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January 9, 2025

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

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

Re: Objections to Metro Ordinance 24-1520

Dear Periodic Review Specialist,

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

## **I. INTRODUCTION**

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

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

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

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

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

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

The most glaring instance of Metro's failure is where the Metro Council made its preliminary decision to bring Sherwood West within the UGB without ever evaluating alternative sites or measures as required by Goal 14 and Metro's Urban Growth Management Functional Plan Title 14.<sup>4</sup> Instead, Metro Council issued its alternatives analysis post-facto, apparently largely as a means to an end of bolstering a decision that was already made. Instances of this defective approach are ubiquitous among Metro's findings.

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

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

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

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

## II. OBJECTIONS

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

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

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

"[b]uildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density." OAR 660-015-0000(10).

"Needed housing" means,

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

Goal 10 is meant to,

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

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

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

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

- (a) Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
- (b) Include in their plans actions and implementation measures designed to... increase the opportunities for new dispersed affordable housing within their boundaries.
- (c) Include plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **III. RECOMMENDED CHANGE**

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

### **IV. CONCLUSION**

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

TOMASI BRAGAR DUBAY  
January 9, 2025  
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Sincerely,

A handwritten signature in blue ink, appearing to read 'AJB', followed by a horizontal line.

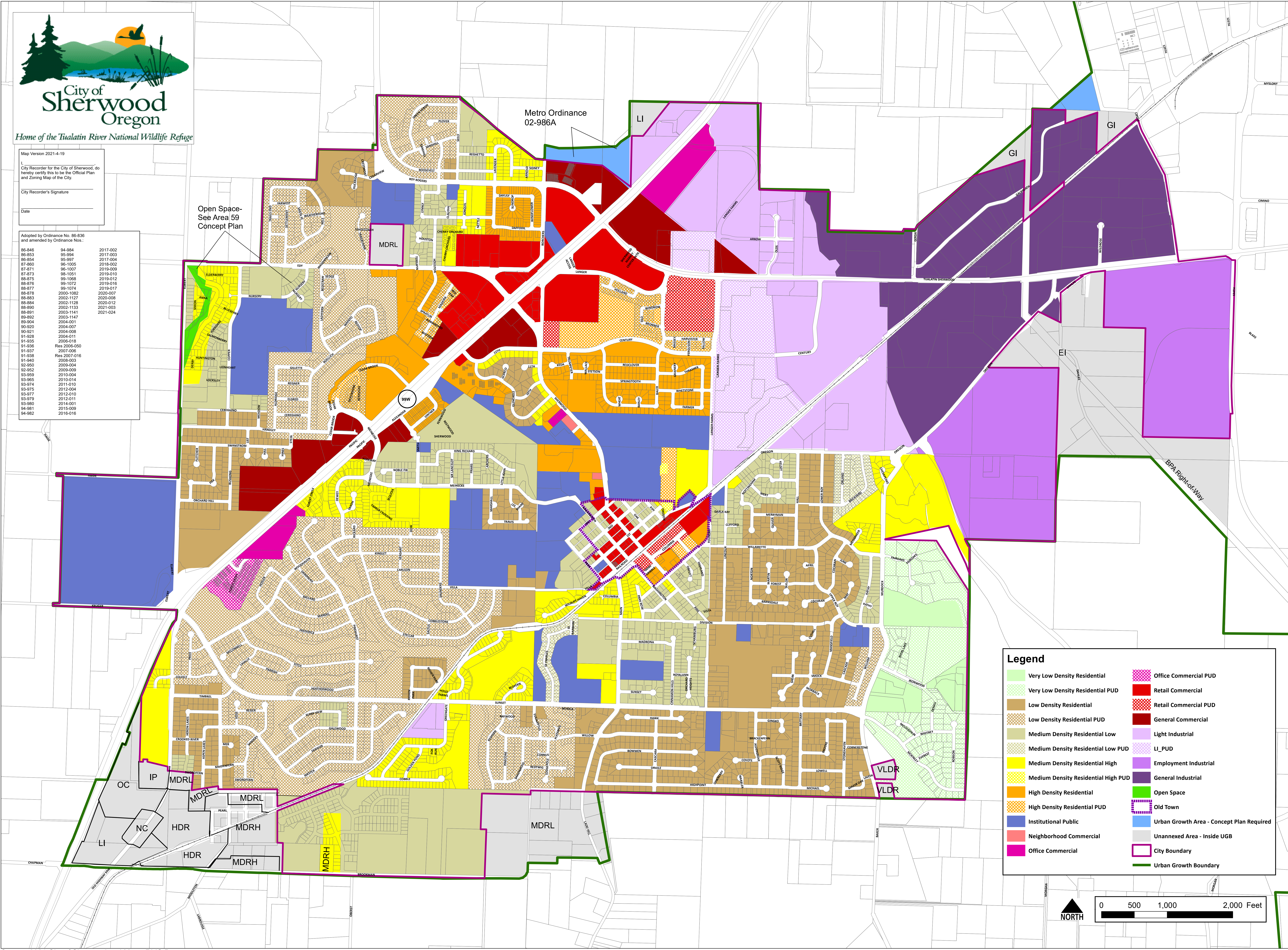
A. June Bradley

cc: (all by email)

Jennifer Bragar  
client

1000 Friends of Oregon  
West of Sherwood Farm Alliance  
Tualatin Riverkeepers  
Verde

City of Sherwood Plan and Zone Map





October 25, 2021

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

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

Dear Planning Commission Members:

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

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

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



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

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

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



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

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

Thank you for your consideration.

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

Allan Lazo  
Executive Director  
Fair Housing Council of Oregon

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

Jennifer Bragar  
President  
Housing Land Advocates

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

# **Attachment 1**



BY EMAIL

December 4, 2018

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

Re: UGB Expansion Proposals

Dear President Hughes and Metro Councilors,

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

I. Federal Case Law

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

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

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<sup>1</sup> 42 USC §3601.

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

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touchstone in determining whether a government entity has denied individuals housing on the basis of race or interfered with the right to equal housing opportunities under the FHA.<sup>3</sup>

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

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

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

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

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

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

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

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

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

## II. Metro Authority – Oregon Statutory Obligations

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

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

<sup>7</sup> HUD Priv. Lrt. Rule (Dec. 21, 2010) Available at [https://prrac.org/pdf/12-21-2010\\_HUD\\_Response\\_to\\_Westchester\\_AI.pdf](https://prrac.org/pdf/12-21-2010_HUD_Response_to_Westchester_AI.pdf) (Accessed November 29, 2018).

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

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

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

<sup>10</sup> Goal 10 provides for "[b]uildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density."

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

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

Goal 14 also requires Metro to demonstrate how the region’s housing needs under Goal 10 are being met within the current UGB and how they will continue to be met if the UGB is expanded.<sup>13</sup> This includes housing “at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type, and density.”<sup>14</sup>

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

Metro also has the power to create and enforce Functional Plans<sup>16</sup> and direct changes in city or county plans and land use regulations as needed to bring them into compliance with such

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

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

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

<sup>15</sup> Metro Code (Or.) §3.07.740 (2011).

<sup>16</sup> Metro Code (Or.) §3.07.850.

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

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

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

### III. Metro Authority – UGB Expansion

In addition to Metro's duty to oversee the compliance of cities and counties in conjunction with its regional framework plan, Metro itself must address local affordable housing concerns when it decides to expand the Urban Growth Boundary ("UGB"). Metro is subject to the mandates of ORS 197.296.<sup>20</sup> Consequently, Metro must take into account the region's housing needs when establishing buildable lands within the UGB.<sup>21</sup>

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

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<sup>17</sup> *Id.*

<sup>18</sup> ORS 268.390.

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

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

<sup>21</sup> ORS 197.296

<sup>22</sup> See MC 3.07.1120 Planning for Areas Added to the UGB.

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

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

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

In *Housing Land Advocates v. City of Happy Valley*,<sup>25</sup> the City of Happy Valley approved an application for the zoning reduction of a previously zoned Mixed Use Residential property to a 31-lot subdivision allowing development of detached single-family residential dwellings on individual lots.<sup>26</sup> HLA appealed the city's decision, arguing that the city failed to show how the 31 single-family homes would meet the housing needs of current and future Happy Valley and Portland-area residents of all income levels.<sup>27</sup> HLA specifically cited the city's responsibility under Title 1 of Metro's Urban Growth Management Functional Plan, specifically Metro Code Section 3.07.120(e), which requires a local government to "maintain or increase its housing capacity" in line with "a compact urban form and a 'fair share' approach to meeting housing needs."<sup>28</sup> Without an adequate housing analysis, the city, HLA claimed, failed to comply with statewide planning goals, namely Goal 10 and the Needed Housing Statutes at ORS 197.295 to .314.<sup>29</sup> In response to HLA's claims, the city argued that the zone change produced a reduction of "a mere .004 percent."<sup>30</sup> The city concluded that this reduction was "negligible," which the city argued conformed to the standard established under Metro Code Section 3.07.120(e).

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

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

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

<sup>26</sup> *Id.*, at 3.

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

<sup>28</sup> MC §3.07.120 ("Housing Capacity").

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

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

<sup>31</sup> *Id.*, at 23-24.

<sup>32</sup> *Id.*, at 23.

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

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

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

#### B. *Deumling v. City of Salem*

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

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<sup>33</sup> *Id.*

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

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

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

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

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

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

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

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

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

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

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<sup>37</sup> *Id.*, 30.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*, at 31.

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

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

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

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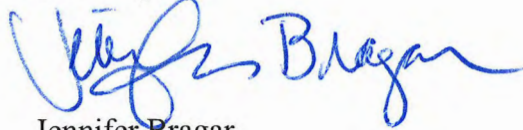
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<sup>41</sup> While Metro may try to avoid the direct application of the legislative UGB amendment criteria, by claiming its adoption of criteria in MC 3.07.1428 is the exclusive process for reviewing this expansion, nothing in the code states that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

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

Sincerely,



Jennifer Bragar

President, Housing Land Advocates

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

January 19, 2016

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

Dear Planning Commissioners:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

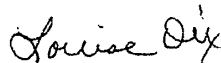
HLA believes that any action by the City that results in a reduction in housing diversity and affordability could violate the city's obligation to affirmatively further fair housing under them Federal fair Housing Act, 42 U.S.C. §§ 5304(b)(2), 5306(d)(7)(B), 12705(b)(15), 1437C-1(d)(16).

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

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

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

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



Louise Dix  
Fair Housing Council of Oregon



Jennifer Bragar, President  
Housing Land Advocates

## 'Richest town in Oregon' may surprise you



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

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

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

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

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

-- The Oregonian/Oregonlive.com

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**Ad Choices**

**EXHIBIT A**

[http://www.oregonlive.com/business/index.ssf/2015/06/richest\\_town\\_in\\_oregon\\_happy\\_va...](http://www.oregonlive.com/business/index.ssf/2015/06/richest_town_in_oregon_happy_va...) 1/19/2016



# **2012-2016 CONSOLIDATED PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT**

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**CLACKAMAS COUNTY  
COMMUNITY DEVELOPMENT DIVISION**



**April 2012**

**EXHIBIT B**

**CHAPTER 1****HOUSEHOLDS AND FAMILIES**

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

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

**INCOME AND POVERTY**

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

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

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

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

**CHAPTER 3**

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

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

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

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

**TABLE 3-3                      Housing Needs Assessment Demographics**

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

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

**CHAPTER 3**

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

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

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

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

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

**Number of Housing Units***Total Housing Units*

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

**CHAPTER 3****TABLE 3-66 Total Housing Units, Washington County 2012**

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

Source: 2008-2012 ACS

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

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

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

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

Source: 2011 Metro Affordable Housing Inventory Report

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

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

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

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

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

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

Source: 2008-2012 ACS

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

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

Source: HUD FMR and HOME Rents

**TABLE 3-75 Housing Affordability**

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

Source: 2007-2011 CHAS

**CHAPTER 3**

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

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

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

Source: 2008-2012 ACS

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

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METRO

November 28, 2007

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

FROM: Michael Jordan, Chief Operating Officer

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

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

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

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

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

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

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

Attachment 1 – Urban Growth Management Functional Plan Compliance Changes

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

## **Attachment 2**

BEFORE THE METRO COUNCIL

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

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

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

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

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


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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

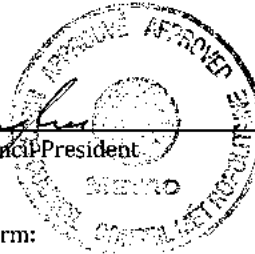
1. The UGB is hereby amended, as indicated in Exhibit A, attached and incorporated into this ordinance, to add 82.3 acres to the UGB for development of a high school with sports fields and a roadway improvement, subject to the following three conditions of approval:
  - a. The property must be used for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

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

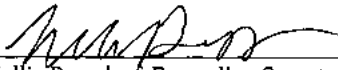
ADOPTED by the Metro Council this 17 day of August 2017.

  
A handwritten signature in black ink, appearing to read "Tom Hughes", is written over a horizontal line.

Tom Hughes, Council President

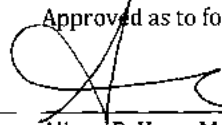


Attest:

  
A handwritten signature in black ink, appearing to read "Nellie Papsdorf", is written over a horizontal line.

Nellie Papsdorf, Recording Secretary

Approved as to form:

  
A handwritten signature in black ink, appearing to read "Alison R. Kean", is written over a horizontal line.

Alison R. Kean, Metro Attorney

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

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

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

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

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

## **Attachment 3**

More

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TUESDAY, OCTOBER 19, 2021

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

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

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

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

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

### Use of Production Rates vs Production Counts

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

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

Observations:

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

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

### Happy Valley #1:

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

### City of Portland #8

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

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

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

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

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

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Oct 24, 2021



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

Agenda:  
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Oct 24, 2021

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2010 Census

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

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

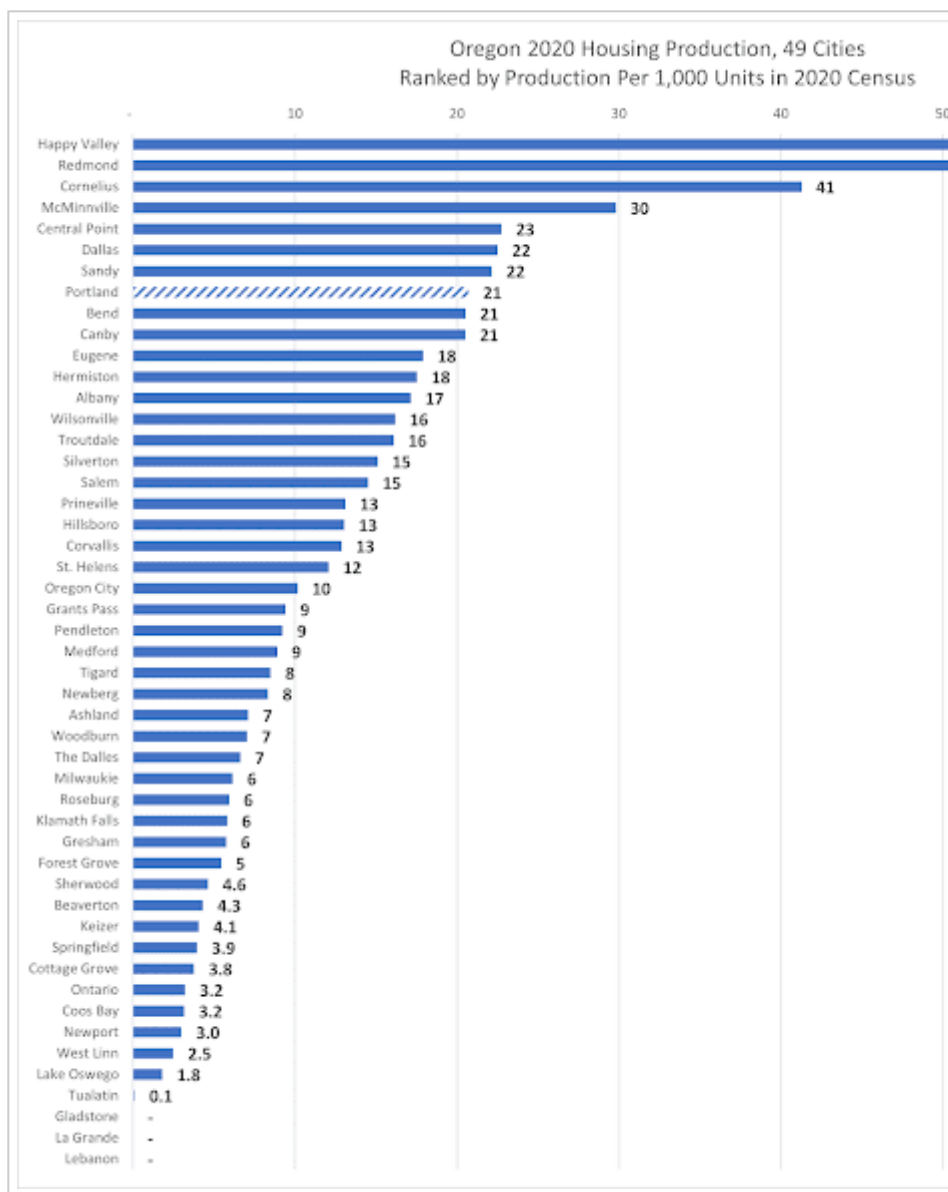
There were 14 cities where less than 5 units were produced for every 1,000 housing units, including *six cities* in the Portland metro area.

These cities had 16 % [170,923] of the total housing units in these 49 cities in the 2020 Census, but reported a much smaller 4.5% **[721 units]** of the total housing production in these 49 cities.

City	Census 2020 Housing Units	Units Produced in 2020	2020 Units Produced Per 1,000 Housing Units in 2020 Census	Rank
49 Cities	1,062,261	15,944	15.0	
Sherwood	7,132	33	4.6	36
Beaverton	42,288	182	4.3	37
Keizer	15,277	62	4.1	38
Springfield	25,614	101	3.9	39
Cottage Grove	4,251	16	3.8	40
Ontario	4,682	15	3.2	41
Coos Bay	7,611	24	3.2	42
Newport	5,697	17	3.0	43
West Linn	10,491	26	2.5	44
Lake Oswego	18,345	33	1.8	45
Tualatin	11,171	1	0.1	46
Gladstone	4,943	-	0.0	47
La Grande	5,852	-	0.0	47
Lebanon	7,569	-	0.0	47
Courtesy, Oregon Housing Blog				

### Graph of 2020 Production Rate Per 1,000 Units for All 49 Large Cities:

75th FHA Anniversary Celebration  
 AARP Reverse Mtg. Calculator  
 Beaverton Civic Plan  
 Brookings Blueprint for Prosperity  
 Buy Oregon Bonds  
 C-SPAN Congressional Video Search  
 CALENDAR: Oregon Housing Blog  
 Center for American Progress  
 Conf.of State Banking Supervisors  
 Consider the Person Campaign  
 Consumer Law and Policy Blog  
 DATA.GOV  
 Excel OneDrive Public Files  
 FHA Mortgagee Letters  
 FHFA House Price [Change] Calculator  
 FICO Loan Savings Calculator  
 Financial Crisis Inquiry Commission  
 Foreclosure-Response.ORG  
 Front Porch Real Estate Blog (OregonLive)  
 GSE CY 2010 Access Databases  
 GSE CY 2010 Excel Files  
 HOPE NOW ALLIANCE  
 HUD RECOVERY Site  
 HUD Waivers: CY 2006-CY 2009  
 HUD Waivers: CY 2010-2014  
 HUD YouTube Channel  
 HUD YouTube Channel  
 Hardest Hit Plan Oregon Checklist  
 Hardest Hit Plan Submissions, First Round States.  
 Hardest Hit Plan Submissions, SECOND Round States.  
 Hardest Hit Plans, as APPROVED by Treasury  
 Home Forward YTD Board Packages



Courtesy, Oregon Housing Blog.

POSTED BY TOM CUSACK AT 10/19/2021 10:00:00 AM 

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- METRO Housing Watch
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  - Calculator
- National Low Income Housing
  - Coalition
- National Mortgage News
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#### ABOUT ME



**TOM CUSACK**

On Independence Day in 2007 I retired after 34 years of federal service at HUD, the last 10 as the Field Office Director in Portland Oregon. My primary blog is the Oregon Housing Blog.

[VIEW MY COMPLETE PROFILE](#)

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BANNER PHOTO CREDIT

**Figure C-20.**  
**Change in Median**  
**Gross Rent, All**  
**Renter-Occupied**  
**Units, Urban and**  
**Rural Cities, 2012**  
**and 2017**

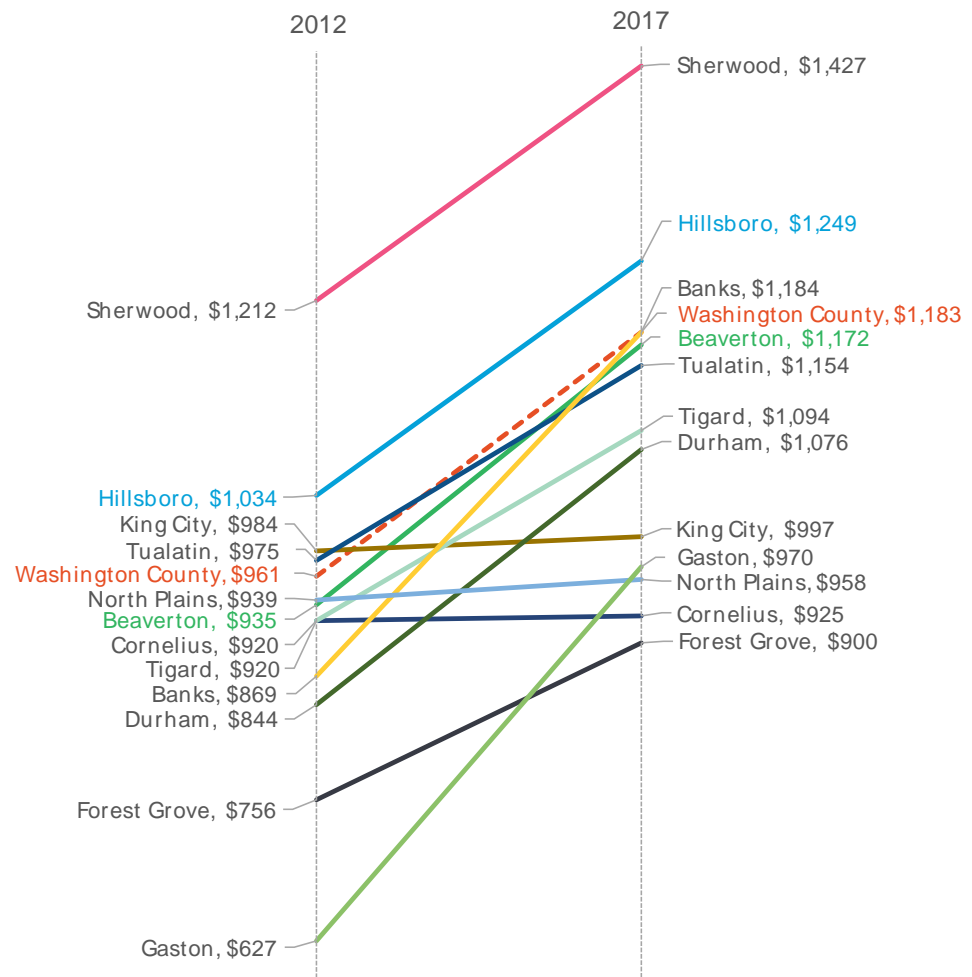
Note:

Includes all types of renter-occupied units, including multifamily and single-family units.

Source:

2012 and 2017 5-year  
American Community Survey  
(ACS).

	2012	2017	2012 to 2017 Change	
			#	%
Banks (Rural)	\$869	\$1,184	\$315	36%
Beaverton	\$935	\$1,172	\$237	25%
Cornelius	\$920	\$925	\$5	1%
Durham	\$844	\$1,076	\$232	27%
Forest Grove	\$756	\$900	\$144	19%
Gaston (Rural)	\$627	\$970	\$343	55%
Hillsboro	\$1,034	\$1,249	\$215	21%
King City	\$984	\$997	\$13	1%
North Plains (Rural)	\$939	\$958	\$19	2%
Sherwood	\$1,212	\$1,427	\$215	18%
Tigard	\$920	\$1,094	\$174	19%
Tualatin	\$975	\$1,154	\$179	18%
<b>Washington County</b>	<b>\$961</b>	<b>\$1,183</b>	<b>\$222</b>	<b>23%</b>

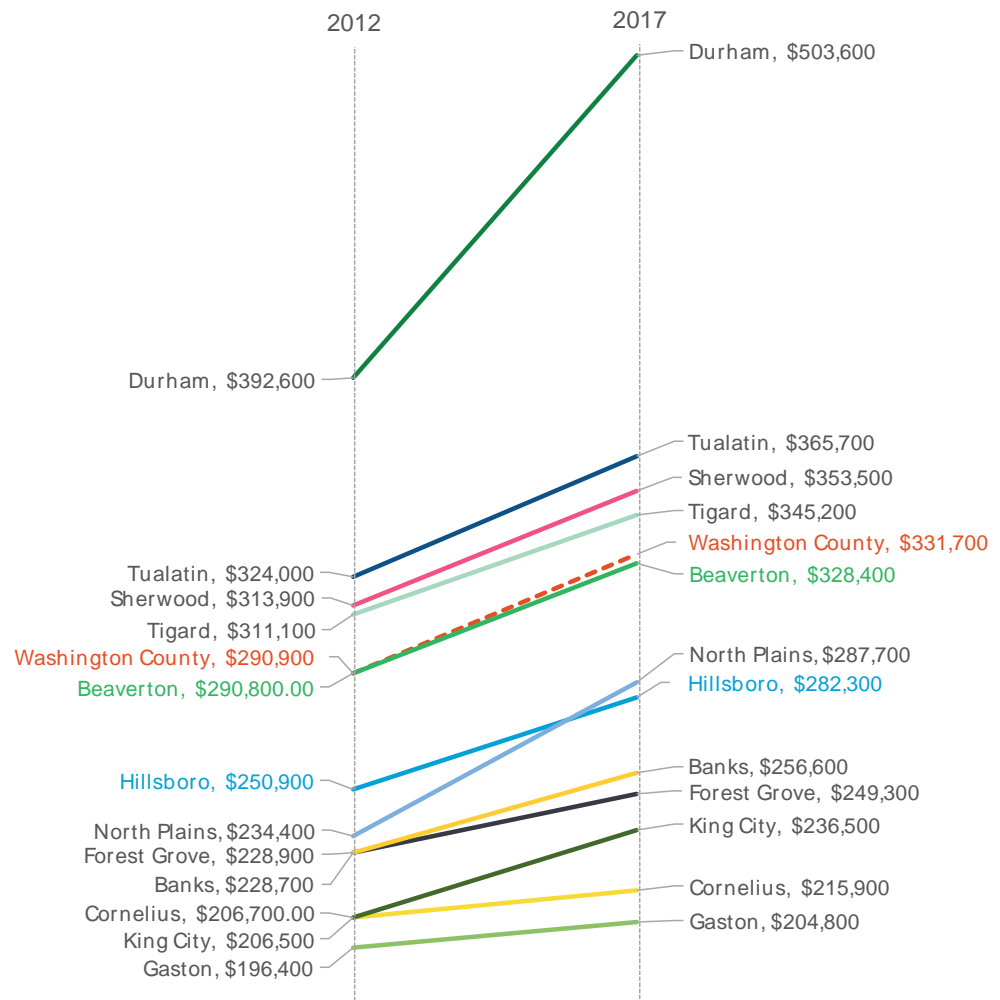


**Figure C-22.**  
**Change in Median**  
**Home Value, All**  
**Owner-Occupied**  
**Units, Urban and**  
**Rural Cities, 2012**  
**and 2017**

Note:  
Includes all types of owner-occupied units, including single-family detached and attached units.

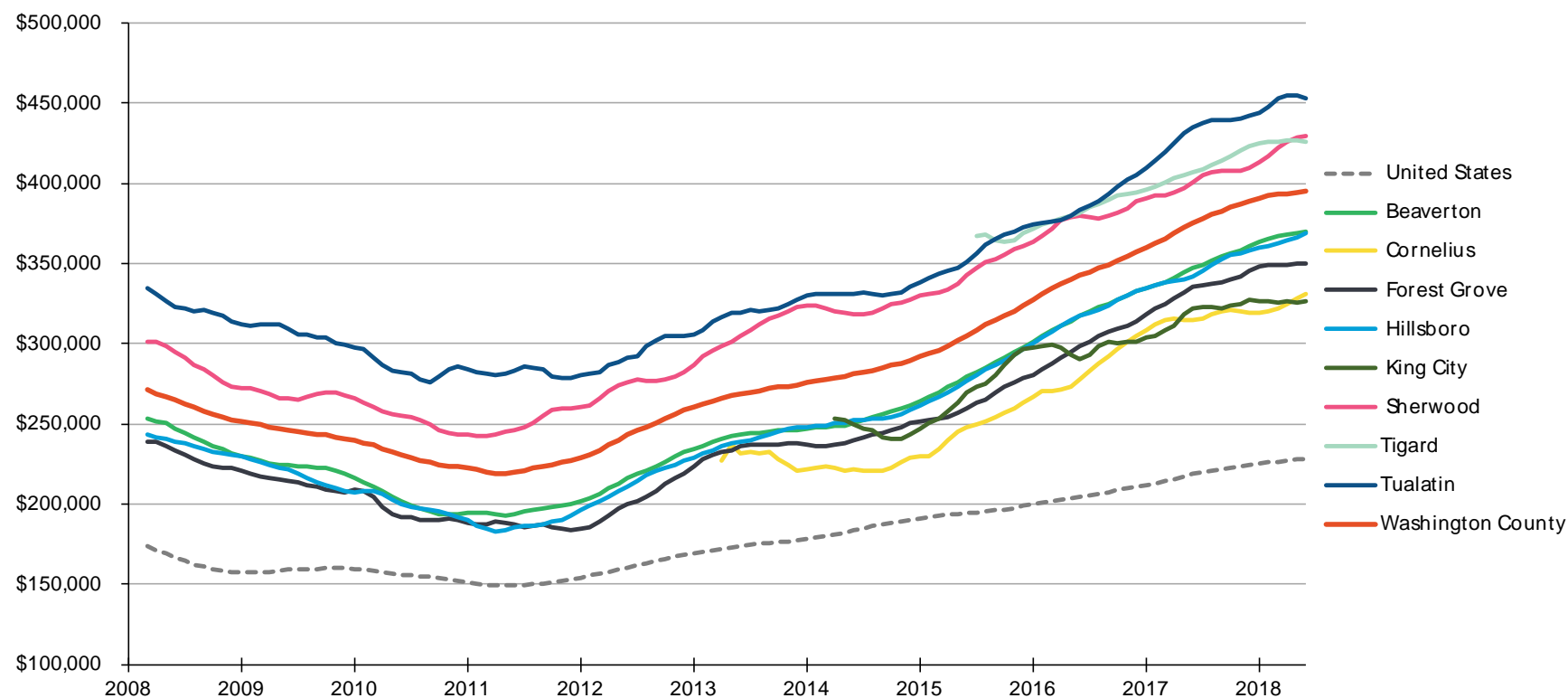
Source:  
2012 and 2017 5-year  
American Community  
Survey (ACS).

	2012	2017	2012 to 2017 Change	
			#	%
Banks (rural)	\$228,700	\$256,600	\$27,900	12%
Beaverton	\$290,800	\$328,400	\$37,600	13%
Cornelius	\$206,700	\$215,900	\$9,200	4%
Durham	\$392,600	\$503,600	\$111,000	28%
Forest Grove	\$228,900	\$249,300	\$20,400	9%
Gaston (rural)	\$196,400	\$204,800	\$8,400	4%
Hillsboro	\$250,900	\$282,300	\$31,400	13%
King City	\$206,500	\$236,500	\$30,000	15%
North Plains (rural)	\$234,400	\$287,700	\$53,300	23%
Sherwood	\$313,900	\$353,500	\$39,600	13%
Tigard	\$311,100	\$345,200	\$34,100	11%
Tualatin	\$324,000	\$365,700	\$41,700	13%
<b>Washington County</b>	<b>\$290,900</b>	<b>\$331,700</b>	<b>\$40,800</b>	<b>14%</b>



Among all communities, sale prices decreased after the Great Recession, but started to recover in mid-2011. As of May 2019, home sale prices have surpassed post-recession prices. Currently, Tualatin has the highest median sale price and King City has the lowest.

**Figure C-25.**  
**Median Home Sale Price, 12-Month Rolling Average, 2008 to 2019 (YTD)**



Note: Data for 2019 is year to date (through May). Historical sale data for Cornelius, King City, and Tigard is not available for all years. Zillow does not provide home sales data for Aloha, Banks, Durham, Gaston, or North Plains.

Source: Zillow.