

Anyeley Hallova, Chair
Oregon Land Conservation and Development Commission
635 Capitol Street Northeast Suite 150
Salem, Oregon 97310

Friday, May 9, 2025

Re: Appeal of DLCD Order 001953, Metro Urban Growth Boundary Amendment

Verde is a community-based 501(c)3 non-profit organization by and of Black, Indigenous, and other people of color. We are rooted in the Cully neighborhood of Northeast Portland. Our mission is to serve environmental justice communities like our own by building environmental wealth through social enterprise, outreach, and advocacy. Verde engages in advocacy at the intersection of transportation, housing, and land use to advance our mission through policies that promote the safe, clean, affordable, and abundant transportation and housing options that have often passed our communities by.

Consequently, and pursuant to OAR 660-025-0150(6), Verde respectfully appeals the Director's decision to approve Metro's submittal of Ordinance No. 24-1520, which expands the regional UGB into the Sherwood West planning area. We do so on the grounds that this amendment failed to meet requirements to compare and analyze alternative sites and strategies established in Statewide Land Use Planning Goal 14 and in Metro's Urban Growth Management Functional Plan with consideration of factors including climate and equity.

I. Appeal Procedures

OAR 660-025-0150(6) provides the procedural requirements for appealing a director's decision. This rule section provides:

(6) Appeals of a director's decision are subject to the following requirements:

- (a) A director's decision approving or partially approving a work task or plan amendment may be appealed to the commission only by a person who filed a valid objection.
- (b) A director's decision remanding or partially remanding a work task or plan amendment may be appealed to the commission only by the local government, a person who filed a valid objection, or by another person who participated orally or in writing in the local proceedings leading to adoption of the local decision under review.
- (c) Appeals of a director's decision must be filed with the department's Salem office within 21 days of the date the director's action was sent.

- (d) A person, other than the local government that submitted the work task or plan amendment and an affected local government, appealing the director's decision must:
- (A) Show that the person participated in the local proceedings leading to adoption of the work task or plan amendment orally or in writing;
 - (B) Clearly identify a deficiency in the work task or plan amendment sufficiently to identify the relevant section of the submittal and the statute, goal, or administrative rule the local government is alleged to have violated; and
 - (C) Suggest a specific modification to the work task or plan amendment necessary to resolve the alleged deficiency.

Subsections (a) and (b) address who is eligible to appeal a director's decision. In this case subsection (a) applies, as the decision was an approval of a UGB amendment. The rule only allows an appeal by those who submitted a valid objection. Verde submitted valid objections (see p. 4, 6 of DLCD Order 001953).

Regarding subsection (c), this appeal is timely filed. The appeal was filed May 9, 2025, 21 days from April 18, 2025, the date the Director's decision was sent.

Subsection (d) addresses the specific requirements for the content of the appeal. Regarding paragraph (A), local participation, DLCD Order 001953 recognizes that Verde participated during Metro's hearing process (see p. 4 of DLCD Order 001953). Further, Verde staff member Indi Namkoong participated as an invited stakeholder in the Metro urban growth stakeholder roundtable, which met monthly from November 2023 to July 2024. Verde staff member Indi Namkoong also provided oral testimony at the September 26, 2024 Metro Council meeting in response to the draft urban growth report and Sherwood West expansion proposal. The requirements of paragraphs (B) and (C) are addressed in the following subsection of this letter.

II. Appeal

Metro Council considered neither alternative sites for expansion nor alternatives to expansion to meet regional needs as part of this UGB expansion decision. Statewide Planning Goal 14 and Metro's Urban Growth Management Functional Plan require evaluation of both such alternatives in determining changes to the urban growth boundary.

This was Verde's principal objection in its January 9, 2025 objection and addressed on pp. 75–76 of DLCD Order 001953.

Oregon's Statewide Planning Goal 14, regarding urbanization, states (emphasis added):

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

- (1) Efficient accommodation of identified land needs;
- (2) Orderly and economic provision of public facilities and services;**
- (3) Comparative environmental, energy, economic and social consequences; and**
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.” R. at 002736.

Metro’s Urban Growth Management Functional Plan (Section 3.07 of the Metro Code) further states at 3.07.1425 (emphasis added):

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

(b) The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council’s determination shall be based upon:...

...(3) A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.

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

- (1) Efficient accommodation of identified land needs;
- (2) Orderly and economic provision of public facilities and services;**
- (3) Comparative environmental, energy, economic and social consequences; and**
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on land outside the 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;... R. at 002693–95.**

The Sherwood West concept plan was the only site of potential expansion presented to the Metro urban growth stakeholder roundtable and in the public comment period for the

2024 draft Urban Growth Report. No specifics of alternative sites nor alternative measures to meet identified regional needs were discussed in either of these settings where Verde was a participant. We are not aware of an analysis of alternative sites or measures being discussed by Metro Council prior to or coincident with their public hearing and decision on December 5, 2024. R. at 001309–11.

In the absence of a comparative analysis of alternatives, the concerns raised by Verde staff in the roundtable and at the Metro Council public hearing held on September 26th, 2024¹ remain unaddressed and unmitigated in Metro Council's decision. Those concerns include:

- (1) **The additional burdens that infrastructure costs in the expansion area may place on already-strained infrastructure budgets in our region, with transportation budgets of particular concern to Verde.** The state of Oregon faces an annual shortfall of at least \$1.3 billion in road infrastructure maintenance funding alone.² Metro's 2023 Regional Transportation Plan update identified \$2.18 billion in unfunded operations and maintenance needs in our region through the time period of the plan.³ In a resource-constrained environment, it is difficult to reconcile our regional goals of efficiency with the choice to proceed with a generally higher-cost development strategy⁴ on new lands without consideration of alternatives that would make use of land already inside the UGB.
- (2) **The subsequent risk to the provision of adequate public facilities and services to sustain affordable, complete, and climate-friendly communities both in Sherwood West and in communities already inside the UGB.** Cully, East Portland, east Multnomah County and other lower income, more racially diverse neighborhoods already inside our UGB have faced decades of unsafe and incomplete street, sidewalk, and bike networks due in part to the chronic challenges that our state and local governments have faced with infrastructure costs outpacing revenue. In resource-constrained environments, environmental justice communities in our region have historically borne the brunt of disinvestment.⁵ Without a thorough analysis of alternative sites and strategies, we are not aware that these effects have been fully considered and mitigated against.
- (3) **The climate, environmental, and social consequences of pursuing expansion in an area not currently served by public transit and where planned density may not support future transit service.** Without plans and funding to connect this expansion area to public transit, residents will still need to drive - or ask for

¹ 9/26/24 Metro Council meeting video at 2:20:15

https://oregonmetro.granicus.com/MediaPlayer.php?view_id=1&clip_id=890.

² Oregon Department of Transportation Transportation Funding Needs report, July 2024, <https://www.oregon.gov/odot/About/Documents/Transportation%20Funding%20Needs.pdf>

³ Oregon Metro, 2023 Regional Transportation Plan, at 5-33 <https://www.oregonmetro.gov/sites/default/files/2023/12/21/2023-RTP-Ordinance-No-23-1496-adopted-package-exhibit-A.pdf>

⁴ 1000 Friends of Oregon report, January 2013, <https://friends.org/sites/default/files/2019-04/More%20Extensive%20Is%20More%20Expensive%202013.pdf>

⁵ Goodling, Green, McClintock, Uneven Development of the Sustainable City: Shifting Capital in Portland, Oregon, 2015,

https://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1106&context=usp_fac

help from someone who can - to access anything the neighborhood can't provide, from jobs to medical care. This establishes a higher "floor" for transportation costs for residents of the expansion area, impacting cost of living and affordability of those housing options.⁶ It also risks inducing more vehicle miles traveled at a time when our region is trying to reduce them rapidly in service of Metro's Climate Smart Strategy.⁷

A thorough alternatives analysis would allow Metro Council to fully understand and weigh these factors against one another in their decision. In the absence of such analysis, Metro's responsibilities under Goal 14 and its own policies are not met.

III. Suggested remedies

Verde respectfully requests that LCDC remand this decision back to Metro Council with direction to evaluate and compare alternative sites for expansion as well as alternatives to expansion that make better use of lands within the UGB, with attention to the following factors:

- (1) Impacts of various alternatives on regional capacity to provide and equitably distribute housing-supportive infrastructure, including transportation networks, within the existing UGB and any expansion area
- (2) Climate and environmental impacts of induced VMT associated with various alternatives, and
- (3) Impacts of planned density and feasibility of serving various alternative sites with safe, multimodal transportation infrastructure on outcomes of housing affordability and accessibility.

Verde deeply appreciates LCDC's consideration of our appeal, and suggested remedies in reviewing Metro Council Ordinance No. 24-1520, the UGB expansion into Sherwood West. Please do not hesitate to contact me if you have any questions regarding this submittal. Please provide any questions and LCDC's decision electronically to indinamkoong@verdenw.org.

Sincerely,



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⁶ Oregon Metro, True housing affordability in Portland: Beyond the rent, October 2015
<https://www.oregonmetro.gov/news/true-housing-affordability-portland-beyond-rent>

⁷ Oregon Metro, Climate Smart Strategy, 2014
<https://www.oregonmetro.gov/sites/default/files/2015/05/29/ClimateSmartStrategy-FinalVersion-2014.PDF>