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Attention: Periodic Review Specialist  
Department of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, Oregon 97301  
Email: [DLCD.PR-UGB@dlcd.oregon.gov](mailto:DLCD.PR-UGB@dlcd.oregon.gov)

Thursday, January 9, 2025

**RE: Objections to the Metro Urban Growth Boundary Amendment, Metro Council Ordinance No. 24-1520, pursuant to OAR 660-025-0140.**

Tualatin Riverkeepers respectfully objects to Metro Council's submittal of Ordinance 24-1520, which amends Metro's regional Urban Growth Boundary (hereinafter "UGB") and adds approximately 1,291 acres of land in the Sherwood West planning area to the existing UGB. Tualatin Riverkeepers disputes the conclusions outlined in Ordinance No. 24-1520 and its supplemental appendices.

Tualatin Riverkeepers (TRK) is a community-based organization that protects and restores the Tualatin River watershed. Our 500 members and thousands of volunteers - primarily Washington County residents - build watershed stewardship through advocacy, restoration work, and education. TRK's advocacy in water quality and the overall health of the Tualatin River watershed leads us to closely monitor UGB expansion proposals that affect important water bodies and surrounding riparian areas within the Tualatin Basin. Developing Sherwood West would disrupt important wildlife connectivity and undo significant recent efforts by the Tualatin National Wildlife Refuge and U.S. Fish and Wildlife Service to restore Chicken Creek's natural course and regenerate its stream, wetland, and floodplain functions.

This letter serves as TRK's formal objection to Metro's approval of Ordinance No. 24-1520, and includes the following sections: review of objection procedures, introduction, objections, remedies, conclusion, and attachments: figures 1-4.

## **I. Review of objection procedures**

OAR 660-025-0100(2) provides that “persons who participated at the local level orally or in writing during the local process leading to the final decision may object to the local government’s submittal. To be valid, objections must:

- a. Be in writing and filed with the department’s Salem office no later than 21 days from the date the local government sent the notice;
- b. Clearly identify an alleged deficiency in the work task or adopted comprehensive plan amendment sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated;
- c. Suggest specific revisions that would resolve the objection; and
- d. Demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision. OAR 660-025-140(2)(a)-(d).”

With respect to (a), Metro’s official notice regarding its decision to approve the amendment to the UGB Metro’s was posted December 19, 2024, making the deadline of submitting this letter to DLCD January 9, 2025.

With respect to (b), this letter identifies specific alleged deficiencies and rule violations of the proposed UGB amendment.

With respect to (c), TRK suggests that the DLCD director remand the UGB amendments to Metro Council as authorized under OAR 660-025-0150(1)(b) for further consideration of the objections outlined in this letter.

With respect to (d), TRK participated in writing during Metro’s proceedings; TRK’s staff attorney Eve Goldman provided written testimony opposing the UGB expansion to the Metro Council on November 7, 2024 for consideration at its public hearings on November 21, 2024 and December 5, 2024.

## II. Introduction

Under Oregon state law, Metro is charged with managing the greater Portland region's UGB, and works with citizens, elected leaders, and researchers to plan for future growth and meet the needs for housing, jobs, and transportation.<sup>1</sup> Every six years, Metro assesses whether there is enough land inside of the UGB for 20 years of housing and job growth. To make a determination of whether there is a regional need for expanding the UGB, Metro must provide current information regarding, among other things, development trends and estimates of buildable land inside the UGB.<sup>2</sup> In response to the Metro Council's call for city submissions for expansion proposals, on March 5th, 2024 the City of Sherwood proposed bringing the 1291 acre-Sherwood West urban reserve to support regional housing and employment needs. At Metro Council's public meeting on November 21, 2024, following a variety of public testimony including written testimony submitted by TRK, Metro staff recommended that the Metro Council expand the UGB to include the Sherwood West urban reserve to address regional land needs identified in Metro's 2024 Urban Growth Report (UGR).<sup>3</sup> On December 5th, 2024, following another round of public comments, the Metro Council adopted Ordinance No. 24-1520 amending the existing UGB to include the Sherwood West area.

Under ORS 197.626, "a local government shall submit for review and the Land Conservation and Development Commission shall review the following final land use decisions: (b) [a]n amendment of an urban growth boundary by a city with a population of 2,500 or more within its urban growth boundary that adds more than 50 acres to the area within the urban growth boundary [...]." Additionally, under OAR 660-025-0040(2), "[...] the commission has exclusive jurisdiction for review of the following final decisions for compliance with the statewide planning goals." Under statewide planning Goal 14, "prior to expanding the UGB, a

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<sup>1</sup> Metro, *2024 growth management decision*, <https://www.oregonmetro.gov/public-projects/2024-growth-management-decision/background> (last visited Nov. 6, 2024).

<sup>2</sup> 2024 Urban Growth Management Decision: Metro Chief Operating Officer/Staff Recommendations, Aug. 26, 2024 <https://oregonmetro.legistar.com/View.ashx?M=F&ID=13293488&GUID=72B42C03-5781-4E50-967D-7E3D223DDA32>.

<sup>3</sup> Metro Staff Report: Ordinance Number 24-1520 for the purpose of expanding the Urban Growth Boundary to provide capacity for housing and employment to the year 2044 and amending the metro code to conform, prepared by Ted Reid, principal regional planner, Nov. 4, 2024 <https://oregonmetro.legistar.com/View.ashx?M=F&ID=13563987&GUID=C78437D1-035B-419D-9D6E-91E301D39950>.



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local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB.”<sup>4</sup> Further, Goal 14 requires that “when considering a Metro UGB amendment, Metro must determine which land to add by evaluating alternative [UGB] locations.”<sup>5</sup>

As detailed in section III of this letter, Metro has not met these Goal 14 threshold requirements for a UGB expansion by failing to consider alternative areas for UGB expansion and failing to demonstrate that the land currently within the UGB cannot support the estimated housing and employment needs. In failing to consider practicable alternative areas, Metro Council also violates Metro Titles 3, 13, and 14 (specifically Metro Code 3.07.1425, 3.07.340(d)(3)(D)(i), and 3.07.1340(b)). The DLCD director should remand the UGB decision back to the Metro Council and require consideration of both reasonable land use alternatives within the existing UGB to meet regional need and alternative sites for the UGB expansion. Section IV of this letter outlines specific remedial measures that Metro Council should consider in its evaluation on remand.

### **III. Objections**

#### **A. The Metro Council failed to consider both reasonable measures to use land within the existing UGB to meet the estimated needs of the project and alternative sites for the proposed UGB expansion.**

##### **1. Metro Council failed to consider reasonable land use measures within the current UGB.**

Metro Council failed to consider reasonable measures to meet regional land needs identified in its UGR using land within the existing UGB. In mid-October of 2024, Metro staff published its alternatives analysis of 27 urban reserves, considering each site’s suitability for meeting the regional housing and employment needs identified in Metro’s 2024 UGR. These 720 pages are located in appendices 7 and 7A and the accompanying attachments and are accessible on Metro’s website. However, no comparable analysis of reasonable new land use measures that would meet the estimated regional need without expanding the UGB exists. Further Metro

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<sup>4</sup> OAR 660-024-0050(4).

<sup>5</sup> OAR 660-024-0600.

Council's failure to consider reasonable measures of land use within the existing UGB to meet the estimated needs is highlighted by comments from Metro Councilor Nolan at the Council's December 5, 2024 meeting:

*[...] I've been disappointed that [...] we have not taken advantage of all that time, all that energy, all that attention to meet some basic elements of urban growth management. We are supposed to, in fact, start by asking do we need more land in the urban growth boundary or is the land we have in the urban growth boundary today sufficient to meet our need for housing and employment needs. We started instead with asking for proposals, and one could look at the process then as fitting our answer to the first question into the proposals that we got.<sup>6</sup>*

In fact, viable land exists within the current UGB that meets the housing and job needs of the proposed expansion. While the City of Sherwood claims that UGB expansion is needed to support the development of housing and jobs for the next 20 years, a recent vacant lands capacity analysis suggests otherwise. In September 2024, West of Sherwood Farm Alliance conducted a capacity analysis of vacant land in the Sherwood Planning Area, which comprises the land inside of Sherwood's city limits, along with Brookman Addition area and Tonquin Employment area that had been previously added to the UGB.<sup>7</sup> The analysis compares Sherwood West with Sherwood Planning Area's vacant lands for meeting the needs of housing and job growth development. According to the analysis, the Sherwood West proposal would result in a 41% expansion of the city's land area, support 3,117 to 5,582 new expensive low-density homes and apartments and 4,524 new jobs, and lead to a \$58-\$70 million funding shortfall for infrastructure. Alternatively, the vacant lands within the Sherwood Planning Area could support 4,572 new homes that more closely fit housing needs of the area, 5,526 new jobs, and \$58-\$70 million taxpayer and ratepayer savings saved on unneeded infrastructure.<sup>8</sup> Additionally, the Sherwood Planning Area vacant lands conserves rather than develops precious farmland, forests, streams, and wildlife. Accordingly, there is viable land within the existing UGB to support long-term growth for employment and housing in the region, and therefore no need for a legislative amendment to bring in land to the current UGB.

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<sup>6</sup> Metro Council meeting video on 2024-12-05, 10:30am, at 1:50:15 – 1:52:10  
[https://oregonmetro.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=932](https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=932).

<sup>7</sup> West of Sherwood Farm Alliance, *Sherwood Vacant Lands Capacity Analysis*, September 2024.

<sup>8</sup> *Id.*

2. Metro Council failed to evaluate alternative sites for the proposed UGB expansion.

In addition to failing to consider reasonable uses of land within the existing UGB, the timeline of Metro’s urban growth management (UGM) decision establishes conclusively that the Metro Council failed to consider Metro staff’s alternative location analysis before approving the Sherwood West Concept Plan. This analysis, provided in Appendix 7 and 7A of the UGR, was published on Metro’s website on October 18, 2024, **10 days after** Metro Council’s work session on October 8, 2024.<sup>9</sup> Clearly the alternatives analysis was not presented to Metro Councilors at their work session and alternative sites were not discussed, as these analyses had not been published prior to the work session. Further, minutes from the October 8 work session imply that the majority of the Councilors had made an initial determination to approve the Sherwood West UGB expansion without ever evaluating alternative sites: “Council President Peterson summarized that the majority of Council supported introducing an ordinance to bring Sherwood West within the UGB based on a medium growth forecast.”<sup>10</sup> The minutes from the October 8 Metro Council Work Session also suggest that, because the Council had not been presented with the staff’s alternatives analysis, Metro Council’s recommendations to staff for UGB approval conditions were uninformed: “there being no further discussion, Council President Peterson summarized the Council’s recommendations to staff for updating the conditions of approval and moved on to the next agenda item.”<sup>11</sup>

Additional minutes and videos from subsequent Metro Council public hearings reinforce that alternative sites and measures were not discussed by Metro Councilors in its UGB expansion decision. For example, at Metro Council’s November 21, 2024 public hearing, while Appendix 7 and its attachments were a part of the meeting packet, Metro staff did not present any alternative sites for the Council to evaluate nor discuss alternative reasonable measures, and Metro Councilors did not discuss alternative measures.<sup>12</sup> Finally, at its final public hearing involving

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<sup>9</sup> Email correspondence between TRK Metro’s land use attorney Roger Alfred following TRK’s submission of public comments in mid November confirmed that Metro staff’s alternative location analysis under Goal 14 and the Metro Code, included in Appendix 7 and 7A of the UGR, had been posted mid October. *See Figure 4.*

<sup>10</sup> Metro Council Work Session Minutes, October 8, 2024, at page 5, <https://oregonmetro.legistar.com/View.ashx?M=M&ID=1229709&GUID=04DF2446-80C0-4B91-B8BF-F69BCD31F608>.

<sup>11</sup> *Id.* at page 6.

<sup>12</sup> Metro Council Public Hearing Minutes, November 21, 2024, pages 9-12, <https://oregonmetro.legistar.com/View.ashx?M=M&ID=1239734&GUID=D89FDCC0-57CB-4EFF-9D9C-BCB910>

Ordinance No. 24-1520 on December 5, 2024, Metro Councilors failed to discuss alternative sites or measures when it approved the Sherwood West UGB Expansion.<sup>13</sup>

The failure to discuss alternative sites and measures, along with the fact that Metro staff's alternatives location analysis was published 10 days after Metro Council's working session call into question whether the Metro Councilors ever evaluated the alternative sites and measures analysis prior to approving the Sherwood UGB expansion. The failure to evaluate reasonable measures and alternative sites violates state regulations and local codes, and remedial measures are required to rectify these violations.

3. By failing to evaluate reasonable measures of land use within the existing UGB and alternative areas for UGB expansion Metro Council failed to comply with statewide planning Goal 14, ORS 197A.350(6)(a) & (b), and Metro Code 3.07.1425.

Metro's urban growth boundary capacity analysis must comply with requirements set forth in statewide planning Goal 14, "Urbanization", ORS 197A.350(6)(a) & (b), and Metro Code 3.07.1425 (Title 14). First, statewide planning Goal 14 provides for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside UGBs, to ensure efficient use of land, and to provide for liveable communities.<sup>14</sup> More specifically, Goal 14 outlines the process of establishing and maintaining UGBs. Establishing and/ or changing a UGB requires a showing of land need, based on (1) a demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments, or for cities applying the simplified process under ORS chapter 197A, a 14-year forecast; and (2) a demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection.<sup>15</sup> In determining need, the local government may specify characteristics, including parcel size, topography, or proximity,

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[AD21E0](#). See also Metro Council meeting video on 2024-11-21, 10:30am, at 54:46 to 2:02:35 [https://oregonmetro.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=926](https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=926).

<sup>13</sup> Metro Council Public Hearing Minutes, December 5, 2024, pages 7–9 <https://oregonmetro.legistar.com/View.ashx?M=M&ID=1244610&GUID=60BA3542-24F7-4621-AD30-0E9C9A37ED98>. See also Metro Council meeting video on 2024-12-05, 10:30am, at 1:44:15 – 2:13:16 [https://oregonmetro.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=932](https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=932).

<sup>14</sup> OAR 660-015-0000(14): Goal.

<sup>15</sup> OAR 660-015-0000(14): Land Need.



necessary for land to be suitable for an identified need.<sup>16</sup> Finally, prior to expanding a UGB requires a local government to demonstrate that needs cannot reasonably be accommodated on land already inside the UGB.<sup>17</sup> These factors are also found in ORS 197A.350(6)(a)&(b).

Along with establishing a need that cannot be reasonably accommodated on land already inside the UGB, a local government must determine what area is best fit for changing the boundary location.<sup>18</sup> This is determined by *evaluating alternative boundary locations* (emphasis added) consistent with ORS 197A.320 or, following the Metropolitan Service District, ORS 197.298, and with consideration of the following factors:

- (1) Efficient accommodation of identified land needs
- (2) Orderly and economic provision of public facilities and services;
- (3) Comparative environmental, energy, economic, and social (ESEE) consequences; and
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.<sup>19</sup>

To implement Goal 14 objectives, the Metro Council adopted the Urban Growth Management Functional Plan (hereinafter “the UGMFP”) which incorporates the aforementioned factors in its criteria for evaluating alternative areas for UGB expansion.<sup>20</sup> The UGMFP, part of the Metro Code, contains 14 titles that provide performance standards and other requirements cities and counties must meet. Title 14 (“Urban Growth Boundary”) addresses urbanization and calls for a clear transition from rural to urban development, including maps depicting the UGB as well as urban and rural reserves. Following a periodic analysis of the capacity of the current UGB, the Council shall make legislative amendments if it determines there is a need to add land to the UGB.<sup>21</sup> Legislative amendments to the UGB must meet several criteria, including an analysis of alternative areas designated as urban reserves, and a determination of which areas best meet the needs of the project.<sup>22</sup> In evaluating which areas best meet the need to amend the existing UGB, the following factors are considered:

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<sup>16</sup> *Id.*

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

<sup>18</sup> OAR 660-015-0000(14): Boundary Location.

<sup>19</sup> *Id.*

<sup>20</sup> Metro Code 3.07.010 Purpose.

<sup>21</sup> Title 14 Metro Code 3.07.1420 Legislative Amendment to UGB Procedures.

<sup>22</sup> Title 14 Metro Code 3.07.1425(c) Legislative Amendment to the UGB: Criteria.



1. Efficient accommodation of identified land needs;
2. Orderly and economic provision of public facilities and services;
3. Comparative *environmental, energy, economic and social consequences*;
4. Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside UGB designated for agriculture or forestry pursuant to a statewide planning goal;
5. Equitable and efficient distribution of housing and employment opportunities throughout the region;
6. Contribution to the purposes of centers and Corridors;
7. Protection of farmland that is most important for the continuation of commercial agriculture in the region;
8. *Avoidance of conflict with regionally significant fish and wildlife habitat*; and
9. Clear transition between urban and rural lands, using natural and built features to mark the transition (emphasis added).

In order to comply with Goal 14, ORS 197.350(6)(a) & (b), and the UGMFP, Metro Council's UGB capacity analysis must consider alternative sites for a boundary expansion. In fact, there are several other areas of land designated as urban reserves that Metro Council should have analyzed that could meet the regional estimate needs of the project. For example, Sherwood South and Tonquin are other designated urban reserves, which may better meet the needs criteria, but no evaluation of this area was conducted for this UGB expansion proposal. Further, the purpose and need of the project to support the development of new homes and employment would not require one connected parcel; accordingly Metro Council may consider bringing in portions of other urban reserves that would comport with the aforementioned criteria in determining the best areas to amend the UGB. While the Metro Council is not required to make the determination that Sherwood South and Tonkin better meet the needs for a UGB expansion, they are still required to consider these alternative areas and failed to do so. Before approving bringing Sherwood West into the existing UGB, Metro should meaningfully evaluate other alternatives to determine which area best meets the needs criteria as required under Goal 14, Metro Code 3.07.1425(c).

Failure to analyze alternative sites and reasonable measures for land use within the existing UGB violates Statewide Planning Goal 14, ORS 197A.350(6)(a), and Metro Code

3.07.1425. TRK recommends that the DLCD Director remand the UGB amendment to the Metro Council to evaluate, to the extent that a UGB amendment is warranted, alternative sites that could be used to satisfy the regional needs identified by Metro staff in its 2024 UGR.

**B. By approving the proposed UGB expansion without considering reasonable measures for land use within the existing UGB or alternative sites for UGB expansion, the Metro Council violated Metro Code 3.07.340(d)(3)(D)(i) and 3.07.1340(b).**

Along with Title 14 of Metro’s UGMFP, Title 3 (“Water Quality and Flood Management”) and Title 13 (“Nature In Neighborhoods”) are impliedly at issue in Metro Council’s UGB amendment decision, as there are substantial Title 3 and Title 13 classified natural areas in Sherwood West. By failing to consider alternative sites for UGB expansion, Metro Council failed to follow its own policies on protecting water quality and habitat conservation as required in Metro Code Titles 3 and 13, specifically Metro Code 3.07.340(d)(3)(D)(i) and 3.07.1340(b).

For starters, Title 3 flood hazard areas and wetlands surround Chicken Creek. Title 3’s stated purpose is to protect the beneficial water uses and functions of resources within the Water Quality and Flood Management Areas.<sup>23</sup> Title 3 Water Quality and Flood Management Areas consist of:

- *Flood hazard areas* (e.g., FEMA “100-year” floodplains and 1996 flood inundation areas);
- *Wetlands* (e.g., from an enhanced National Wetlands Inventory and local wetlands inventories);
- Wetland areas, measured 50 feet from the edge of a wetland or up to 200 feet from the edge of wetland located adjacent to slopes greater than 25 percent; and
- Vegetated corridors between 15 feet and 200 feet in width, depending on the area drained by the water feature and the slope of the land adjacent to the water feature.<sup>24</sup>

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<sup>23</sup> Metro Code Title 3: Water Quality And Flood Management, 3.07.1310 Intent.

<sup>24</sup> Metro, Appendix 7 to Draft 2024 Urban Growth Report Goal 14 Boundary Location Factors Analysis of UGB Expansion Candidate Areas.



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Title 3 Water Quality and Flood Management areas exist within Sherwood West. First, there is a defined 100-year floodplain for a portion of Chicken Creek within Sherwood West.<sup>25</sup> Additionally, there are 31 acres of wetlands within Sherwood West, mapped by the National Wetland and Metro's inventories.<sup>26</sup> These wetlands are most prominently found along the riparian corridor of Chicken Creek and the headwaters of Goose Creek, and additional wetland areas are likely to exist within the project area.<sup>27</sup>

In failing to consider practicable alternatives for the UGB expansion, Metro Council violated Title 3.07.340(d)(3)(D)(i). Under Title 3.07.340, “[a]dditions [...] and development in the Water Quality and Flood Management Area may be allowed provided that: [...] (D) [i]n determining appropriate conditions of approval, the [applicant must]: (i) [d]emonstrate that *no reasonably practicable alternative design or method of development exists* that would have a lesser impact on the Water Quality Resource Area than the one proposed.” TRK recommends that DLCDC remand the UGB amendment to Metro Council to consider alternative sites that would have less impact on Title Water Quality Resource Areas.

Additionally, Sherwood West contains substantial Title 13 areas designated as high value HCAs, which include rivers, streams, wetlands, and adjacent resource areas.<sup>28</sup> Title 13 establishes baseline requirements to protect, conserve, and restore the region's significant riparian corridors and wildlife habitat resources, referred to as Habitat Conservation Areas (HCAs).<sup>29</sup> HCAs include rivers, streams, wetlands, and adjacent resource areas, as well as upland wildlife habitat areas.<sup>30</sup> According to the Sherwood West Concept Plan, the mapping of Title 13 habitat areas will be further refined and protections will be established as part of the comprehensive planning for Sherwood West once it is brought into the UGB.<sup>31</sup>

Title 13 HCAs in the Sherwood West area should be finalized in the Sherwood West Concept Plan prior to evaluating whether this area will best meet the need of a UGB expansion. Metro Title 13 habitats are present in Sherwood West and depicted in Figures 1 & 2. The

<sup>25</sup> Sherwood West Concept Plan at 26.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> See Figure 3 for a map of Metro's valuation of HCAs within Sherwood West.

<sup>29</sup> Metro Code Title 13: Nature In Neighborhoods, 3.07.1310 Intent.

<sup>30</sup> Metro Code Title 13: Nature In Neighborhoods, 3.07.1310 Intent.

<sup>31</sup> Sherwood West Concept Plan, page 26.

Sherwood West Concept Plan states that the mapping of Title 13 habitat areas will be further refined and protections established once Sherwood West is brought into the UGB.<sup>32</sup> This failure to establish designated HCAs prevents an accurate evaluation of the project's environmental impacts. What's more, Metro's own MetroMap demonstrates a substantial amount of high value Title 13 HCAs in Sherwood West, particularly alongside Chicken Creek. *See Figure 3.* Under Title 13, HCAs are subject to performance standards and best management practices outlined in Metro Code 3.07.1340. Additionally, HCA maps identify which areas will be subject to habitat conservation as part of Metro Council's Title 14 consideration of ESEE consequences.<sup>33</sup> In order to adequately evaluate the area as best meeting the need of a UGB amendment, the Sherwood West Concept plan should finalize its designation of Title 13 HCAs in Sherwood West, inline with MetroMap, and Metro should incorporate this into its Title 14 ESEE evaluation.

Further, Metro Code 3.07.1340(b) provides that:

City and County comprehensive plans and implementing ordinances shall contain review standards applicable to development in all [HCAs] that [contain standards that meet the requirements of other sections of Metro Title 13. This includes]:

(A) Avoid Habitat Conservation Areas:

- (i) Development may occur within a [HCA] only [if it is demonstrated] that *no practicable alternatives* to the requested development exist which will not disturb the [HCA];
- (ii) When implementing this requirement to determine whether a practicable alternative exists, cities and counties shall include consideration of the type of [HCA] that will be affected by the proposed development. For example, *High Habitat Conservation Areas* have been so designated because they are areas that have been identified as having *lower urban development value and higher-valued habitat*. (emphasis added).

Bringing in Sherwood West to the existing UGB without considering practicable alternative sites violates Metro Code 3.07.1340(b). Further, failing to consider alternatives that

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<sup>32</sup> *See Figure 1:* Sherwood West Concept Plan Attachment H: map of expansion area, page 41 (Figure 8: Composite Concept Plan Map highlights Title 13 habitat and notes they are subject to confirmation and refinement).

<sup>33</sup> Metro Code 3.07.1320(b): Inventory and Habitat Conservation Areas.

would be less ecologically impactful violates Metro's own policies that establish baseline requirements to protect, conserve, and restore Washington County's Title 13 riparian corridors and wildlife habitat resources. Further, Metro Council must consider the high value of the HCAs in its determination of its adequacy for a boundary location. For Metro to accurately conduct a Title 14 ESEE consequences evaluation, the Sherwood West Concept Plan must contain the finalized designated high value HCAs. TRK's proposed remedy is for the DLCD Director to remand the UGB amendment to Metro Council to consider alternative areas for supporting the region's growth that do not result in irreparable damage to these important, Metro-designated HCAs. TRK also proposes that, in its ESEE analysis for determining alternative boundary locations, Metro Council recognizes the high value HCAs present in Sherwood West.

#### **IV. Remedies**

To address the objections raised in this letter, TRK proposes the following specific remedies. On remand Metro Council should:

1. Evaluate reasonable and alternative uses of the land within the existing UGB that would reasonably accommodate the regional housing and employment needs identified in the UGR.
2. If it is determined that alternative measures do not exist or are impracticable, evaluate and select alternative areas for boundary expansion that would satisfy regional needs.
3. Where UGB expansion is merited, prioritize alternative sites that reduce negative impacts to local ecosystems, particularly Chicken Creek and the Tualatin River National Wildlife Refuge.
4. Recognize the substantial amount of high value Title 13 HCAs in Sherwood West in its Title 14 ESEE analysis of alternative boundary locations.
5. Use the criteria outlined in Goal 14, ORS 197A.350(6), the UGMFP (specifically Titles 3, 13, and 14) in its evaluations of reasonable alternative measures and sites for UGB expansion.



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## V. Conclusion

For the reasons outlined in Section III of this letter, TRK objects to Metro Council's approval of Ordinance No. 24-1520 to amend the UGB. TRK proposes that the DLCD Director remand the UGB amendment to the Metro Council to consider both reasonable uses within the existing UGB and alternative sites to expand the UGB as specified in Section VI of this letter. Thank you for the opportunity to participate in this proceeding. Please do not hesitate to contact me if you have any questions regarding this testimony. Please provide the director's decision electronically to [eve@tualatinriverkeepers.org](mailto:eve@tualatinriverkeepers.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Eve Goldman", written over a light gray horizontal line.

Eve Goldman (she/her)

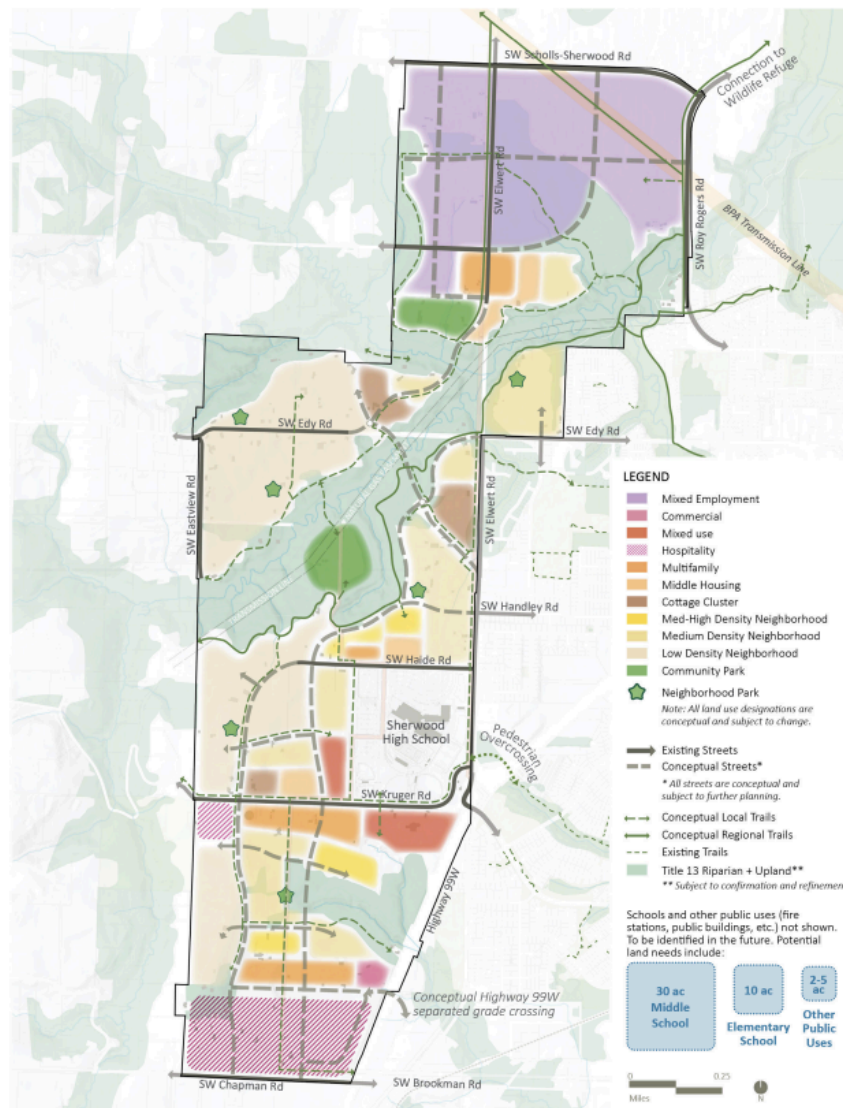
Staff Attorney

Oregon Bar No. 244201

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## Attachments: Figures 1 – 4

Figure 8. Composite Concept Plan Map



SHERWOOD WEST CONCEPT PLAN 41

FIGURE 1: Title 13 Riparian and Upland Habitat within Sherwood West



Figure 4. Natural Resources Existing Conditions



FIGURE 2: Sherwood West Concept Plan: Natural Resources Existing Condition

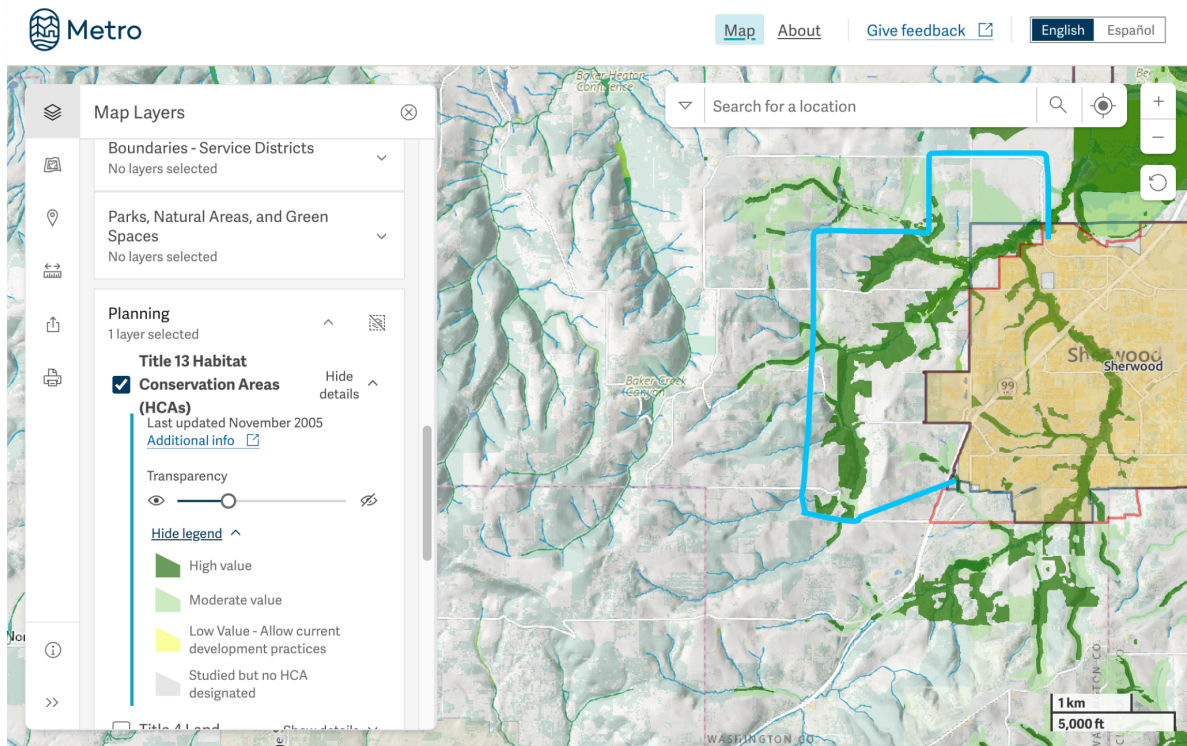


FIGURE 3: MetroMap highlighting Title 13 HCAs (dark green) in Sherwood West (blue).



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1/8/25, 12:03 PM

Tualatin Riverkeepers Mail - RE: 11/11 Testimony



Eve Goldman <[eve@tualatinriverkeepers.org](mailto:eve@tualatinriverkeepers.org)>

**RE: 11/11 Testimony**

3 messages

**Roger Alfred** <[Roger.Alfred@oregonmetro.gov](mailto:Roger.Alfred@oregonmetro.gov)>  
To: "eve@tualatinriverkeepers.org" <[eve@tualatinriverkeepers.org](mailto:eve@tualatinriverkeepers.org)>

Tue, Nov 12, 2024 at 12:00 PM

Hello – I'm not sure if we've met, I'm the Metro land use attorney. I was forwarded your letter and wanted to make sure you are aware that Metro staff's alternative location analysis under Goal 14 and the Metro Code is included in Appendix 7 and 7A of the UGR, which has been up on our website for a few weeks. Here is a link:

<https://www.oregonmetro.gov/public-projects/2024-growth-management-decision>

Thanks, please let me know if any questions.

Roger

**From:** Georgia Langer <[Georgia.Langer@oregonmetro.gov](mailto:Georgia.Langer@oregonmetro.gov)>  
**Sent:** Monday, November 11, 2024 10:22 AM  
**To:** Metro Councilors <[MetroCon@metro-region.org](mailto:MetroCon@metro-region.org)>; Carrie MacLaren <[Carrie.MacLaren@oregonmetro.gov](mailto:Carrie.MacLaren@oregonmetro.gov)>; Marissa Madrigal <[Marissa.Madrigal@oregonmetro.gov](mailto:Marissa.Madrigal@oregonmetro.gov)>  
**Cc:** Council Office Staff <[CouncilOfficeStaff@metro-region.org](mailto:CouncilOfficeStaff@metro-region.org)>  
**Subject:** 11/11 Testimony

Councilors and Staff,

We have received the attached written testimony. Please let me know if you have any questions.

<< File: Tualatin Riverkeepers Testimony.pdf >> << File: Sukhjinder Singh Deo Testimony.pdf >>

Kind regards,

Georgia Langer (she/they)  
Legislative and Engagement Coordinator

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FIGURE 4: Email correspondence between TRK and Metro's land use attorney Roger Alfred regarding Appendix 7 and 7A publication date on Metro's website.