BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

CITIZENS AGAINST IRRESPONSIBLE GROWTH
and STEVEN LARRANCE,
Petitioners,

and

WALTER HELLMAN and RICK
VanBEVEREN,
Intervenors-Petitioner,

vs.

METRO,
Respondent,

and

CITY OF HILLSBORO,
Intervenor-Respondent.

LUBA No. 99-007

FINAL OPINION
AND ORDER

Appeal from Metro.

Lawrence R. Derr, Portland, filed the petition for review and argued on behalf of petitioners and intervenors-petitioner. With him on the brief was Josselson, Potter and Roberts.

Larry S. Shaw, Portland, filed a response brief and argued on behalf of respondent.

Timothy J. Sercombe, Portland, filed a response brief and argued on behalf of intervenor-respondent. With him on the brief was Preston, Gates and Ellis.

BASSHAM, Board Member; BRIGGS, Board Chair; HOLSTUN, Board Member, participated in the decision.

AFFIRMED 3/16/2001

You are entitled to judicial review of this Order. Judicial review is governed by the

provisions of ORS 197.850.

Opinion by Bassham.

NATURE OF THE DECISION

Petitioners appeal Metro's amendment of the urban growth boundary (UGB) for the Portland metropolitan area south of the City of Hillsboro.

MOTIONS TO INTERVENE

Walter Hellman and Rick VanBeveren move to intervene on the side of petitioner. The City of Hillsboro (the city or intervenor) moves to intervene on the side of respondent. There is no opposition to these motions, and they are allowed.

FACTS

In 1998, Metro began proceedings to consider expanding its UGB to comply with a state mandate at ORS 197.296 to provide a 20-year supply of buildable residential land within the UGB. ORS 197.299 requires that by the end of 1998 Metro must add to the UGB one-half of any additional land needed to satisfy that 20-year supply. Metro conducted a study of the existing UGB and determined that it did not include the required 20-year supply of buildable residential land. Metro then studied a variety of lands within one mile of the Metro UGB, primarily lands within previously designated urban reserve areas (URAs).

On December 17, 1998, the Metro Council adopted Ordinance 98-788C, which included approximately 354 acres of land in the western portion of URA 55, south of the City of Hillsboro. The portion of land included consists of 306 acres for which an exception to Statewide Planning Goals 3 (Agricultural Lands) and 4 (Forest Lands) has been taken, and 48 acres of land zoned for exclusive farm use (EFU). The 354 acres had previously been designated as "first tier" lands within URA 55.[1]

[1]"First tier" urban reserve lands are those lands within urban reserve areas that Metro has determined should be considered for inclusion within the UGB prior to other urban reserve lands. *See D.S. Parklane Development, Inc. v. Metro*, 35 Or LUBA 516, 671-74 (1999) (*Parklane I*), *aff'd* 165 Or App 1, 994 P2d 1205 (2000) (*Parklane II*) (discussing first tier concept and remanding first tier designations).

Following adoption of Ordinance 98-788C, the city prepared a draft urban reserve concept plan to demonstrate that urbanization of the area including the 354-acre portion of URA 55 complies with Statewide Planning Goals 2 (Land Use Planning) and 14 (Urbanization) and applicable requirements of the Metro Code (MC), as required by MC 3.01.012(e) (1998).[2]

On February 25, 1999, LUBA remanded Metro's 1997 decision designating urban reserves and first tier lands. In March 1999, Metro requested a voluntary remand of Ordinance 98-788C. On June 17, 1999, the Metro Council adopted Ordinance 99-809, which readopts the UGB amendment to include the 306 acres of exception lands, but which excludes the 48 acres of land zoned EFU. This appeal followed.

FIRST ASSIGNMENT OF ERROR

Petitioners argue that Metro erred in amending the UGB without approving an urban reserve plan required by MC 3.01.012(e) (1998)[3] or in deferring the requirement for an urban reserve plan under MC 3.01.015(e) (1998).[4] Petitioners explain that the City of Hillsboro

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[2]As discussed below, after Metro issued the decision that is challenged in this case MC 3.01.012 was amended to delete the requirement for urban reserve concept plans.

[3]MC 3.01.012(e) (1998) provided, in relevant part:

> "A conceptual land use plan and concept map which demonstrates compliance with Goal 2 and Goal 14 and [MC] 3.01.020 or 3.01.030, with the RUGGO [Regional Urban Growth Goals and Objectives] and with the 2040 Growth Concept design types and any applicable functional plan provisions shall be required for all major amendment applications and legislative amendments of the [UGB]. * * *
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> "* * * * *
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> "(13) The urban reserve plan shall be coordinated among the city, county, school district and other service districts * * *. The urban reserve plan shall be considered for local approval by the affected city * * * in coordination with any affected service district and/or school district. Then the Metro Council shall consider final approval of the plan."

[4]MC 3.01.015(e) (1998) provided in relevant part:

> "* * * If insufficient land is available that satisfies the requirements for an urban reserve plan as specified in [MC] 3.01.012(e), then the Metro Council may consider first tier lands where a

submitted a draft urban reserve plan to Metro embracing URAs 51 through 55, and chapter IX of that plan governs the first tier lands in URA 55, including the instant 306 acres. Metro considered chapter IX in approving the challenged UGB amendment. However, petitioners argue, Metro failed to approve the draft plan or chapter IX of the plan as required by MC 3.01.012(e)(13) (1998). Further, petitioners argue that Metro's failure to approve an urban reserve plan under MC 3.01.012(e)(13) (1998) cannot be excluded under MC 3.01.015(e), because that code provision allows inclusion of only "first tier" lands in the absence of a concept plan, and Metro's "first tier" designations no longer exists after the Court of Appeals' remand in the *D.S. Parklane* decision.

Metro's findings express the view that chapter IX of the draft plan satisfies the requirements of MC 3.01.012(e). The findings note, as an alternative, that the draft plan is being revised and state that, to the extent the current plan is not complete, Metro accepts the draft plan as a commitment to complete the plan pursuant to MC 3.01.015(e) (1998).[5]

Metro's code is unclear as to what action(s) the Metro Council must take regarding a draft urban reserve concept plan, and when that action or actions must occur. According to

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city or county commits to complete and adopt such an urban reserve plan and provides documentation to support this commitment in the form of a work program, timeline for completion, and identified funding for the program adopted by the city or county."

[5]The relevant findings state:

"The City of Hillsboro has submitted a draft concept plan known as the Hillsboro South Urban Reserve Concept Plan for URAs 51 through 55. The plan also includes a First Tier Concept Plan, which is a stand-alone plan for the first tier portion of URA 55. These findings address only the First Tier Concept Plan. The URA 55 provisions of the Concept Plan, dated November 16, 1998, [are] currently being revised by the City of Hillsboro to address the requirements of a technical assistance grant for urban reserve planning awarded by DLCD [Department of Land Conservation and Development]. The revised, final Concept Plan will add more detail and analysis for the development of land uses on the exception areas of URA 55. This plan will be even more of a 'stand-alone' plan consistent with this ordinance than the draft plan (November 1999). Condition 6(B) requires the amendment of the City of Hillsboro's comprehensive land use plan to incorporate a "stand alone" plan for the exception areas of URA 55.

"Alternatively, if the urban reserve concept plan is not complete, the Metro Council accepts the Hillsboro transmittals in the record as a commitment to complete the concept plan in 1999. This commitment satisfies [MC] 3.01.015(e)." Record 1145-46.

petitioners, MC 3.01.012(e) (1998) requires that the Metro Council formally adopt the draft urban reserve concept plan or some discrete part of it and return it to the city for incorporation into its comprehensive plan and land use regulations. Intervenor, on the other hand, argues that MC 3.01.012(e) (1998) requires that Metro must base the UGB amendment on a draft plan, but that plan and any modifications required by Metro are then returned to the city for its revision and adoption. According to intervenor, only after the city's formal adoption of the plan does it return to the Metro Council for final approval. Metro's response brief essentially agrees with petitioners' view of MC 3.01.012(e) (1998), except that Metro argues that only informal "approval" is required rather than more formal adoption, and that Metro's findings effectively express the Council's approval of chapter IX of the draft concept plan.

We note that, following the Court of Appeals' remand in *Parklane II*, Metro amended MC 3.01.012 and 3.01.015 to eliminate the requirement for submission of urban reserve concept plans or for commitments in the absence of such plans, as a prerequisite for amending the UGB.[6] The challenged decision is not a "permit" subject to the requirements of ORS 215.427(3) or 227.178(3), or any other provision known to us that would compel Metro to apply MC 3.01.012 (1998) and MC 3.01.015 (1998) on remand. The parties agree that the pertinent code provisions are not based on statute, statewide goal or rule. There seems no possible dispute under the code provisions that would apply on remand that the city's draft plan would play no role in Metro's decision on remand. Under these circumstances, that Metro might have erred under MC 3.01.012(e) (1998) or MC 3.01.015(e) (1998) does not provide a basis for reversal or remand. *See Sommer v. Douglas County*, 70 Or App 465, 689 P2d 1000 (1984) (declining to review Land Conservation and Development

[6]As far as we can tell, the revisions entirely eliminated the requirement for an urban reserve concept plan, and instead allow local governments the option of adopting comprehensive plan amendments for urban reserve areas, in which case Metro will consider those amendments in determining whether a proposed UGB amendment complies with applicable criteria. MC 3.01.012(c); MC 3.01.015(e).

Commission acknowledgment order under prior statutes, goal and rules, because new provisions would govern on remand); *1000 Friends of Oregon v. LCDC*, 69 Or App 717, 688 P2d 103 (1984) (same); *Brown v. Jefferson County*, 33 Or LUBA 418, 431-32 (1997) (LUBA may review a decision under rules adopted after the challenged decision, if remand would be based on failure to comply with rules since superseded).

In any case, even if Metro's actions under MC 3.01.012(e) (1998) or MC 3.01.015(e) (1998) are dispositive, we disagree with petitioners that Metro's alternative determination under MC 3.01.015(e) (1998) was erroneous. Metro accepted the draft concept plan and other documents as the commitment necessary to include first tier lands under that provision without an urban reserve concept plan. At the time the challenged decision was made in June 1999, the 306 acres at issue here were designated first tier lands. Petitioners do not explain why the Court of Appeals' January 2000 reversal and remand of Metro's decision designating first tier lands has the effect of invalidating Metro's June 1999 determination under MC 3.01.015(e) (1998).

The first assignment of error is denied.

SECOND ASSIGNMENT OF ERROR

MC 3.01.015 and 3.01.020 implement Statewide Planning Goals 2 and 14, and set forth a lengthy list of requirements for amending the Metro UGB. Metro's adopted findings address MC 3.01.015 and 3.01.020, but do not explicitly address the requirements of Goals 2 and 14. Petitioners argue that Metro erred in failing to address Goals 2 and 14, because those goals apply directly to a decision amending Metro's urban growth boundary. *Residents of Rosemont v. Metro*, 38 Or LUBA 199, 226 (2000), *appeal pending*.

While petitioners are correct that the challenged decision is subject to review for compliance with Goals 2 and 14, petitioners have not identified any particular in which the decision fails to comply with those goals. As we noted in *Residents of Rosemont*, MC 3.01.015 and 3.01.020 replicate the substance and in many instances the precise

language of Goals 2 and 14. *Id.* at 224. Absent a focused argument that Metro has applied or interpreted the pertinent code provisions in a manner that is inconsistent with Goal 2 or 14, or that the decision is insufficient to demonstrate compliance with those goals, the fact that Metro's findings do not directly address Goals 2 and 14 is not a basis for reversal or remand.[7]

The second assignment of error is denied.

THIRD ASSIGNMENT OF ERROR

Petitioners argue that Metro violated the Goal 2 consistency requirement by relying upon population figures in a variety of recent studies rather than population figures in its adopted Urban Growth Management Functional Plan (UGMFP), in order to determine that a need exists for the challenged UGB amendment.[8]

Metro and intervenor respond that petitioner's objection is resolved by the Board's recent decision in *1000 Friends of Oregon v. Metro*, 38 Or LUBA 565 (2000), *appeal pending*. In that decision, LUBA addressed an identical argument that Metro erred in relying upon unofficial estimates rather than figures in its adopted UGMFP, in order to determine whether need exists for a UGB amendment. LUBA held that, because those unofficial estimates had been adopted into Metro's Regional Framework Plan (RFP), a plan that incorporates and coordinates Metro's functional plans, including the UGMFP, it was consistent with Goal 2 for Metro to rely on the estimates in the RFP. *Id.* at 579. Petitioners

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[7]As Metro points out, the challenged decision is a legislative decision. Generally speaking, there is no statutory, goal or rule-based requirement that legislative decisions be supported by findings demonstrating compliance with applicable criteria. *Redland/Viola/Fischer's Mill CPO v. Clackamas County*, 27 Or LUBA 560, 563 (1994). Therefore, the fact that Metro's decision is not supported by findings directed at Goals 2 and 14 is not, in itself, a basis for reversal or remand. *Id.*

[8]Goal 2 requires in relevant part that:

> "City, county, state and federal agency and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268."

advance no reason to reach a different conclusion in the present case.

The third assignment of error is denied.

FOURTH ASSIGNMENT OF ERROR

Petitioners contend that Metro erred in determining that the lands included in the challenged UGB amendment are those "best suited" to meet the identified need, as required by MC 3.01.020(b)(1)(D).[9] According to petitioners, the alternative sites analysis Metro conducted was flawed in several particulars, with the result that Metro has not demonstrated that the lands included in the UGB are those "best suited" to meet the identified need.

Petitioners first allege that Metro erred in failing to include enough land in its alternative sites analysis. However, petitioners do not explain why that is so.[10] According to Metro and intervenor, Metro conducted a multi-phase analysis that included consideration of all lands within one mile of the Metro UGB for which an exception to applicable statewide planning goals had been taken. Petitioners do not identify any lands that Metro should have considered, but did not, nor do petitioners explain why the pool of lands considered was inadequate to conduct the alternative sites analysis required by MC 3.01.020(b)(1)(D).

Next, petitioners contend that Metro improperly excluded certain lands from its analysis. At one point in Metro's alternatives analysis, it examined whether there was sufficient information on the cost and feasibility of providing urban services to potential

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[9]MC 3.01.020(b)(1)(D) provides:

> "For consideration of a legislative UGB amendment, the [Metro Council] shall review an analysis of land outside the present UGB to determine those areas best suited for expansion of the UGB to meet the identified need."

[10]Petitioners suggest that Metro's alternative sites analysis suffers from a flaw analogous to that suffered the analysis supporting the urban reserve designations that were overturned in the *Parklane I* and *II* decisions. However, it is not clear why that is the case. The decision at issue in *Parklane I* and *II* involved the designation of over 18,000 acres of land as urban reserves, including approximately 3,000 acres of low-priority resource lands. LUBA held that Metro failed to include enough higher priority lands in its study, with the result that it created an improper justification for including lower priority resource lands. The present case involves only highest priority exception lands. Petitioners have not established that any parallel flaw exists in the present case.

urbanizable lands, and removed from consideration a number of lands within URAs where such information was lacking. Record 1134; 1167-70. Petitioners argue that Metro erred in doing so, because removing those lands from consideration for lack of sufficient information on the costs and feasibility of providing urban services is arbitrary. We do not agree, and petitioners do not identify any code or other requirement that would prevent Metro from eliminating land from consideration on that basis under MC 3.01.020.

Finally, petitioners argue that Metro erred in rejecting certain lands north of the City of Hillsboro, known as the Evergreen Road area. Metro's findings on this point state:

> "These exception lands are relatively small and situated within a larger area of agricultural lands. Urbanization of these lands would have negative effects on the agricultural activities in this area. This intrusion into an agricultural area would not be consistent with [RFP] Objective 1.7 (Urban/Rural Transition).
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> "Inclusion of these exception lands within the UGB will create difficulties in regard to the efficient provision of public services. Water, sewer and storm drainage will have to be run perpendicular to the UGB for a distance to serve very few properties.
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> "In addition to the presence of wetlands, these exception lands contain land within the FEMA 100-year floodplain. The [UGMFP, Title 3] requires that land of this nature be protected from the effects of development. In addition, such lands were deemed unbuildable in the analysis of the Region 2040 Growth Concept and the Urban Growth Report." Record 1164.

Petitioners argue that these reasons for rejecting the Evergreen Road area are insufficient, and that, if other evidence is considered, the Evergreen Road area may be "better suited" to meet the identified need than the lands within URA 55. MC 3.01.020(b)(1)(D).

Metro and intervenor cite to evidence and analysis in the record to demonstrate that the Evergreen Road area is inferior for purposes of urbanization, compared to lands within URA 55, for the reasons cited in Metro's findings as well as other reasons. We agree with respondents that Metro did not err in rejecting the Evergreen Road area or in conducting its alternative sites analysis, for any of the reasons advanced by petitioners.

The fourth assignment of error is denied.

FIFTH ASSIGNMENT OF ERROR

The lands included within the UGB by the challenged decision are bordered to the north by the Tualatin Valley Highway (TV Highway). According to petitioners, TV Highway will provide primary east-west access to lands within URA 55, once those lands are urbanized. Further, petitioners argue that the highway has or will have insufficient capacity to accommodate projected traffic from development of lands within URA 55 and other lands, absent extensive and expensive improvements. For these reasons, petitioners argue that Metro misconstrued the applicable law, specifically MC 3.01.020(b)(3), (4) and (5), and OAR 660-012-0060, and made a decision not supported by substantial evidence in concluding that "adequate transportation facilities could be provided to serve the land added to the UGB."[11] Petition for Review 15.

MC 3.01.020(b)(3), (4) and (5) implement Goal 14, factors 3, 4 and 5, respectively. OAR 660-012-0060 implements Goal 12 (Transportation). We address petitioners' arguments under these provisions separately.

A. MC 3.01.020(b)(3)

MC 3.01.020(b)(3) requires consideration of "[o]rderly and economic provision of public facilities and services."[12] Petitioners challenge the evidentiary support for Metro's

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[11]The assignment of error also refers to Statewide Planning Goals 11 (Public Facilities and Services) and 12 (Transportation), but petitioners include no argument why those goals are applicable or why the challenged decision is inconsistent with those goals. Similarly, the assignment of error refers to MC 3.01.020(c)(3), but includes no explanation as to why that provision is applicable. We consider those references no further. *Deschutes Development v. Deschutes Cty*, 5 Or LUBA 218, 220 (1982).

[12]MC 3.01.020(b)(3) provides:

> "Factor 3: Orderly and economic provision of public facilities and services. An evaluation of this factor shall be based upon the following:
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> "(A) For the purposes of this section, economic provision shall mean the lowest public cost provision of urban services. When comparing alternative sites with regard to factor 3, the best site shall be that site which has the lowest net increase in the total cost for provision of all urban services. In addition, the comparison may show how the proposal minimizes the cost burden to other areas outside the subject area proposed to be brought into the boundary.

findings regarding this criterion. Petitioners' arguments generally take two forms: (1) that the evidence Metro relies upon does not support Metro's view of the capacity and cost of improving TV Highway over a 20-year planning period; and (2) that other evidence in the record rejected by Metro demonstrates that TV Highway has less capacity and will require more expensive improvements than Metro assumed to be the case. We need not address petitioners' arguments in detail, because we agree with Metro and intervenor that petitioners misunderstand what MC 3.01.020(b)(3) requires.

Petitioners appear to understand MC 3.01.020(b)(3) to require that Metro determine whether there exist "adequate transportation facilities" to serve the lands included within the UGB. If we understand the thrust of petitioners' argument correctly, petitioners argue that, in their view of the evidence, TV Highway will not be "adequate" to accommodate traffic generated by development of the lands within URA 55 over the 20-year planning period, and therefore application of MC 3.01.020(b)(3) in this case would prohibit the inclusion of those lands within the UGB.

The main problem with that argument is that MC 3.01.020(b)(3), like Goal 14, factor 3, is one of several factors that must be considered and balanced, rather than an isolated criterion that establishes a threshold for including land within a UGB. *Parklane II*, 165 Or App at 25. The focus of consideration under MC 3.01.020(b)(3) is an evaluation of the *comparative* costs and feasibility of providing urban facilities and services to various lands considered for inclusion in the UGB, with the ultimate aim of determining whether "the recommended site [is] better than alternative sites, balancing factors 3 through 7."

> "(B) For the purposes of this section, orderly shall mean the extension of services from existing serviced areas to those areas which are immediately adjacent and which are consistent with the manner of service provision. For the provision of gravity sanitary sewers, this could mean a higher rating for an area within an already served drainage basin. For the provision of transit, this would mean a higher rating for an area which could be served by the extension of an existing route rather than an area which would require an entirely new route."

MC 3.01.020(b). In other words, the focus of MC 3.01.020(b)(3) is not on determining whether adequate facilities exist or can be made adequate, but on determining which of the available alternatives is most consistent with the orderly and economic provision of public facilities and services.[13] Thus, even assuming petitioners' view of the evidence regarding TV Highway is correct, that would not establish that the lands within URA 55 are therefore inferior with respect to factor 3, compared to alternative sites. It certainly would not establish that, balancing factors 3 through 7, lands within URA 55 are inferior compared to alternative sites.[14]

In any case, petitioners are incorrect that Metro's findings regarding MC 3.01.020(b)(3) and TV Highway are not supported by substantial evidence. Metro relied principally on a transportation study prepared by Kittleson and Associates (the Kittleson Report), to reach its conclusions regarding TV Highway. Petitioners allege that the Kittleson Report is flawed in various respects, and cite to a study prepared by petitioners' consultant, as well as other testimony, to demonstrate that TV Highway has less capacity and will cost more to improve than Metro assumed to be the case. Where the evidence is conflicting, if a reasonable person could reach the decision the local government made, in view of all the evidence in the record, LUBA will defer to the local government's choice between conflicting evidence. *Tigard Sand and Gravel, Inc. v. Clackamas County*, 33 Or LUBA 124, 138, *aff'd* 149 Or App 417, 943 P2d 1106 (1997). A reasonable person could rely upon the Kittleson Report and the other evidence Metro relied upon, to support Metro's conclusions

[13]It is possible that *none* of the lands considered for inclusion in the UGB could be served by "adequate" transportation facilities. Nonetheless, that would not prevent a local government from meeting an identified Goal 14, factor 1 and 2 need by determining which of the lands considered is the best candidate, balancing factors 3 through 7.

[14]Elsewhere in the petition for review, petitioners argue that the Evergreen Road area is a better choice than URA 55 because it is closer to employment areas, or at least not as bad a choice as Metro thought it was. Petitioners also argue that the costs of providing transportation facilities to the Evergreen Road area are less than for URA 55, although the evidence on that point is hotly disputed. However, petitioners make no focused effort to argue that the Evergreen Road area is superior to URA 55, balancing factors 3 through 7.

under MC 3.01.020(b)(3).

In sum, petitioners have not demonstrated that Metro misconstrued MC 3.01.020(b)(3) or that its findings with respect to that provision are not supported by substantial evidence.

B. MC 3.01.020(b)(4)

MC 3.01.020(b)(4) requires consideration of "[m]aximum efficiency of land uses within and on the fringe of the existing urban area."[15] Petitioners question the evidentiary basis for one of several dozen findings directed at MC 3.01.020(b)(4). Metro's findings state that development of URA 55 will, *inter alia*, improve street connectivity and hence efficient urban growth, because it will provide east-west street connections that do not rely on the TV Highway. Record 1140. Petitioners contend that the evidence in the record establishes that most of the east-west traffic leaving URA 55 will use TV Highway.

However, petitioners do not challenge any of the numerous other findings addressing MC 3.01.020(b)(4), or explain why the challenged finding is such that the alleged lack of evidentiary support for that finding nullifies Metro's ultimate conclusions regarding

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[15]MC 3.01.020(b)(4) provides:

> "Factor 4: Maximum efficiency of land uses within and on the fringe of the existing urban area. An evaluation of this factor shall be based on at least the following:
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> "(A) The subject area can be developed with features of an efficient urban growth form including residential and employment densities capable of supporting transit service; residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and the ability to provide for a mix of land uses to meet the needs of residents and employees. If it can be shown that the above factors of compact form can be accommodated more readily in one area than others, the area shall be more favorably considered.
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> "(B) The proposed UGB amendment will facilitate achieving an efficient urban growth form on adjacent urban land, consistent with local comprehensive plan policies and regional functional plans, by assisting with achieving residential and employment densities capable of supporting transit service; supporting the evolution of residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and improving the likelihood of realizing a mix of land uses to meet the needs of residents and employees."

MC 3.01.020(b)(4).

C. MC 3.01.020(b)(5)

MC 3.01.020(b)(5) requires consideration of "[e]nvironmental, energy, economic and social consequences"[16] Petitioners challenge the evidentiary support for two of the findings addressing social and energy consequences, to the effect that housing in URA 55 will be located close to jobs, resulting in fewer vehicle miles traveled. Petitioners contend that the record establishes that housing in URA 55 is not as close as it could be to major employment areas. Further, petitioners fault Metro's discussion of the economic consequences of including URA 55 within the UGB, because it fails to discuss the "tremendous cost" of needed transportation improvements. Petition for Review 23.

As with petitioners' challenges to an isolated finding under MC 3.01.020(b)(4), none of the foregoing challenges establishes that Metro's ultimate conclusions with respect to MC 3.01.020(b)(5) are not supported by substantial evidence.

D. OAR 660-012-0060

Finally, petitioners contend that Metro erred in failing to address OAR 660-012-0060(1) and (2), which require that amendments to comprehensive plans and land use

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[16]MC 3.01.020(b)(5) provides:

> "Factor 5: Environmental, energy, economic and social consequences. An evaluation of this factor shall be based upon consideration of at least the following:
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> "(A) If the subject property contains any resources or hazards subject to special protection identified in the local comprehensive plan and implemented by appropriate land use regulations, findings shall address how urbanization is likely to occur in a manner consistent with these regulations.
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> "(B) Complementary and adverse economic impacts shall be identified through review of a regional economic opportunity analysis, if one has been completed. If there is no regional economic opportunity analysis, one may be completed for the subject land.
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> "(C) The long-term environmental, energy, economic, and social consequences resulting from the use at the proposed site. Adverse impacts shall not be significantly more adverse than would typically result from the needed lands being located in other areas requiring an amendment of the UGB."

regulations that "significantly affect" a transportation facility assure that allowed land uses are consistent with the identified function, capacity and performance standards of affected transportation facilities.[17]

However, petitioners have not established that the challenged amendment of the Metro UGB is an amendment that "significantly affects" a transportation facility within the meaning of OAR 660-012-0060(1) and (2). The challenged decision amends the Metro UGB, converting rural land to urbanizable land, but does not alter the types or intensity of allowed land uses, reduce the performance standards of transportation facilities, or otherwise significantly affect any transportation facility. We agree with Metro and intervenor that, while OAR 660-012-0060 may apply when and if amendments to comprehensive plans or land use regulations are adopted to allow for urban development of URA 55, OAR 660-012-0060 does not apply to the challenged amendment of the Metro UGB.

The fifth assignment of error is denied.

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[17]OAR 660-012-0060(1) and (2) provide in relevant part:

> "(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. This shall be accomplished by [listed measures]:
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> "* * * * *
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> "(2) A plan or land use regulation amendment significantly affects a transportation facility if it:
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> "(a) Changes the functional classification of an existing or planned transportation facility;
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> "(b) Changes standards implementing a functional classification system;
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> "(c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
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> "(d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP."

Metro’s decision is affirmed.