDC may find the images and information submitted to Metro by the Alliance regarding the sumptuous new \$250 million High School built on the 82 acres Metro added to the Sherwood UGB on the other side of Highway 99 West, to provide the most compelling evidence of the inequity of the challenged expansion.

High School	% Nonhispanic White	Qualify for free or reduced price lunch	Ever English Learners	Attending college
Sherwood	78%	14%	6%	70%
Beaverton	41%	56%	44%	64%
David Douglas	30%	95%	48%	55%
Franklin	52%	46%	24%	68
Gresham	36%	95%	38%	51%
Hillsboro	31%	95%	46%	54%
Lake Oswego	66%	8%	6%	88%
McDaniel	37%	95%	33%	54%
Wilsonville	64%	22%	15%	76%

Employment in the high-tech sector, which was used by the Metro Council to justify the addition of industrial land to the UGB in the Sherwood Concept Plan North District, is notable for its lack of diversity.



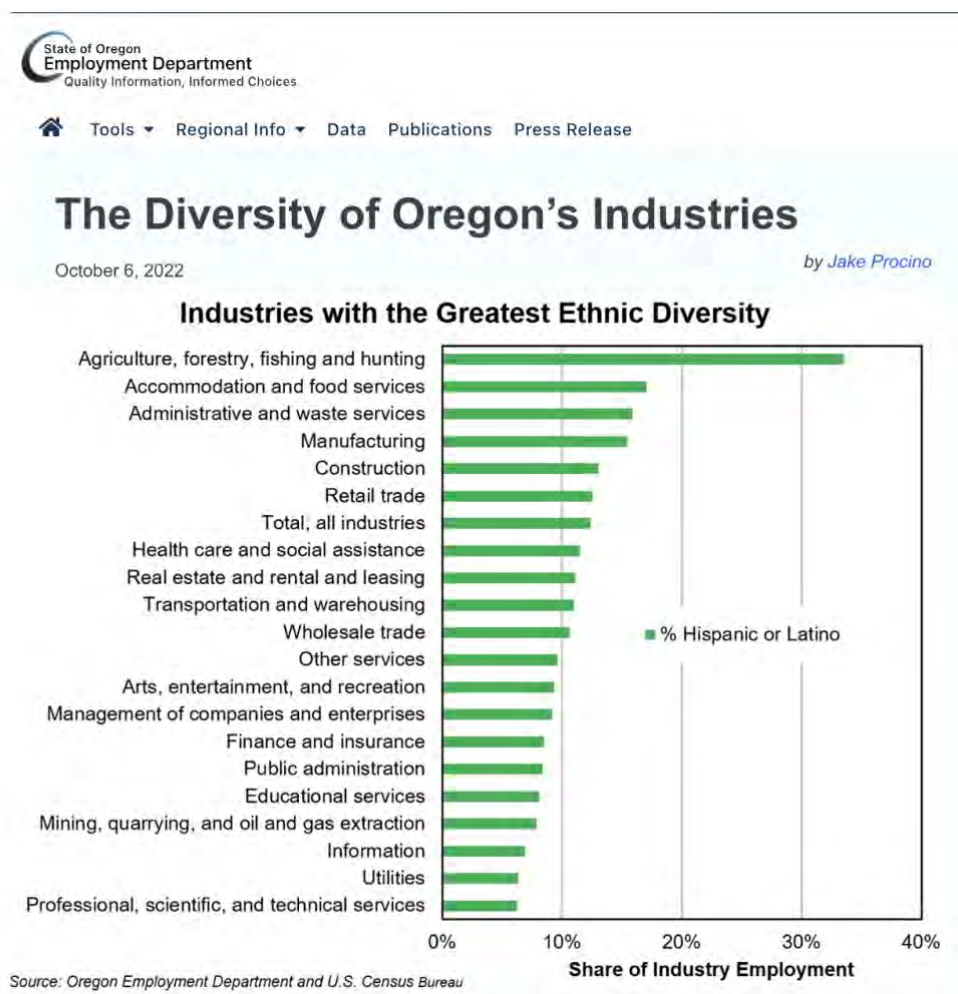
U.S. Equal Employment Opportunity Commission

DIVERSITY IN HIGH TECH

Excerpt from Executive Summary

- Compared to overall private industry, the high tech sector employed a larger share of whites (63.5 percent to 68.5 percent), Asian Americans (5.8 percent to 14 percent) and men (52 percent to 64 percent), and a smaller share of African Americans (14.4 percent to 7.4 percent), Hispanics (13.9 percent to 8 percent), and women (48 percent to 36 percent).
- In the tech sector nationwide, whites are represented at a higher rate in the Executives category (83.3 percent), which typically encompasses the highest level jobs in the organization. This is roughly over 15 percentage points higher than their representation in the Professionals category (68 percent), which includes jobs such as computer programming. However, other groups are represented at significantly lower rates in the Executives category than in the Professionals category; African Americans (2 percent to 5.3 percent), Hispanics (3.1 percent to 5.3 percent), and Asian Americans (10.6 percent to 19.5 percent).

Source: US Equal Opportunity Commission *High Tech, Low Inclusion: Diversity in the High Tech Workforce and Sector 2014 – 2022*.



- Metro’s own Committee on Racial Equity testified to the Metro Council that the UGB expansion process “tokenized” the Committee and that “that there was little to no connection between the UGB process and Metro’s Strategic Plan to Advance Racial Equity, Diversity and Inclusion and the Climate Smart Strategy.”**

Three members of Metro’s Committee on Racial Equity (CORE) testified at the Metro Council’s hearing on September 26, 2024, on the Chief Operating Officer’s UGB recommendations. The subject matter of their lengthy testimony was the way in which their views were disregarded in their “consultation” on the Sherwood UGB expansion. CORE Co-Chair Saerom Yoo began their testimony with important reflections about the UGB amendment process:

And so, while we have submitted recommended conditions of approval in writing for the ... for your consideration for the Sherwood proposal, we also wanted to

step back because we have a lot of reflections and observations about the process that you all could benefit from hearing about

The first take-away is that the UGB process tokenized CORE and other people of color.

While we are grateful that CORE was invited to weigh in on the UGB process, it was immediately clear that racial equity was an afterthought. As volunteers who meet for one two-hour meeting per month, we felt rushed to properly understand the topic, Sherwood's plan, and realize its racial equity impacts.

CORE members and other people of color who were invited to the roundtable felt unwelcome and dismissed. They immediately noted a lack of data justice but their questions and concerns were disregarded.

CORE feels strongly that without data justice we cannot make data-based decisions on racial equity.

....

Our next take-away is that there was little to no connection between the UGB process and Metro's Strategic Plan to Advance Racial Equity, Diversity and Inclusion and the Climate Smart Strategy.

CORE members and other volunteers felt as though there was a large and substantial gap between Metro's codified 106-page commitment to the implementation of racial equity and how we experienced the UGB process....

Metro staff presenting on the subject also did not articulate any sort of incorporation of [the goals of the Strategic Plan.]

In CORE's interaction with the City of Sherwood's staff, we were again surprised to observe such little consideration for racial equity, diversity and inclusion.

[Video recording of September 26, 2024 Metro Council hearing on items 6.1 "2024 Urban Growth Management: Public Hearing on Chief Operating Officer Recommendations"](#) at 1:21:50 to 1:24:42.

The reactions of Metro councilors to such frank talk about their process, and to the shining of a bright clear light upon this expansion effort, made for a rare display in such a usually scripted setting. (And the Council's review was otherwise *very* tightly scripted.)

4. Proposed Remedy

LCDC should find that the Metro Council's UGB expansion decision is inconsistent with Metro's own policies on regional and racial equity and remand the decision back to the Council for reconsideration of that decision based on the recommendations of the Committee on Racial Equity. These in particular include the need for production and dissemination of data on equity.

Objection I.

The Metro Council's Sherwood UGB Expansion is inconsistent with its policies on climate change.

One of the Metro Council's six outcomes for a successful region (part of the Regional Framework Plan) addresses climate change:

It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

The region is a leader on climate change, on minimizing contributions to global warming.

In 2015, the Metro Council adopted its *Climate Smart Strategy for the Portland metropolitan region* which articulated goals and strategies for reducing climate-changing pollution from car and truck emissions.

Nonetheless, it approved a UGB expansion at the very out edge of the region, which will draw commuters to the employment areas west of Highway 99 in the Sherwood West Concept Plan UGB expansion area. And residents in the new residential areas will be obliged to commute to jobs in other parts of the region, especially since transit service in Sherwood is very limited compared to other parts of the region.

The assumption that a jobs-housing balance will result in reduced driving is contradicted by common sense. People changes jobs far more frequently than they change houses, especially given high housing costs. It is rare for both spouses to have jobs near their home.

The data show this lack of relationship between job and housing and commuting in cities in the region. The Alliance prepared the following table for the Metro Council:

What difference does the balance of jobs to housing have on commute time?					Comments
	From 2020 Metro #		From US Census		
	Households	Jobs	Jobs/HH	Commute Time	
Clack, Mult, Wa. Counties	732,937	1,026,032	1.40		
Beaverton	39,895	63,500	1.59	24.9	Has close to regional jobs/household average. Commutes 48 seconds less than Sherwood
Gresham	41,195	40,562	0.98	28.6	Gresham has almost the same jobs/household ratio as Sherwood and 2.9 minute longer commuter
Hillsboro	42,338	84,623	2.00	23.1	
Happy Valley	6,893	7,823	1.13	28.0	
Lake Oswego	17,257	21,525	1.25	23.2	Commute is only six seconds longer than Hillsboro which has many more jobs/household
Oregon City	13,557	17,112	1.26	26.4	Better ratio of jobs to households than Sherwood and has a slightly longer commute time.
Portland	280,708	480,904	1.71	25.5	
Sherwood	6,567	6,546	1.01	25.7	Almost identical to Portland which many more jobs per household
Tigard	21,617	45,109	2.09	23.5	
Tualatin	10,995	34,115	3.10	22.9	
West Linn	9,855	4,982	0.50	27.3	West Linn has less one quarter as many jobs/household as Wilsonville and commute is 1 minute, 4%, to
Wilsonville	9,778	20,539	2.10	26.3	Wilsonville has many more jobs/household than Lake Oswego but a 3 minute longer commute

If the reader is looking for a pattern, they will fail. The point of the table is to show that no relationship can be discerned between the ratio of jobs to housing, and commute length..

At the Metro Council hearing on its draft decision to expand the UGB, the Alliance adopted by reference the arguments and supporting data offered by Joe Cortwright challenging Metro's decision as being in contradiction to its climate change policies and legal obligations. We reaffirm the incorporated objections here.

DLCD staff and LCDC will want to evaluate the Metro Council's decision based on their own work on the Climate Smart and Equitable Communities program.

Proposed remedy: Adopt a finding that the Metro Council's decision does not comply with state and Metro policies to reduce climate changing auto emissions, and remand the decision to the Council to evaluate alternative measures and sites to meet housing and employment land needs that do address these policies.

Objection J.

The Metro Council's decision violated its public participation and ethics standards.

1. Metro's Code of Ethics, Statewide Planning Goal 1, Metro's Public Engagement Principles

The following are excerpts from the Metro Code and Metro Executive Order establishing Metro's code of ethics:

Metro Code

CHAPTER 2.17 CODE OF ETHICS

2.17.010 Purpose and Policy

(b) In adopting this Chapter, the Metro Council intends:

(2) To require Metro officials to operate under high ethical standards;

(3) To require Metro officials to treat their offices and positions as a public trust whose powers and resources are to be used for the benefit of the public and not for any personal benefit;

Metro EXECUTIVE ORDER 66 (1997) excerpts:

PURPOSE The purpose of this Executive Order is to provide a statement of ethical principles that shall serve as guideposts for Metro officials.

TRUST

The purpose of Metro is to serve the public. Metro officials should treat their office as a public trust.

1. Metro's powers and resources are used for the benefit of the public rather than any official's personal benefit.
2. Metro officials ensure public respect by avoiding even the appearance of impropriety.
3. Policymakers place long-term benefit to the public as a whole above all other considerations, including important individuals and special interests. The public interest includes protecting the rights of under-represented minorities.
6. Citizens have a fair and equal opportunity to express their views to Metro officials.

OBJECTIVITY

Metro decisions are based on the merits of the issues. Judgment is independent and objective.

1. Metro officials avoid financial conflict of interest and do not accept benefits from people wanting to affect decisions.

....

Avoid the appearance that the personal, political or social agenda of non-elected officials is a substitute for Metro's policy decision process. . . . Personal involvement with political or social activities by Metro officials is acceptable. However, all Metro officials should avoid taking actions on behalf of Metro that create the impression that their own personal agendas are guiding their official actions at Metro, rather than being subject to Metro's policymaking procedures.

This is Statewide Planning Goal 1: Citizen Involvement:

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 1 is implemented by Metro in part by its "Public Engagement Guide" adopted February 29, 2024, with Councilor Gonzalez seconding the motion and voting in favor. Here is the key provisions (emphasis added.)

Desired outcomes:

- *People have accessible information and meaningful opportunities to participate in programs, services, or decision-making processes at Metro.*
- *Metro creates welcoming spaces that encourage civic leadership and connection through community-led activities and building capacity for ongoing engagement.*
- *The Metro Council makes decisions that are well-informed and responsive to the needs and perspectives of the diverse communities of greater Portland.*

Metro's guiding principles for meaningful public engagement are:

- 1. Public participation is an essential part of Metro's decision-making.*
 - 2. Transparency about decision-making is fundamental to successful public service and includes communicating about project outcomes and the impact of community contributions to the process.*
 - 3. Meaningful public engagement processes apply equity, diversity and inclusion strategies and tools to help identify and address the needs of impacted, underserved, and historically excluded communities.*
- 2. Metro Councilor Gonzalez announced his support for the Sherwood UGB expansion prior to receiving any public testimony on the Urban Growth Report and after receiving a substantial share of his campaign contributions from persons, businesses and organizations having a significant financial stake in the proposed Sherwood UGB expansion, in violation of Metro's Code of Ethics and the spirit of Goal 1 and Metro's Public Engagement Guide.**

On July 11, 2024, when Metro's draft Urban Growth Report was issued, Councilor Gonzalez [posted this comment on his facebook page](#) (two key sections excerpted and reproduced here):



Juan Carlos González is 😊 feeling optimistic.

July 11, 2024 · 🌐

...

Hey folks,

The draft 2024 Urban Growth Report has been released by Metro this week (and is open for comment until mid August!!!!) and I want to make sure I get your attention for at least a few minutes to explain why this is important and why I support Sherwood's request for expansion.

You can find the link to the newsletter by following the linktree in my bio. Or you can read on!

The City of Sherwood's Urban Growth Request

The City of Sherwood has offered up a proposal that encompasses 1,291 acres of land (605 acres of which are developable), located on the northwestern corner that borders Highway 99W. The concept plan estimates between 3,100 to 5,500 units depending on the housing mix types and Sherwood is making strides to ensure pockets of density and opportunities for middle housing. I commend their work on this.

My verdict: I support Sherwood's request

Bringing in precious farmland is a decision our region must take seriously. I support the City's request for expansion. As the region grows, we need to make bold decisions that maximize the limited resources we have – I will be working closely with Metro staff to work through conditions of approval that help the final version of the City's proposal build more housing and attract more living wage, quality jobs in technology and semiconductors.

Thanks for taking the time to read my thoughts,

Juan Carlos Gonzalez

Metro Councilor - District 4

On the same day that Councilor Gonzalez invited public comment on the Urban Growth Report, he announced that he had already made up his mind, before hearing anything from the public.

He did not hear from citizens or wait for the the facts and analysis that show the rental and ownership housing that will be built will only be affordable to high income households.

He did not consider the results of online public surveys that recorded very high levels of opposition to the idea of a Sherwood UGB expansion by residents of Sherwood and nearby areas:

He did not consider the information as to how an erroneous forecast of population growth and surging enrollment at Sherwood High School led Metro to expand the UGB by 82 acres for a new \$248 million high school campus, only to then receive updated forecasts of falling enrollment beginning in just three years.

He did not hear from the citizens about taxes, infrastructure, traffic, vacant industrial land in Sherwood, the loss of valuable agricultural and timberland, threats to the Chicken Creek riparian area or other matters before he made up his mind.

Councilor Gonzalez has been lobbied by the City of Sherwood about this proposal for months (which he celebrates on social media), something that city officials and staff and various development lobbyists have both the time and money to do, but average residents do not. The citizens did not have “a fair and equal opportunity to express their views to Metro officials “

Nor did he reveal or consider the ethical implications of his receipt of tens of thousands of dollars in campaign contributions from the Home Builders Political Action Committee, the Portland Metropolitan Association of Realtors, the partners in the Metropolitan Land Group and other development interests.

On the following page is a list of Councilor Gonzalez’ campaign contributions coming from persons, businesses and organizations that are on record as supporting the Sherwood UGB expansion or have known business interest in planning for and development in UGB expansions. It was derived from the data posted on the Secretary of State’s ORESTAR website and was referenced in a letter of complaint sent to LCDC’s Citizen Involvement Advisory Committee and copied to LCDC and the Metro Council:

Campaign Contributions to Gonzalez for Oregon Juan Carlos Gonzalez for Metro Council campaign committee for 2020 and 2024 elections				
Contributor	Amount	Date	Transaction ID	Notes
Robert Walsh	\$1,500.00	4/18/22	4119960	Walsh is CEO of Walsh Construction - at the address on the contribution
Sean Tyler Keys	\$5,000.00	1/1/18	2737782	Partner/Managing Member Metropolitan Land Groupd
Hillsboro Chamber of Commerce	\$500.00	3/1/18	2767163	
NAIOP	\$500.00	3/5/18	2779667	National Association of Industrial and Office Parks
Portland Metropolitan Association of Realtors	\$3,000.00	3/15/18	2780864	
Oregonians for Affordable Housing PAC	\$2,500.00	3/19/18	2800507	This is an Oregon Homebuilders Association affiliated PAC
The Crandall Group	\$5,000.00	4/9/18	2808410	The Crandall Group is a full-service real estate and land acquisition firm located in Beaverton, Oregon"
John G. O'Neil	\$2,500.00	4/24/18	2822818	Managing Partner, Metropolitan Land Group
Beaverton Area Chamber of Commerce	\$1,000.00	4/30/18	2826178	
Roy Kim	\$1,000.00	3/25/18	2800362	Real Estate Investor, Central Bethany Development
Beaverton Area Chamber of Commerce	\$1,500.00	2/218	2756850	
Portland Metropolitan Association of Realtors	\$10,000.00	2/22/22	4048089	
MF MLG LLC	\$2,500.00	1/7/22	3998045	Formerly Metropolitan Land Group
Oregon Laborers Political Action Committee	\$2,500.00	6/15/22	4184156	Construction trades union
MF MLG LLC	\$2,500.00	8/2/24	4988257	Formerly Metropolitan Land Group
Stefanie Kondor	\$250.00	5/18/22	4166087	Real Estate VP of Development Related Northwest Hillsboro OR
Robert Shanks	\$500.00	5/5/22	4152592	Business Owner in Construction
Pacific Northwest Regional Council of Carpent	\$1,000.00	4/28/22	4133638	
Seth Henderson	\$500.00	4/27/22	4132320	Occupation: "Land developer"
	\$43,750.00			

Clearly Councilor Gonzalez did not attempt to comply with Metro's Code of Ethics by receiving these campaign contributions, up to August of 2024, and then voting in favor of the expansion that benefits the contributors, a clear violation of Metro's Code of Ethics.

3. Proposed remedy.

Remand its decision to the Metro Council with the instruction to require all Metro Councilors to reconsider its decision using procedures, disclosures, Councilor recusals and equal opportunities for public participation, that comply with their Code of Ethics, Goal 1 and Public Engagement Guidelines.

Incorporation of the Objections of 1000 Friends of Oregon, Housing Land Advocates, Verde, Tualatin River Keepers, Ron Bunch

The arguments presented to Metro and objections made to DLCD and LCDC by 1000 Friends of Oregon, Housing Land Advocates, Verde, Ron Bunch and Tualatin River Keepers that are in concurrence with those presented and made by the Alliance, are adopted by the Alliance and individual objectors, along with the supporting evidence,