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May 23, 2024

Periodic Review Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
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RE: Objections to McMinnville Housing and Economic Development Amendments

As part of a recently adopted sequential urban growth boundary (UGB) work program, the City of McMinnville has adopted and submitted for DLCD review, a Housing Needs Analysis (HNA) and Economic Opportunities Analysis (EOA) that project land needs through 2041 and 2067. Ordinance 5141, which adopted the HNA and EOA as amendments to the comprehensive plan, also adopted the McMinnville Urbanization Report. The city's adoption incorporates the HNA and EOA into its comprehensive plan and is intended to form the basis for a UGB expansion and for the establishment of a 47-year urban reserve through the year 2067 (Record at 50, 180, and 192).

Friends of Yamhill County and 1000 Friends of Oregon (Friends) object to the submittal (city file nos. G 1-20 and C 3-20, Ordinance no. 5141). According to OAR 660-025-0140(2), in order for an objection to be valid, it 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.

Regarding (a), the notice provided to Friends by the city indicated that the notice of decision was submitted to the Department of Land Conservation and Development (DLCD) on May 3, 2024, making the deadline for submittal of this letter May 24, 2024.

Regarding (b), this letter identifies the alleged deficiencies and rule violations in the adopted amendments.

Regarding (c), we suggest that the appropriate action is for the DLCD director to remand the plan amendments as provided in OAR 660-025-0150(1)(b) for the reasons stated in this letter.

Regarding (d), Friends participated orally and in writing at city proceedings. We submitted written testimony to the McMinnville Planning Commission (Record at 1706 and 2076).

Please consider these objections in your review of the submittal. Objections 1 and 2 pertain to the HNA while Objections 3 to 6 address the EOA. And Objections 7 to 10 apply to both.

BACKGROUND

McMinnville completed an urban growth boundary expansion in 2021 (Record at 45). The city now has about 1,650 acres of buildable land in its UGB, including 1,185 acres of land zoned residential or urban holding (Record at 64) and 508 acres of employment-zoned land (Record at 64).¹ None of this has yet developed, because the majority of this land lacks the urban infrastructure necessary to support development. This includes unconstrained buildable land that has been in the city limits for over 40 years that has still not been served with water (Record at 63-64 and 113-114).

OAR 660-024-0050(4) requires that “Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB.” As described below, McMinnville has not met the threshold requirements for a UGB expansion. And regardless of whether there is a UGB expansion, McMinnville is not meeting the housing needs of its residents under Goal 10 and related housing statutes and rules. This is not an obligation only at the time of a UGB evaluation. McMinnville should instead focus on ensuring that its existing urban lands are provided with the infrastructure, any other investments, and necessary policies to meet the housing and employment needs of current and future residents.

¹ These totals do not include land improperly excluded from the buildable lands inventory. See Objection 8.

HOUSING NEEDS ANALYSIS

McMinnville’s proposed residential minimum lot sizes are *much* larger than similar Willamette Valley cities and its planned density is much lower.²

City	R-1 or lowest density zone	R-2 or next lowest density	R-3 or next lowest	Planned (Needed) density (du/acre)	Maximum lot area or Minimum density standards
McMinnville	9,000 sq. ft.	7,000 sq. ft.	6,000 sq. ft.	5.46	No
Lafayette	7,500 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	?	No
Sheridan	7,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	?	Yes (R-2, R-3 duplexes & multi-family)
Woodburn	6,000 sq. ft.	4,000 sq. ft.	3,600 sq. ft.	7.8 -9.0	Yes
Newberg	5,000 sq. ft.	3,000 sq. ft.	2,500 sq. ft.	7.4(draft)	Yes
Corvallis	5,000 sq. ft.	3,630 sq. ft.	2,178 sq. ft.	6.5	Yes
Dallas	5,000 sq. ft.	4,000 sq. ft.	3,000 sq. ft.	?	Yes
Keizer	4,000 sq. ft.	4,000 sq. ft.	4,000 sq. ft.	6.8	Yes

Minimum lot sizes for single-family detached houses

Record at 1716

McMinnville’s larger minimum lot sizes increase housing costs, increase costs to provide infrastructure, and increase pressure to expand on to farmland. In addition, many cities have adopted maximum lot area or minimum density standards to help ensure that the densities it needs to meet housing needs are achieved. McMinnville has not. This is not just a land capacity issue, or an efficiency measure to be addressed in the future. The large minimum lot sizes affect McMinnville’s ability to provide housing at price points that are commensurate with the financial capabilities of present and future residents.

Objection 1. Residential Density for Needed Housing

The new HNA plans for *fewer* homes per acre than the existing comprehensive plan – 5.46 units per acre, down from 5.7 (Record at 1706, 1715, 2077). The city states that 5.46 units per acre is the city’s “needed density” (Record at 27, 151, and elsewhere). The city explained its calculation of needed density as follows:

The draft 2023 HNA is based on a historic development density plus the 3% adjustment per HB 2001 (2019 Legislative Session) of 5.46 units/acre... (Record Addendum #1 at p. 4)

² While the city does allow smaller than minimum lot sizes through the planned development process, the overall average density must still comply with the underlying zone.

[T]he 2019 Missing Middle Housing legislation allowed cities to increase that historic density calculation for the purpose of housing needs analysis calculation by up to 3% if it chose to do so. (Record Addendum #1 at p. 6)

Exhibit 94 adds 3% to the Historical Densities in Exhibit 92 consistent with the density changes allowed for complying with HB 2001 (2019). If single-family detached, single-family attached, and multifamily housing develop at densities consistent with historic average densities (5.05 dwelling units per gross acre), McMinnville’s overall residential density will increase to 5.46 dwelling units per gross acre over the twenty-year planning period—an 11% increase in gross residential density. (Record at 151)

The city misconstrues the law. The September 18 response memo (Record Addendum #1 at p. 6), accurately quotes the current statute that is relevant to completion of the housing capacity analysis in the HNA; ORS 197.265. Without repeating it all here, the relevant factors include:

- Data on historic development
- Trends in density and the mix of housing types
- Market factors that will influence future development

The HNA’s analysis includes only the first of these. It includes *discussion* of the other factors, but does not translate trends or market factors into needed density. It just concludes that:

[C]onsiderable variation exists in residential density from year to year. While housing density averaged around 6.6 dwelling units per net acre since 2000, some years show a spike in density of over 10 dwelling units per net acre. While housing density averaged around 6.6 dwelling units per acre since 2000, some years show a spike in density of over 10 dwelling units per net acre” (Record p. 140).

And

[T]hese findings suggest that McMinnville’s needed housing mix is for a broader range of housing types than are currently available in McMinnville’s housing stock, both for ownership and rent, as well as across the affordability spectrum” (Record p. 140), and “Yamhill County and McMinnville will be affected by these state [economic] trends, which will result in continued demand for new houses” (Record at 142).

Instead of analyzing needs, the HNA simply assumes a three-percent increase in density over historical density because HB 2001 allows it. But that is not what the legislation says. The three-percent provision has been codified in ORS 197.296(6)(b), which applies to the next step in the city’s process – efficiency measures – not to the HNA and determination of needed mix and density.³

³ 197.303(1) provides: “As used in ORS 197.286 to 197.314, ‘needed housing’ means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing

As previously noted, the new HNA lowers the determination of “needed density” to 5.46 units per acre, down from 5.7 units per acre in the existing comprehensive plan. Given McMinnville’s projected housing needs, this seemingly violates the directives in Goal 10 and ORS 197.296 to provide for needed housing.

As stated in ORS 197.296(7):

Using the housing need analysis conducted under subsection (3)(b) of this section, *the local government shall determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs.* (Emphasis added)

Our proposed remedy is for the director to remand the HNA with instructions to either calculate needed density, not use the historical density plus three percent, or use the density safe harbor in OAR 660-024-0040(8)(f).

We do not suggest that the density safe harbor supplies the “correct” density number for the city, but it is an allowable, achievable way to calculate density in the absence of the analysis required by ORS 197.296(5).

Objection 2. Current Housing Needs

The HNA only looks at the housing types *new* residents will require, but there is a current deficit of affordable housing types that needs to be addressed. A housing needs projection is not intended to consider only new residents of the city. OAR 660-008-0005(6) provides:

“Housing Needs Projection” refers to a local determination, justified in the plan, of the mix of 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;

* * *

(Emphasis added)

Friends raised this issue to the city (Record at 2079). The mix of housing types, amounts, and densities in the Housing Needs Projection purports to be adequate to meet the needs of future residents, but is insufficient to meet the unmet needs of *present* residents. The HNA reports that the city has a deficit of several types of housing:

Comparing the number of households by income with the number of units affordable to those households in McMinnville reflects a current deficit of housing affordable to households earning between \$10,000 and \$25,000 annually and households earning \$100,000 or more annually. McMinnville has a deficit of all types of government-assisted housing; more affordable housing types (such as

and Urban Development under 42 U.S.C. 1437a. * * *”

manufactured housing in parks and lots, small-homes, duplexes, triplexes, quadplexes, small-lots, and apartments); and housing types of higher values (such as high-amenity or executive housing) (Record at 956).

Failure to address these deficits violates Goal 10 and its implementing rules. These provisions require the city to meet the housing needs of *all* residents, not just new residents. If the city plans and zones land appropriately to accommodate these needed housing types for current residents, rather than the predominantly low-density development currently allowed, land already in the UGB will be used more efficiently and this will in turn affect land needs for future residents.

Regardless of whether this is clearly required by ORS 197A.270 (formerly ORS 197.296) the administrative rule implements Goal 10 in addition to the statute, and its provisions apply.

Unmet needs of current city residents must be addressed in an HNA. Friends' proposed remedy is for the director to remand the HNA to correct this omission.

ECONOMIC OPPORTUNITIES ANALYSIS

Objection 3. Land Needs Not Addressed in the Average Employment Densities

The EOA includes an estimate of industrial and other employment land need based on a job forecast, allocation of those jobs to land use types, and application of employment densities (the process is summarized in Exhibit 48, Record at 269). Except as explained in additional objections below, this process seems consistent with the requirements of OAR chapter 660, division 9. But the EOA then goes on to add 49 acres to the land-need calculation based on specific low-density employment uses at eight sites that the city states were not subject to the overall analysis (Record at 280-287). Friends objected to this additional land in writing to the city (Record at 2085).

An employment forecast and determination of overall employment density includes a wide range of employment uses, some with low employment densities and some with high employment densities. This is nothing new; it is true of every EOA we have ever reviewed.

The EOA states that these added acres are “related to target industry sectors identified in the *MACTown 2032 Economic Development Strategic Plan*” and “are all identified in existing city plans, but are not considered in the employment forecast” (Record at 280). The EOA does not adequately explain why the employment forecast and average employment densities do not account for these uses. The full explanation in the EOA states:

Statewide Planning Goal 9 states that comprehensive plans for urban areas shall: “Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies.” This indicates that cities have some degree of flexibility in determining land needs as long as (1) they are consistent with plan policies, and (2) are justifiable. The land needs described in this section are all identified in

existing city plans, but are not considered in the employment forecast (Record at 280).

The EOA does not explain why the employment forecast and average employment density fail to account for these uses. The forecast is explained in the record at pp. 268-275. We cannot find there or anywhere else an explanation of why the “other” uses are not covered by the employment forecast. The conference center, food hub, and innovation hub are not distinct from the sectors in Exhibit 49 (Record at 271). Several of the other added uses are more properly considered public uses and should be addressed in the parks and recreation plan or public land need analysis rather than the EOA (community center, amphitheater, arts and culture event center) and accommodated on the ample park and public land the city has already added to the UGB. Expansion of the museum and water park are site-specific needs and therefore not appropriate justification for adding unspecified acreage to the urban land need. There is no adequate factual base, as required by Goal 2, for the inclusion of this additional land.

Including the 49 acres in the land need is not justified, lacks an adequate factual base, and would result in greater than a 20-year supply of urban land, in violation of Goal 14 and Goal 2. Friends’ proposed remedy is for the director to remand the EOA to the city with instructions to remove the “land needs not addressed in the average employment densities.”

Objection 4. Retail Leakage

The EOA purports to base its employment forecast and need for employment land on the population-based safe harbor under OAR 660-024-0040(9)(a)⁴ (Record at 1489-1491). However, the draft EOA does not do this. Instead, it takes the safe harbor forecast and then adds another 280 employees to it, based on the dubious notion of “retail leakage” (Record at 1496-1498). Friends objected to this addition to the employment forecast to the city (Record at 2086).

The city cannot have it both ways. It can either use one of the safe harbors available under OAR 660-024-0040(9) to forecast employment growth or use some other method. The safe harbor rule does not provide for a city to simply add employees beyond the safe harbor forecast. In *Friends of Yamhill County v. City of Newberg*, 62 Or LUBA 5 (2010), LUBA ruled that a city cannot jump between different safe harbor options within one EOA, and while that is not precisely what the McMinnville has done in this case, the principle applies that if the city chooses to use a safe harbor, it must stick to it.

Our proposed remedy is for the director to remand the EOA to the city with instructions to remove the additional jobs beyond the safe harbor forecast allocated for “retail leakage” or perform a new, fact-based employment forecast in compliance with the administrative rule.

⁴ OAR 660-024-0040(9)(a) provides:

A local government may estimate that the current number of jobs in the urban area will grow during the 20-year planning period at a rate equal to either:

(A) The county or regional job growth rate provided in the most recent forecast published by the Oregon Employment Department; or

(B) The population growth rate for the urban area in the appropriate 20-year coordinated population forecast determined under rules in OAR chapter 660, division 32.

Objection 5. Refill, Redevelopment and Employment on Non-Employment Land

The EOA violates Goal 14 and Goal 2 (adequate factual base), because it fails to adequately consider the absorption of new jobs on non-employment land and on existing employment sites. We raised this objection to the city during the local hearings (Record at 1083-2085).

Not all new jobs require new, vacant employment land. Many jobs locate on residential or other non-employment land, or are absorbed on existing employment sites through refill and redevelopment. The DLCDC Goal 9 handbook (p. 2-28) suggests a 10-15 percent rate *just* for refill and redevelopment on existing employment land, exclusive of jobs that will occur on non-employment land (Record at 2083).

Consistent with DLCDC guidance, McMinnville's existing, acknowledged EOA assumes that 83 percent of new jobs will require new vacant employment land and 17 percent of new jobs will either locate on non-employment land or be accommodated through refill and redevelopment (Record at 276). The new EOA asserts that this is merely aspiration, and hasn't been observed historically. As explained below, the record does not support this assertion.

The new EOA instead assumes that 95 percent of all new jobs will require new, vacant employment land and only five percent will either locate on non-employment land or be accommodated through refill and redevelopment (Record at 276). The record does not include an adequate factual basis to support this assumption.

The EOA points to "empirical data" in appendix B and asserts that this accounts for both refill and redevelopment on employment land and also employment on residential and other non-employment land (Record at 276). This assertion is wrong. That purported empirical data is in the record at pp. 314-315. It is clear that the empirical data they purport to rely upon only considers refill and redevelopment on existing employment land, and *does not* include consideration of additional employment on residential and other non-employment land.

Significant employment occurs on residential land. This includes, but is not limited to, people working in assisted living facilities, in day care centers, churches, and people who work from home.

The actual census data in the record shows that in Oregon 12.5 percent of workers work from home, and in McMinnville that figure is 8.2 percent (Record at 1710). There is no contrary evidence in the record. This is on top of the five percent refill and redevelopment rate supported by the empirical evidence in Appendix B. It still does not include the additional people working in assisted living facilities and other care facilities, day care centers, churches, etc. all of which are principally located on residential land.

Every assisted living facility in McMinnville is located on residential land and so are almost all of McMinnville's memory care and skilled nursing facilities (Record at 2098). The submitted plan amendments forecast a growing demand for these facilities (Record at 140-141).

Contrary to the city's assertions, the comparison cities in Appendix B (Record at 314) do not support the use of a five percent rate. With the possible exception of Newberg, they all used rates of 10 to 20 percent – double to quadruple the rate used in the EOA.

- Ashland used a rate of 20 percent
- Corvallis used rates of 11 to 29 percent
- Redmond used a rate of 10 percent. Their new 2020 EOA uses rates of 9.9 to 10.4 percent for jobs on residential land only, exclusive of jobs that will be accommodated on existing employment sites.
- Grants Pass used a rate of 10 percent
- Albany, listed as 0 percent, used a rate of 10 percent
- Newberg is listed at 5 percent, but we are unable to locate that figure. Their new 2021 EOA uses a combined rate of 25.8 percent for commercial jobs (15.8 percent on residential land and an additional 10 percent accommodated on existing employment sites).
(Record at 2085)

For the reasons explained above, the evidence does not support the assumption that 95 percent of all new jobs will require vacant employment land. This assumption lacks an adequate factual base, and violates Goal 2 and Goal 14.

The evidence in the record shows that:

- Five percent of new jobs will be accommodated through refill and redevelopment on employment land, based on empirical evidence in the record
- 8.2-12.5 percent of new jobs will work from home, based on census data
- An additional percentage of new jobs will work at care facilities, etc. on residential land

Our proposed remedy is for the director to remand the EOA with instructions to (a) allocate at least 13.2 percent to 17.5 percent of new employment to refill, redevelopment, and home-based employment; and (b) estimate the percentage of additional jobs in residential zones at care facilities, etc. and also allocate that additional percentage of employment to residential land.

Objection 6. Assumed reduction in commercial jobs per acre

Compared to the existing comprehensive plan that formed the basis for the city's recently completed UGB expansion, the new EOA plans for *fewer* commercial jobs per acre – 23 jobs per acre, down from 26 (Record at 1708, 2077). This does not reflect the city's projected mix of new commercial jobs. For this reason, the EOA violates Goal 14 and Goal 2 (adequate factual base).

The EOA projects that two-thirds of new commercial jobs over the planning period will be in the office and commercial services sector, dwarfing the number of new jobs in retail and tourism services. (Record at 322) It also shows that those jobs occur at an average of 29 jobs per acre, as opposed to 19 jobs per acre for retail and tourism sector jobs. As stated in the EOA (Record at 321).

ECONorthwest also analyzed sample areas representative of employment in McMinnville by land use type. The results by land use type were:

- Industrial: 11 employees per acre
- Office commercial: 29 employees per acre
- Retail commercial: 19 employees per acre

That is illustrated in the draft EOA, Appendix B, Exhibit 6c, reproduced below:

Exhibit 6c. Estimate of future land demand for new employment (sample area approach), McMinnville UGB, 2021 to 2041, after 5% deduction

Land Use Type	New Emp. on Vacant Land	Employees per Acre (Net Acres)	Land Demand (Net Acres)	Land Demand (Gross Acres)
Industrial	1,584	11	144	153
Retail Commercial	364	19	19	23
Office & Commercial Services	3,179	29	110	134
Tourism Services	1,206	19	63	77
Total	6,333		336	388

(Record at 322)

Rather than base the job density of new commercial jobs on the projected mix of commercial jobs, the city instead uses an average of 23 employees per acre for all commercial land. This reduction in the assumed density of future commercial jobs is based on the current mix of existing commercial jobs in the city, not the projected mix of new commercial jobs.

The city does not assert that employment density in future office and commercial services will decrease and the record does not contain any evidence that would support such an assertion.

The reduction in the assumed density of future commercial jobs per acre lacks an adequate factual base, and violates Goal 2 and Goal 14. The city has not based its projection of new commercial job density on its projected mix of new commercial jobs.

Our proposed remedy is for the director to remand the EOA with instructions to base future commercial density on the projected mix of future commercial jobs – 67 percent office and commercial services and 33 percent retail and tourism; *i.e.*, 3,179 office and commercial services jobs at 29 employees per acre and 1,570 retail and tourism jobs at 19 employees per acre.

If the city does want to use a single average number of jobs per acre for all commercial sectors, that number should reflect a properly weighted average for the anticipated new jobs. That weighted average is about 26 jobs per acre, the same as the 26 jobs per acre used in the 2013 EOA.

OBJECTIONS TO BOTH THE HNA AND EOA

Objection 7. Land for Parks

Statewide Planning Goal 2 requires that all plan amendments have an adequate factual base and not conflict with other plan elements. Goal 14 and OAR 660-024-0050(4) require a showing that “estimated needs cannot reasonably be accommodated on land already inside the UGB.”

The submitted plan amendments inflate overall parkland needs and wrongly assign all quantified parkland needs to buildable land. That assumption lacks an adequate factual base and is inconsistent with McMinnville’s acknowledged comprehensive plan. This violates Goal 2, Goal 14, and OAR 660-024-0050(4). We raised this objection to the city during its public hearings (Record at 1711).

Sub-objection A: Inflated parkland projections

The submitted plan amendments are ostensibly based, in part, on a parks master plan that was adopted in 1999 and covered a 20-year time span; *i.e.*, through 2019 (Record at 2091, 2092). That parks plan called for 14 acres of parkland per thousand people, including eight acres per thousand of neighborhood and community parks, and six acres of greenways, greenspaces, and natural areas (Record at 2149). That parks plan lacked any funding mechanism (the city does not assess anything close to full Systems Development Charges for parks) and proved to be wildly unrealistic.

The city is currently in the process of adopting a new parks master plan that is now in draft form. It forecasts park land needs through 2041. The new parks master plan was not included as work task in the sequential work program (Record at 413-414).

The submitted plan amendments are based on a projected population increase of 11,260 from 2021 through 2041 (Record at 47). The city’s finding state (Record at 767):

The analysis of Public Land Need (in Appendix E of the EOA) uses the 14 acres/1,000 people level of service to determine park land need for the forecast of 11,260 person growth in McMinnville over the 2021-2041 period.

This finding is in error. Fourteen acres per thousand people is 158 acres.⁵ The submitted plan amendments instead project a need for 392 acres for parks over the 20-year time span of 2021-2041 (Record at 189). This equates to approximately 35 acres per thousand new people.⁶

The city has never achieved 14 acres of parkland per thousand persons, let alone 35 acres/thousand, and has no identified strategy for doing so. Nonetheless, the submitted plan amendments, which are purportedly based on the 14 acres per thousand standard, instead call for 35 acres per thousand of new population. This is apparently to make up for the city’s past inability to meet the 14 acres per thousand standard. Again, the city has no identified strategy to

⁵ 14 acres per thousand x 11.26 = 157.6 acres.

⁶ 392 acres divided by 11,260 people =34.8 acres per thousand persons.

acquire that much parkland, nor does it have any mechanism to ensure that land included in the boundary for parks will not be converted to other uses.

In 1999, the city made assumptions about how much parkland it aspired to acquire through 2019. Those assumptions have proven to be wrong. McMinnville has not even come close to meeting the 14 acres/thousand target in its existing plan. We believe the city added roughly 50 acres of parkland between 1999 and 2019, the time frame covered by the Parks Master Plan. (Record at 2078). The city's population grew by roughly 10,000 people over the same time frame. If this is correct, the city added roughly five acres of parkland per 1000 people. The data on which the currently submitted plan amendments rely upon is stale.

Now that the city is amending its comprehensive plan to project land needs through 2041 and 2067, it needs to justify the new plan amendments. An inflated parkland projection based on stale data and aspirational assumptions that have proven to be wrong seemingly violates Goal 2's requirement that all decisions and actions related to the use of land have an adequate factual base. It also violates Goal 14's directive that establishment and change of urban growth boundaries shall be based on demonstrated need.

Even if the city can arguably rely on the existing park plan, that is not what it has done. Its projected parkland need for the 20-year planning period instead works out to be about 35/acres per thousand of new population.

Our proposed remedy is for the director to remand the HNA and EOA with instructions to:

(A) Amend the sequential work plan to add the new draft Parks Master Plan as a work task or otherwise harmonize its land need analyses; or

(B) Amend the 14 acres/thousand persons standard to reflect a realistic, achievable acreage supported by evidence and a funding plan; or

(C) Adopt the safe harbor provision in provision in OAR 660-024-040(10) which provides, "a local government may estimate that the 20-year land needs for streets and roads, parks and school facilities will together require an additional amount of land equal to 25 percent of the net buildable acres determined for residential land need"; or

(D) Apply the 14 acres/ thousand persons standard to the projected increment of 11,260 new population to project need for 157 acres of parkland; and, for the reasons explained below, allocate at most 8 acres to buildable land with the remainder allocated to unbuildable land.

Sub-objection B: The city wrongly assigns all parkland needs to buildable land

McMinnville classifies land in floodplains, steeply sloped lands and certain other lands as unbuildable (Record at 472, 723-724).

Comprehensive Plan Policy 163.05 states:

163.05 The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. *Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land* to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands. (Emphasis added)

The parkland justification in the submitted amendments includes only the first sentence of the above plan policy and omits the second sentence (Record at 748).

Despite this explicit plan policy, and despite lacking any factual basis for doing so, the submitted plan amendments assign all quantified parkland needs to buildable land, in violation of Goal 2. This significantly inflates overall land needs in at least two ways and therefore also violates Goal 14 and OAR 660-024-0050(4).

First, it results in a vast underestimation of the capacity of buildable land within the existing UGB. The submitted plan amendments assume, without an adequate factual basis, that about one-third of the buildable, vacant, urbanizable residential land within the existing UGB will be consumed by parks.

TABLE 2: % of Land Need Categories in MGMUP UGB Amendment, 2003 – 2023 for UH Comp Plan Designation.

Category of Land Need	Needed Gross Buildable Acres
New Housing	49%
Parks	32%
Schools	5%
Private Schools, Religious, Government, Semi Public Services, Infrastructure	9%
Total	765.00
Neighborhood Commercial	5%
TOTAL:	804.20

(Record at 1665)

Consistent with Plan Policy 163.05, and as required by OAR 660-024-0050(4), a significant portion of the estimated park need can be reasonably accommodated on unbuildable land already inside the UGB, thereby also increasing the housing capacity of the existing land supply.

Assigning all quantified parkland needs to buildable land is not only inconsistent with the comprehensive plan, it is also inconsistent with the existing park distribution in McMinnville. Compare Map 2 of 1999 Parks Master Plan⁷ with map of constrained land. (Record 473)

Finally, assigning all quantified parkland needs to buildable land is also inconsistent with acknowledged comprehensive plan amendments adopted concurrently with the submitted HNA and EOA. At the same meeting where the city council adopted the HNA and EOA, they also adopted the Fox Ridge Area Plan. It is now an acknowledged element of the compressive plan. The Fox Ridge Road Area Plan is available online.⁸

A comparison of the Natural Hazards map on p. 14 of the Fox Ridge Area Plan with the Area Plan map on p. 39 shows that most of the Neighborhood Park and Greenways, while out of the floodplain, are located on unbuildable natural hazard areas.

Second, by assigning all quantified parkland needs to buildable land, the submitted plan amendments inflate the amount of buildable land (and hence, overall land) needed in any expansion. This violates Goal 14's requirement that any boundary amendment be based upon demonstrated need.

Our proposed remedy is for the director to remand the HNA and EOA with instructions to:

- (a) Allocate the quantified need for greenways, greenspaces, and natural areas to unbuildable land, consistent with Plan Policy 163.05; and
- (b) Allocate a portion of the quantified need for neighborhood and community parks to unbuildable land that is not the floodplain; consistent with what has actually occurred within the city.

Objection 8. Exclusion of buildable land from inventories based on ownership

The inventories of buildable land in the HNA and employment land in the EOA improperly exclude some 87 acres of buildable land in private ownership in violation of Goal 2, OAR 660-008-05(2), OAR 660-009-0015(3), Goal 14 and OAR 660-024-0050(4).

Sub-objection A: Buildable land owned by churches

The EOA projects a 38 acre land need for churches through 2041 and an 83 acre land need for churches through 2067 (Record at 189). However, even though a land need for churches is identified, the inventories of in the HNA and EOA categorically exclude all buildable land owned by churches (Record Addendum #1 at pp. 15, 55 and 72).

The record does not include an adequate factual base to support the assumption that churches will not use their buildable land to meet the identified need for churches, or alternatively, sell it

⁷ https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning/page/1303/1999_mac_parks_master_plan.pdf page 91

⁸ https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/community_development/page/23617/3-fox_ridge_road_area_plan_2-14-2024_1-22pm_with_appendices.pdf

to other users to meet other identified land needs. This categorical exclusion violates Goal 2's requirement that all plan amendments have an adequate factual base.

Moreover, for buildable church-owned land with a residential designation, this is inconsistent with OAR 660-008-05(2) which states in part:

Land is generally considered "suitable and available" unless it:

- (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;
- (b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;
- (c) Has slopes of 25 percent or greater;
- (d) Is within the 100-year flood plain; or
- (e) Cannot be provided with public facilities.

For the buildable church-owned land with a commercial designation this is inconsistent with OAR 660-009-0015(3) which states:

660-009-0015(3): Inventory of Industrial and Other Employment Lands. Comprehensive plans for all areas within urban growth boundaries *must include* an inventory of vacant and developed lands within the planning area designated for industrial or other employment use. (Emphasis added)

It is likely that by 2041 the religious institutions that own this vacant and partially vacant land will either use it to meet some of the identified need for religious institutional land, or in some cases sell it. We object elsewhere to the city's use of the 2067 planning horizon, (see Objection 9). Nonetheless, it is a virtual certainty that by 2067 this excluded land will be developed.

Sub-objection B: Linfield University parcel

Despite the clear requirement of OAR 660-009-0015(3), the inventory of employment land in the EOA does not include a vacant 57 acre parcel owned by Linfield University that is commercially zoned, "because the College has consistently told the City that its plans are to use the land it owns for future expansions and has no plans to sell land." (Record Addendum #1 at pp. 15 and 72).

The city's justification misses the point. Whether or not an owner of vacant employment land intends to sell the land or use it for their own expansion is irrelevant. The failure to include this vacant employment land in the inventory violates the clear language in 660-009-0015(3):

Comprehensive plans for all areas within urban growth boundaries *must include* an inventory of vacant and developed lands within the planning area designated for industrial or other employment use. (Emphasis added)

We do not contend that the Linfield land will necessarily be sold. Linfield has stated that they intend to develop the 57 vacant acres to support their programs. This expansion will necessarily

accommodate population (student housing), employment (classrooms, administrative offices, etc.) or some combination of the two. The record contains no evidence to the contrary.

The failure to include this vacant employment land in the inventory also violates Goal 2's requirement that all plan amendments have an adequate factual base. The record does not include an adequate factual base to support an assumption that Linfield's expansion onto this vacant employment land will involve neither employment nor student housing.

Finally, because these plan amendments have been submitted as part of a sequential UGB amendment, the failure to include this vacant parcel in the inventory violates Goal 14 and OAR 660-024-0050(4), which require a showing that "estimated needs cannot reasonably be accommodated on land already inside the UGB." There is no evidence in the record to support the conclusion that this parcel cannot reasonably accommodate a portion of the estimated needs. Linfield's plans to use this vacant land for expansion demonstrates that it *can* reasonably accommodate some portion of these needs.

Our proposed remedy is for the director to remand the HNA and EOA with instructions to include the approximately 87 acres of omitted land in the inventories.

Objection 9. Urban Reserves

The HNA and EOA both state that the documents are intended to provide the land-need analyses to support establishment of urban reserves for the city (Record at 50, 180, and 192). We are unsure whether our objection is to the HNA and EOA now or to the future urban reserve designation, but we object to the use of the 2017 population forecast and other outdated data (vacancy rates, household size, etc.) that were used for this HNA and EOA as the basis for an urban reserve.

The plan amendments adopt a URA land need for the year 2067 to accommodate a population of 62,803, based on the 2017 PSU population forecast. PSU released a new population forecast for McMinnville on June 30, 2020, over three years before the adoption of the plan amendments. The more recent 2067 population forecast for McMinnville is 54,552. Use of the outdated forecast increases the 47-year land need by over 1,000 acres (Record at 2088).

The city was allowed to use the outdated forecast for its HNA and EOA because the city had submitted its Notices of Proposed Action under OAR 660-018-0020 prior to release of the updated forecast in 2020. Those notices did not, however, include establishment of the urban reserves (Record at 3694-3696 for the HNA; we do not find a Notice of Proposed Action for the EOA in the record). OAR 660-032-0020(1) requires use of the most recent Portland State University Population Research Center forecast "when changing a comprehensive plan or land use regulation that concerns [land outside Metro], when the change is based on or requires the use of a population forecast..."

While the city has not yet initiated the urban reserves study, it clearly intends to use data from the 2024 HNA and EOA, in violation of OAR 660-032-0020(1).⁹ Our proposed remedy is for the

⁹ OAR 660-032-0020(1) provides: "A local government with land use jurisdiction over land that is outside the Metro boundary shall apply the most recent final forecast issued by the PRC under OAR 577-050-0030 through

director to either remand the HNA and EOA with instructions for the city to remove references to a 47-year planning horizon and urban reserves or to, at the very least, make it clear that those parts of the HNA and EOA will not provide substantial evidence for subsequent establishment of urban reserves.

Objection 10. McMinnville Urbanization Report

We note that that Ordinance 5141, which adopted the HNA and EOA as amendments to the comprehensive plan, also adopted the McMinnville Urbanization Report. The city has submitted all three documents to the department.

We are uncertain as to the status of the Urbanization Report, since it was never the subject of a public hearing, and we do not believe that the city contends it is an element of the comprehensive plan. Nonetheless, the city formally adopted it by Ordinance 5141 and it appears that the city intends to use it to guide future land use decisions.

It is certainly a land use document insofar as it projects land needs through 2041 and through 2067, and its formal adoption by ordinance therefore appears to be a land use decision under ORS 197.015(10). However, its formal adoption was improper because it was never the subject of a public hearing, no notice was ever given of its pending adoption, and it is not an element of the comprehensive plan. For these reasons, we believe it cannot be used to guide future land use decisions. Friends raised this issue to the city (Record at 1706).

Moreover, a cursory review shows at least one glaring inconsistency between the Urbanization Report and the submitted plan amendments. The HNA found 1,185 unconstrained buildable acres of residential land within the existing UGB (Record at 64). The Urbanization Report states there are only 763 acres such acres within the UGB (Record at 11).

Because it was never the subject of a public hearing, because it cannot be relied upon in future and use decisions, and because it is apparently inconsistent with the adopted plan amendments, we object to its formal adoption.

Our proposed remedy is for the director to remand the city's submittal with instructions to either repeal the Urbanization Report, or amend it to clearly state that it is not an element of the comprehensive plan and cannot not be used to guide future land use decisions.

577-050-0060, when changing a comprehensive plan or land use regulation that concerns such land, when the change is based on or requires the use of a population forecast, except that a local government may apply an interim forecast as provided in 660-032-0040.”

CONCLUSION

Thank you for the opportunity to participate in this proceeding. Please let us know if you have any questions about our testimony. Please provide the director's decision electronically to friendsofyamhillcounty@gmail.com, mkm@friends.org and rob.a.hallyburton@gmail.com.

Yours truly,



Rob Hallyburton
Vice President, Friends of Yamhill County



Mary Kyle McCurdy
Deputy Director, 1000 Friends of Oregon

cc: Heather Richards, City of McMinnville
DLCD (Ahrens, Young)