



Oregon

Theodore R. Kulongoski, Governor

Land Conservation and Development Commission

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MEETING NOTICE

Sept. 10, 2004

LAND CONSERVATION AND DEVELOPMENT COMMISSION

635 Capitol St., Basement Conf. Room

Salem, OR 97301

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Sarah Watson, 503-373-0050 ext. 271, or by email sarah.watson@state.or.us; TTY: Oregon Relay Services 800-735-2900.

Public Testimony

The Commission places great value on testimony from the public. People who wish to testify are encouraged to:

- *Provide written summaries (20 copies to the Commission Assistant prior to the agenda item)*
- *Recognize that substance, not length, determines the value of testimony*
- *Endorse, rather than repeat, testimony of other witnesses with whom you agree*
- *The Chair may limit time for testimony on any item and may set time limits (usually 3 minutes) for individual speakers*

Thank you for taking the time to present your views.

Note: Because of the uncertain length of time needed, the Commission may deal with any item at any time in the meeting, except those set for a specific time. Anyone wishing to be heard on any item not having a set time should arrive when the meeting begins to avoid missing an item of interest. Topics not on the agenda may be introduced and discussed during the Director's Report, during the Commission's Business and Reports, or under Other.

The Commission may have a working lunch together and may discuss land use issues with staff at that time. During such a working lunch the Commission will not be making or deliberating toward any decisions.

The Commission's Transportation Subcommittee will meet at 1:30 p.m. on Thursday September 9, in Salem in the Agriculture Building, Basement Conference Room. The subcommittee will discuss the issues related to evaluation of the Transportation Planning Rule. For more information, contact Bob Cortright at 503-373-0050, ext. 241, or by email at bob.cortright@state.or.us.

8:30 a.m. Friday, Sept. 10, 2004

1. **City of McMinnville Periodic Review, pursuant to ORS 197.628 to 197.644 and OAR 660, Division 25; and consideration of urban growth boundary expansion in the manner of periodic review.** Continuation of hearing from April 22, 2004 on the department's referral of the city's submittal of an urban growth boundary expansion and periodic review task 1, relating to commercial land needs. Consideration of matters relating to the expansion of urban growth boundaries is conducted in the manner of periodic review. Appeals and referrals of a periodic review work task or work program are decided by the Commission, based on the written record. The Commission may decide to hear oral argument. If oral argument is accepted it shall be limited to DLCD, the appellants and parties, and the local government. The Chair may limit time for testimony and may set time limits (usually 3 minutes) for individual speakers. For additional information, contact Jim Hinman at 503-373-0050 ext. 245 or email jim.hinman@state.or.us.
2. **Request to Appeal Pursuant to ORS 197.090(2), (3), and OAR 660-010-0201-0230.** State law requires Commission approval of the director's recommendation to seek review of or intervene in the appeal of a local government land use decision, expedited land division or limited land use decision. This item is a placeholder. It will take place only in the event that an appeal is contemplated. Only the director, or department staff on the Director's behalf, the applicant and the affected local government may submit written or oral testimony concerning Commission approval of a director's recommendation to file or pursue an appeal, or an intervention in an appeal, of a land use decision, expedited land division or limited land use decision.
3. **Other.**
The Commission reserves this time, if needed, for other business or for further consideration of any item on the agenda.

Oregon's seven-member Land Conservation and Development Commission, assisted by the Department of Land Conservation and Development (DLCD), adopts state land use goals, assures local plan compliance with the goals, coordinates state and local planning, and manages the coastal zone program. The Commissioners are unpaid citizen volunteers appointed by the Governor and confirmed by the Senate. Commissioners are appointed to four-year terms and may not serve for more than two consecutive terms. The statute establishing the Commission, ORS 197, also directs that they be representative of the state. The Commission meets approximately every six weeks to direct the work of the Department of Land Conservation and Development (DLCD).

Current Commission members are:

* Agenda items where an opportunity is given for public comment. The Chair may limit time for testimony on any item and may set time limits (usually 3 minutes) for individual speakers. The Commission encourages written addition to or instead of oral testimony in the event there is not time to hear everyone; without an asterisk are not open for public comment.

Dennis Derby (Portland) Marilyn Worrix (McMinnville) Ron Henri (Talent) Hanley Jenkins (Union) Tim Josi (Tillamook) Margaret Kirkpatrick, Vice Chair (Portland) John H. Van Landingham, Chair (Eugene)
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The next LCDC meeting will be September 29 thru Oct. 1, 2004, at the conference room at Fort Clatsop (92343 Fort Clatsop Road), Astoria, Oregon.

LCDC 2004 Dates and Location

Nov. 3-5	Portland
December 8-10	Salem

LCDC 2005 Tentative Dates and Location

February 2-4	Salem
March 16-18	Salem
April 27-29	Salem
June 8-10	Salem
July 27-29	Salem
September 28-30	Bandon
November 16-18	Medford

* Agenda items where an opportunity is given for public comment. The Chair may limit time for testimony on any item and may set time limits (usually 3 minutes) for individual speakers. The Commission encourages written testimony in addition to or instead of oral testimony in the event there is not time to hear everyone who wishes to speak. Items without an asterisk are not open for public comment.

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LAND CONSERVATION AND DEVELOPMENT COMMISSION

Sept. 10, 2004

Salem, Oregon
Tapes 1- 5

COMMISSIONERS PRESENT: John VanLandingham, Chair
Margaret Kirkpatrick, Vice-Chair
Dennis Derby
Hanley Jenkins
Marilyn Worrix

COMMISSIONERS EXCUSED: Ron Henri
Tim Josi

STAFF PRESENT: Lane Shetterly, Director
Steve Shipsey, Assistant Attorney General
Sarah Watson, Executive Assistant to Director
Cliff Voliva, Communications Director
Jim Hinman
Eric Jacobson
Gloria Gardiner

MEASURE/ISSUES HEARD: Continuation of April 22, 2004 McMinnville Hearing
Regarding periodic review

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 1, Side A		
002	VanLandingham	Calls meeting to order at 8:45 a.m., Sept. 10, 2004. Has the Commissioners introduce themselves.
Agenda Item 1 – City of McMinnville Periodic Review, pursuant to ORS 197.628 to 197.644 and OAR 660, Division 25; and consideration of urban growth boundary expansion in the manner of periodic review.		
018	VanLandingham	Asks Mr. Shipsey to clarify what is included in the record for the McMinnville Periodic Review.
019	Shipsey	Clarifies that the record should also include the economic opportunities analysis. Explains what is included in the record for the McMinnville hearing. Suggests that the Commission not take any new evidence to include into the record.
035	VanLandingham	Recommends that the City of McMinnville and 1000 Friends of Oregon not add anything new into the record.
041	Shipsey	What should be addressed in the Commission's standard of review is:



- 050 VanLandingham 1) Goal compliance, and 2) substantial evidence.
The standard should be whether or not the city's conclusions are supported by facts.
- 051 Shipsey Yes. Discusses the substantial evidence issue should this case go to the Court of Appeals.
- 055 VanLandingham We are reviewing what the City of McMinnville has proposed in it's plan, and to see if there is substantial evidence in the record that a reasonable city would base its decision on?
- 056 Shipsey Yes. The Commission must decide if there is an adequate factual basis to reach their conclusions. If there is conflicting evidence, then there is some deference given to the decision maker's choice between the conflicting evidence.
- 060 VanLandingham Asks Mr. Shipsey to discuss the quorum issue.
- 062 Shipsey Discusses that under the Public Meeting Law, there has to be a majority of the public body, not just the majority of those present, to make any decisions.
- 069 VanLandingham Are we voting on the objections or the plan?
- 070 Shipsey The Commission has two duties: 1) to determine whether the work task submittal, on the whole, complies with the Goals; 2) under administrative rule the Commission has to sustain or reject the objections.
- 076 **Jeff Condit,
Attorney for City
of McMinnville** Asks if the Commission has a 3-2 split vote what the procedure is then.
- 077 Shipsey Explains that during a break, he and department staff would try to draft language to resolve the conflict to re-submit to the Commission.
- 083 VanLandingham Cites the schedule regarding the proceedings, as it should happen today (**Exhibit A**). Discusses City of McMinnville letter, dated Sept. 3, 2004, asking for the timing to be changed to allow them to speak at the end of each section (**Exhibit B**). Asks those testifying to keep their comments brief and concise.
- 114 Condit Clarifies objection and states concerns that they have enough time to respond to the objections brought up by the other parties.
- 132 Shetterly Discusses that his letter to the parties dated Aug. 6, 2004, did ask for a response "as soon as possible" (**Exhibit A**).
- 136 VanLandingham The idea behind the summary of arguments was to give the other objectors an idea of what was going to be argued.
- 143 **Mary Kyle
McCurdy, 1000
Friends** The only new evidence that came in at the last hearing in April, was from the city and we would like a chance to rebut that evidence. If they introduce any additional evidence today, we would want to reserve the right to rebut that as well.
- 150 VanLandingham Asks if there are any Commission rules regarding rebuttal.
- 152 Shipsey There is no rule regarding rebuttal, but if there is new evidence submitted, we would allow people to respond to that.
- 161 Kirkpatrick I would hope that there is no new evidence submitted today. I think it is

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- appropriate for the city to get the chance to rebut after the objector's testimony.
- 172 Worrix I agree with Commissioner Kirkpatrick. It would be very helpful to have all the parties at the table together to ask questions to.
- 183 Derby I agree with Chair VanLandingham's suggestions.
- 187 McCurdy We brought rebuttal evidence today, to rebut testimony that was discussed at the April meeting.
- 196 Condit I will withdraw our objection to the time allotment allowed, if you follow Commissioner Kirkpatrick and Commissioner Worrix's idea of having the parties at the table all together.
- 205 VanLandingham Discusses that 1000 Friends asked for some of their allotted time to be moved to another portion of their time. Asks if there are any objections - no objections.
- 213 Shetterly Reviews what is in the record (**Exhibits A -I**), letter from Director Shetterly dated Aug. 6; City of McMinnville letter dated Sept. 3, a memo regarding McMinnville's Summary Arguments dated Sept. 3, as well as their response to 1000 Friends' letter; a letter from Mark Davis dated Sept. 3; Memo from 1000 Friends regarding their Summary of Arguments; a letter from 1000 Friends of Oregon regarding procedural matters of the hearing dated Sept. 9; an objections matrix provided by staff dated Aug. 3; Eric Jacobson memo dated Sept. 10, 2004.
- 239 **Jim Hinman, DLCD Staff** Discusses the City of McMinnville's Periodic Review case.
- 243 **Eric Jacobson, DLCD Staff** Discusses the City of McMinnville's Periodic Review case and that the city's plan submittal is very good.
- 264 Hinman Cites staff report dated April 20, 2004, regarding the City of McMinnville's Periodic Review Task 1 and the Urban Growth Boundary (UGB) submittal (**Exhibit J**). Discusses staff recommendations to Exceptions: a) population forecast, b) persons per household, c) housing needs analysis in R2 zone, d) determination of need for government assisted housing, e) need for commercial and office space, cites pg. 5 of department Staff Report dated March 30, 2004 (**Exhibit K**), f) parkland issue, g) floodplain areas in the UGB.
- 420 **Jeff Condit, City of McMinnville** Testifies regarding the City of McMinnville's urban growth boundary and the periodic review process. Discusses the housing needs analysis and what they feel should be the Commission's scope of review. (Goal 14 requires that you determine the local land need and the reason we can't meet that need is because parks need to be in the neighborhood.) EcoNorthwest did the housing needs analysis and the person per household number was increased based on testimony by Mark Davis and 1000 Friends. Discusses that the persons per household estimated growth pattern is hard to estimate and when plans are made off of that, the numbers aren't necessarily consistent.
- 508 **Doug Montgomery, City of McMinnville** Testifies regarding the City of McMinnville's urban growth boundary and the periodic review process. Discusses that the city's plan should be looked at as a whole and not as portions. Discusses City of McMinnville's responses to Exceptions (**Exhibits B-D**).

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- 619 Kirkpatrick Regarding the parklands, 1000 Friends stated that there is no protection for those lands that are designated for parks, to become parks, can you respond to that?
- Tape 1, Side B**
- 001 Montgomery Discusses city's ability to limit use of property designation.
- 003 Kirkpatrick Asks what process is in place for the city to limit property designation.
- 004 Condit Once the neighborhood plan is put into the comprehensive plan, the designation of neighborhood centers will require the park issue to be addressed.
- 014 **Sid Friedman, 1000 Friends of Oregon** Testifies and submits maps (**Exhibit L**) regarding the housing needs analysis, the City of McMinnville's urban growth boundary, and the periodic review process. Discusses that 30% of the available lands are designated for parks. Discusses employment land, household size, and density of R2 zone. Discusses (**Exhibit M**), Table 68, need forecast of housing, land need, and needed density by zoning and housing type.
- 103 **Leon Laptook, Community Development Law Center** Testifies regarding the City of McMinnville's urban growth boundary and the periodic review process. Discusses two points: 1) government assisted housing, and 2) single and multi-family housing. States that because the government assisted housing analysis was not complete, the single multi-family needs analysis cannot be correct.
- 138 **Mark Davis, City of McMinnville's Citizen Advisory Committee** Testifies and discusses (**Exhibit E**) regarding the City's housing needs analysis and parklands.
- 196 VanLandingham Cites pg. 30 of April 20, 2004, staff report, regarding responses to objections, and that the issues cited will be a template for the rest of the hearing discussion (**Exhibit J**).
- 277 Hinman The first issue is regarding population forecast. The rates of population growth were reasonable but staff disagreed with the forecast that the unincorporated population would go down in the next 20 years and didn't feel like the City of McMinnville explained that decrease.
- 292 Friedman Discusses why 1000 Friends disagrees with the City's unincorporated population projection.
- 317 Montgomery Cites pg. A-4 of the City's plan (**Exhibit N**), "McMinnville's population forecast was updated using the 2002 PSU population estimate of 28, 200 as a base and applying a 2.2% average annual growth, the same growth rate accepted by Yamhill County and DLCD in the prior analysis through the year 2023. Using this method, EcoNorthwest estimates McMinnville's 2003 population will be 28, 510 and 2023 population will be 44,055". We applied the 2.2% growth rate and that is how we can up with our population forecast.
- 338 VanLandingham You took the current population, the percentage growth projection, multiplied them and came up with your population forecast?
- 341 Montgomery Correct.
- 342 Condit Staff has acknowledged that the population growth rate is acceptable.
- 347 **Terry Moore,** Testifies regarding the City of McMinnville's population forecast and

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- EcoNorthwest** that one reason for the change in population is that the base changed. The original forecast was done before the 2000 census. We then updated the plan according to the census.
- 357 VanLandingham The census explains the 5000 population jump?
- 358 Moore Yes. Discusses that because some people are moving into urban areas, it shouldn't be surprising if a county's population rate might be declining.
- 370 VanLandingham Does the county send a forecast? How does it work?
- 374 Moore There is a requirement that the state do a population forecast and give it to the counties. The expectation is that you wouldn't want the state to have a significantly different growth rate than what the cities were projecting. Explains how the cities and counties then allocate those growth rates among themselves. It is then the responsibility of the county to verify the coordinated forecast.
- 409 Jenkins Did that coordination then result in the reduction in the unincorporated land projection? Did Yamhill county adopt the population forecast for McMinnville?
- 421 Montgomery It is my understanding that Yamhill County has not adopted this forecast.
- 427 Jenkins The population forecast has not been signed-off on by the county?
- 429 Hinman The county does not have a coordinated forecast for all the jurisdictions in the county population. When the county adopted its UGB amendment, the population forecast for the City of McMinnville was part of what the county adopted in their UGB amendment.
- 437 VanLandingham The city took a 2000 growth consensus and found a projected growth rate of 2.2% and then came up with their population forecast.
- 441 Friedman I agree that that is what occurred.
- 442 VanLandingham Do you think that forecast is wrong?
- 445 Friedman In order for a population forecast for county coordination efforts, they have the responsibility to coordinate the population allocations to all the parts of the county. No, we don't believe the county has adequately allocated those forecasts. This is an appeal of the county's decision as well as the city's decision.
- 470 Kirkpatrick Isn't the question whether the city's population forecast is supported by substantial evidence regardless of what the county may be doing?
- 474 Friedman I believe that there is evidence to support the 2.2% growth rate. Our concern is that the coordination between the city and county wasn't done well.
- 493 Hinman The city cannot adopt a population forecast outside the county's forecast. The city adequately met the coordination requirements based on ORS 195.036.
- 515 Jenkins The city was ahead of the county's effort to develop a completely coordinated population forecast for the entire county. To then expect the city to wait until the county can do that is an unfair burden. This seems that it was the only option that the city had available to them. The county still has the ability to justify their forecast greater than what

is identified by the Office of Economic Analysis forecast which could result in a larger unincorporated growth rate and may not result in a decrease.

- 537 Worrix Are there any unincorporated communities in Yamhill County?
- 541 Friedman There are several unincorporated communities – Cove Orchard, Hopewell, Whiteson, and possibly others.
- 547 Worrix Discusses that in trying to determine a population forecast it involves many factors and to make a city responsible for determining all of those factors is unreasonable. The question is whether they satisfied their forecast requirements.
- 578 Hinman Did the city coordinate with the county and is it supported by substantial evidence – those issues were raised and we asked for substantial evidence to determine that.
- 597 VanLandingham Are you still recommending remand on this issue?
- 598 Hinman We didn't change our recommendation because there are several reasons regarding substantial evidence that the Commission needs to decide.
- 607 McCurdy This is a relatively minor point overall. We agree that a 2.2% growth rate is justifiable.

Tape 2, Side A

- 003 VanLandingham What are the Commissioners thoughts on this?
- 005 Jenkins I don't hear objections to the 2.2% growth rate.
- 006 VanLandingham The issue was whether you could justify the decline in the rural area and whether the city should be remanded to explain that.
- 008 Kirkpatrick If the growth rate is reasonable and the UGB expansion is based on that, what is the legal significance if we found that there wasn't enough evidence to support the decline?
- 013 Shipsey It would be raised as a coordination issue under Goal 2.
- 017 VanLandingham Summarizes the commission's tentative decision: the Commission doesn't want to remand on this issue. Discusses the second issue, the housing needs analysis.
- 019 Hinman Staff changed their recommendation and suggests not remanding on this issue.
- 021 Friedman Explains why 1000 Friends doesn't agree with the department's change of recommendation regarding housing needs analysis.
- 042 Montgomery Cites pg. 2-2 (**Exhibit O**) regarding the analysis for "persons per household". In that list, the City noted that Hispanic population would grow. What we forecasted was for a change to occur between 2003 and 2023 according to the 2000 census. Discusses how the changes of head of household types can be reflected in a change of population growth rate.
- 058 Moore It is undeniable that an increase in multi-family housing is associated with a decrease in family size. We have increased the amount of multi-family housing that we are forecasting. Discusses that the population forecast of Hispanic population increase is hard to predict. While it

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- may be hard to see now, it is reasonable to believe that there will be a trend in decrease of household size.
- 083 VanLandingham You have been expecting lower household sizes for a number of years?
- 086 Moore Yes, based on the demographic trends and the increases to housing costs, the trend will be more toward multi-family housing types.
- 091 VanLandingham How do you explain the 2000 census?
- 093 Moore It was not in our expectation to see an increase in density and an increase in family size.
- 099 Jenkins Are you aware of what the county's persons per household trends have been?
- 101 Moore I don't know that information.
- 102 VanLandingham Is the sixty-year trend toward declining persons per household?
- 104 Montgomery Discusses that they went back to 1940 and that the trend does show a decline in persons per household rates.
- 108 McCurdy We submitted evidence into the record in 1980, 1990, and 2000 census showing an increase in household size and a doubling of Hispanic population in every decade. This is a trend in the Willamette Valley not just in McMinnville.
- 113 Friedman Are the city's findings supportable by substantial evidence in the record? The city found, in 2003, that the 2000 census will likely show a notable decrease in the persons per dwelling unit.
- 117 VanLandingham The 2000 census also shows a much greater growth rate than 2.2%. Questions whether the census data should be used to determine growth rate size.
- 124 Friedman The 1990-2000 census showed a much higher growth rate than 2.2%. There is substantial evidence to support the 2.2% growth rate, but we dispute the city's findings on household size.
- 143 VanLandingham The city says that the demographics show smaller family size and the city is moving toward more multi-family housing size which shows a smaller family size.
- 145 Montgomery Yes.
- 146 VanLandingham 1000 Friends argument is that that ignores the census data?
- 147 Friedman It ignores both the census data and other demographic information in the record which the city did not consider.
- 150 VanLandingham Besides the increasing number of Hispanics, what didn't they consider?
- 151 Friedman That is an overwhelming demographic influence. In many Willamette Valley communities, the household size for Hispanics is double the household size for non-Hispanic households. The Commission should not be having an evidentiary hearing on household sizes, but holding a hearing whether or not the record before you justifies the city's decision.
- 167 Condit The substantial evidence test doesn't require you to determine if there is conflicting evidence in the record, but to look at all the evidence and to decided if the City made a reasonable decision.

- 176 VanLandingham Do you want to respond to the allegation that you ignored census data and the Hispanic population?
- 177 Moore The assertion seems to be that reasonable people couldn't come to this conclusion. You can't disassociate your population growth rate from your household size. Discusses how the rates were established and the factors that were involved in determining the needs.
- 207 Montgomery Based on the documents in the plan and in the appendices, we believe that we have met the substantial evidence test.
- 216 Jenkins This isn't an issue for this Commission to determine whether the "persons per household number" should be different, but if there is substantial evidence to support what the city has identified as their numbers and if that meets a substantial evidence test. I think the city has made a reasonable effort at identifying those numbers.
- 232 Worrix It appears that the city clearly addressed the demographic trends and the multi-family housing needs.
- 253 Kirkpatrick Is there substantial evidence in the record to support the city's plan?
- 264 Shipsey One way to look at substantial evidence is to look at the facts and what those facts are based on. You can look at the current household sizes and the trends. The question is if the city's conclusion from those facts is reasonable.
- 279 Shetterly The department found that this was reasonable.
- 280 VanLandingham Discusses his own experience in balancing population trends and that he feels that the city did a reasonable job in looking at the factors.
- 297 Worrix What are the consequences of not addressing those elements that 1000 Friends asserted as new evidence?
- 326 Shipsey We decided at the beginning of this meeting to not accept new information because the information that is being discussed has been available to all parties since April.
- 332 Worrix Any evidence that we are discussing today is "of the record" and the Commission can base its decision on that? Does that nullify the 1000 Friends allegation that new evidence was not appropriate at the April meeting?
- 341 Shipsey The process when considering new evidence is that the participants have the chance to provide rebuttal information. In this case, they have had that opportunity.
- 349 Shetterly It is not incumbent upon the Commission to look at each piece of evidence, but in looking at the record as a whole to substantiate the city's findings.
- 361 VanLandingham Discusses that he is basing his opinion on the city's original plan and not on any new evidence.
- 376 Hinman Discusses Issue 3 of redevelopable land in the R2 zone.
- 389 Friedman Asks the Commission to look at table 68 (**Exhibit N**) and the housing needs analysis, May 2001 City of McMinnville's residential housing needs analysis, pg. 4-9 (**Exhibit P**). States that the City never addressed in their written findings why they didn't expect any single or multi-family housing to be built in the R2 zone in the future. States concern

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- 489 VanLandingham that this objection was not covered by the staff report.
 You are stating that history shows multi-family housing in the R2 zone, but the city hasn't shown any multi-family housing slated for future growth?
- 492 Friedman Correct.
- 494 Montgomery Discusses the R2 zone and explains how they came up with their buildable lands analysis.
- 526 VanLandingham You used technology to figure out large lot sizes and counted only some of those as vacant when you computed redevelopable lands?
- 537 Montgomery No, on a large lot the portion where the house sits is placed in a different category, but the back yard is determined "partially vacant" and available for meeting future housing needs.
- 544 VanLandingham The portion where the house is, is not developable? The reason that you have no redevelopment in the R2 zone is that you have already accounted for that by dividing the vacant part from the developed part of those parcels?
- 550 Montgomery Correct.
- 552 Hinman They have done that, but we would characterize that as "infill". There is no opportunity for replacement of a low value single-family house with a duplex, or with a non-residential use on R2 land that could be redeveloped to residential use.
- 568 Montgomery We believe that the level of detail that is being asked is to a level that could not be done.
- 575 Worrix Do you recall existing single-family homes being converted to duplexes in the R2 zone?
- 582 Montgomery I cannot recall that situation occurring.
- 583 VanLandingham You can't recall a duplex on a redeveloped lot, only on a vacant lot?
- 588 Montgomery Correct.
- 597 Jenkins Is 1000 Friends argument based on the fact that there are vacant parcels in the R2 zone that have had duplexes located on them versus the redeveloped single-family home to a duplex?
- 605 Friedman The city's data doesn't break down the development to the duplex level.
- 618 Jenkins The distinction is between vacant versus existing developed residential or "other" land in the R2 zone?
- 621 VanLandingham I think the city should be praised for breaking out part of a lot that could be viewed as vacant for future "redevelopment" use.

Tape 2, Side B

- 006 Montgomery The Table 4-3 that Mr. Friedman refers to, is a very accurate history of McMinnville (**Exhibit Q**). For years, McMinnville has suffered through problems with its sanitary system and has been limited in density on the west side of McMinnville to a maximum of 6 dwellings per acre. Regarding multi-family housing, we have tried to use larger pieces of ground to put those multi-family dwellings on, in the west side. We were creative in using both R2 and R1 zoned land to create

enough land needed for multi-family housing. Our future suggests a different plan – using an R5 zone. Cites Table 3, the residential duplexes that have been built (**Exhibit R**).

- 030 Moore The City of McMinnville did what is considered progressive planning. Explains that the city created a new R5 zone that will allow multi-family uses so that there are no multi-family houses accounted for in the R2 zone.
- 049 Kirkpatrick Does the code still allow multi-family housing in the R2 zone?
- 050 Montgomery The R2 zone is not available for multi-family housing. That is why we created the R5 zone.
- 054 VanLandingham Could there be multi-family housing placed on R2 zoned land with a planned unit development (PUD)?
- 055 Montgomery We have plans and policies in place that are specific to locations that are appropriate for multi-family needs.
- 057 VanLandingham In the future plan, could I build multi-family housing in an R2 zone if I did a PUD?
- 059 Montgomery If it met the other policies, we would probably rezone the property from an R2 to a neighborhood activity center designation or an R5 zone.
- 061 VanLandingham Some of the multi-family that was built in the past was done as a PUD?
- 063 Montgomery Correct.
- 065 Friedman The city has not amended its code or allowed uses in the R2 zone. The city has not projected any row or townhouse in the R5 zone, cites Table 3 (**Exhibit R**). States that the city has not repealed its planned development review process.
- 085 VanLandingham With regard to the city's statement that their zoning code will be amended to not allow multi-family housing in R2, that isn't the case now?
- 087 Friedman They haven't amended it yet.
- 088 VanLandingham You emphasized that the planned development process didn't produce a lower density.
- 089 McCurdy The other point is that the R5 zone doesn't accommodate the rowhouse in town.
- 091 Montgomery We did overachieve in the R2 zone because of our creative use of the planned development process on the Westside. There is a planning staff and council that have been operating under these rules for a number of years and the policy speaks to the future and what we hope to effect with the changes.
- 102 Hinman Explains why the department did not agree with the 1000 Friends objection. Discusses that the city has a consistent allocation of housing zones to meet housing needs.
- 121 Shetterly Clarifies that the department did not agree with the 1000 Friends objection. Regarding the UGB amendment, the city has stated that with regard to the redevelopment, the change wouldn't make enough of a difference to support a remand?
- 129 Montgomery That is a good characterization.

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- 130 Hinman Our only concern is that logically there must be some redevelopable land. If the city can show that the amount is so small and shouldn't be considered, that is a possible response.
- 133 Shetterly We just wanted a discussion for the Commission to determine whether the city's findings were sufficient.
- 139 Jenkins If a parcel is partially developed, is there an opportunity within your code now to pursue a PUD that would increase density of that parcel and other parcels if requested? Does your existing code provide for the opportunity for multi-family housing in the R2 zone?
- 148 Montgomery Absent going through a planned unit development process, the answer is no.
- 150 VanLandingham Why did you ask that question?
- 151 Jenkins It gets to the question of whether the city adequately planned for multi-family housing for replacement dwellings and what level of multi-family housing can be expected in the R2 zone. If the only way to do that is through a PUD, what are the opportunities to make that happen?
- 159 VanLandingham On the redevelopment issue, the city has taken a progressive approach and I accept their argument that they took that into consideration. Regarding the new multi-family projection, I agree with 1000 Friends and that there probably will be some multi-family housing that will be built in the R2 zone. But staff has persuaded me that the city has done enough to meet their requirements.
- 172 Kirkpatrick The city was creative about placing multi-family housing in the R2 zone in the past as well as creating a new zone to place multi-family housing in. These shifts have created an increase in densities and are defensible.
- 181 Friedman We agree that there has been an overall density shift, however, because they have underestimated the capacity of existing R2 zone lands to accommodate projected growth, they have overestimated their land needs. They need to justify the size of their UGB expansion independent of Goal 10. Discusses that duplexes are allowed on corner lots in the current R2 zone but the city has not projected any of those in the future.
- 197 VanLandingham What is the reason for that?
- 199 Montgomery That is a good point. The R2 zone hasn't been changed and would permit duplex housing on corner lots provided that they have 8000 sq. feet of lot area.
- 202 Moore The amount of buildable land that will be gained by putting duplexes on corner lots is a very small amount. If our single-family/ multi-family numbers are correct, and we allocate more land to R2 zone, then we run out of single-family land.
- 225 VanLandingham Do your multi-family home zones have a minimum lot size?
- 227 Montgomery Our R5 zone has a minimum density requirement.
- 228 VanLandingham Does R4 have a minimum density size?
- 229 Montgomery Yes.

- 230 Condit Regarding Goal 14, it requires that before you expand a UGB, you explore maximum efficiencies of land uses within a UGB. We feel that we have complied with that.
- 244 VanLandingham I found Mr. Moore's testimony persuasive.
- 257 Friedman To correct the record, R5 and R4 zones do not have minimum density standards.
- 259 VanLandingham If they did have minimum density, then you couldn't build single-family houses there.
- 260 Freidman The R5 zone does not allow single-family homes. The R4 does, but neither zone has minimum density standards.
- 262 VanLandingham My question was whether some single-family development could occur in multi-family zones, and the answer is that it could occur in the R4, but not R5.
- 266 Laptook Our issue with the single-family/multi-family split is that until you complete the analysis of government assisted and farmworker housing, you cannot determine the single-family/multi-family split.
- 271 VanLandingham Was there a remand decision based on that issue?
- 272 Hinman We agree with Mr. Laptook that the single-family/multi-family split issue is related to the government housing issue. Discusses the statutes regarding government and farmworker housing and that it must be identified as "needed" housing. The city's plan has conflicting and incomplete information with regards to government assisted housing which meant that it didn't meet the requirement by statute and rule.
- 306 VanLandingham Government housing is the term used for subsidized housing?
- 309 Hinman Yes. Government assisted housing is defined in statute as a "housing type".
- 320 VanLandingham But cities don't designate land for government assisted housing. Instead they designate it for low, medium, and high density residential, and manufactured housing parks.
- 324 Hinman Correct. Staff tried to determine if there was an adequate capacity plan for multi-family development to accommodate the need for government assisted housing.
- 331 VanLandingham If the city determines the need for government assisted housing and projects that number, how does it meet that need? Is it met some way other than designating medium density, multi-family land?
- 341 Hinman I don't believe so. Has the city projected a sufficient amount of multi-family housing units and land needed for government assisted housing within that? The dilemma is that the plan doesn't meet the requirement in statute for providing government assisted housing.
- 364 Laptook The goal and the statute indicate that the city must meet a requirement to analyze what type of population will need to reside, by income level. I don't think that happened. The city hasn't considered their need for farm worker or government assisted housing by type or price level.
- 398 VanLandingham If the city did the analysis and determined those needs, what would they do with that information?

- 402 Laptook If they took that information, they could develop programs and policies to proactively address the housing needs of its residents.
- 406 VanLandingham But do you think that the law requires the city to do that latter step?
- 409 Laptook I'm not sure. It seems like the logical outcome of where the statute is going, but it isn't clear.
- 422 VanLandingham Assuming that there is no price range analysis, my fear is that the land use system would require a city to only conclude that low income people need apartments because they can't afford a house.
- 434 Laptook I return to the statute and goal that require the analysis to be done. The question is whether the city has a greater responsibility than that.
- 445 Worrix I agree with you that the analysis should be done, and the multi-family issue is a problem. But regarding what is required now, the only challenge would be regarding the population projection or single-multi-family housing split. What substantial difference would result?
- 462 Laptook The plan lacks the inventory of available and affordable housing. The process of that discussion is what leads communities to be aware of the needs of the community.
- 492 VanLandingham Is there evidence in the record of existing subsidized housing in McMinnville?
- 495 Laptook I can't recall.
- 501 McCurdy The city did do an estimate of the population that has special housing needs and in 2023 that is estimated to be between 7,000-9,000 people which is 16-22% of the projected population. The housing needs analysis required is more sophisticated than what was done and the city did not attempt to estimate the number of types of units needed to house individuals with special housing needs.
- 522 VanLandingham The argument before us is that without the analysis, the city hasn't considered other things that it might do except to include multi-family land.
- 534 McCurdy Cites ORS 197.307 and that it states that when a need has been shown within a UGB at a particular price range or rent level, zoning districts have to accommodate that.
- 537 VanLandingham What does "accommodation" mean, though, for subsidized housing?
- 542 McCurdy States concern that without the analysis from McMinnville those levels of land needs are not known.
- 550 Montgomery Cites pg. B-11 (**Exhibit S**) and explains that the City of McMinnville has five residential zones which allows government assisted housing in all of those zones.
- 567 Condit We agree that the law is less than clear on this issue. Cites ORS 197.309 regarding the prohibition of establishment of price range or rent level in specific zoned land.

Tape 3, Side A

- 006 VanLandingham The city can't designate land for government housing, but the argument is that the analysis wasn't done to determine that.
- 014 **Bob Parker,** We believe that we did do an analysis of income and affordability.

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- EcoNorthwest** Discusses what evaluations were done to determine the housing needs analysis.
- 037 Moore From the land use perspective, for a local government, the best that they can do is to make sure that they don't get in the way of people that are trying to build affordable housing.
- 062 Shetterly The department and the Commission were conflicted about what the statute requires and what the statute allows. Asks about Table 5-22 (**Exhibit T**), and that the department inferred that the city did not intend to plan land for the development of government assisted housing. Can you respond to that?
- 075 Parker The table implies that all low-income housing types would be used housing. It was determined that there would be about 1000 government assisted housing units in Yamhill County in the next 20 years and that 300-344 of those would go into McMinnville (**Exhibit S**).
- 089 VanLandingham It's unfortunate that the term "used housing" was used. But from what the city has stated, they did not intend that there would be no new subsidized housing in the city, or that the city would prevent the building of subsidized housing.
- 095 Montgomery Correct, and I think the record is clear as to our support of those types of projects in McMinnville.
- 097 VanLandingham Statute requires that there be a housing needs analysis. The city states that they did some analysis. Is this satisfactory?
- 102 Hinman Explains that the analysis includes the number of units at various price ranges and the number of units by type and density as stated in ORS 197.296(3)(b). We can agree that there is no table in the housing needs analysis that breaks out the housing types by price range, rent level or density. If you interpret the statute to mean that you have to project the number of units at price ranges and rent levels by type, then the city hasn't met those requirements.
- 122 Worrix This is not a new statute. How has the department handled this in the past?
- 126 Hinman This issue has never been presented to us in an objection this way with this detail. The way most cities deal with this issue is to provide a generous allocation in their land designated for government-assisted housing so that an objection isn't raised.
- 143 VanLandingham Discusses that ORS 197.296(3)(b) requires a local government to conduct an analysis of housing need by type and density range, including government assisted housing. Does Goal 10 explicitly require an analysis or table completed by price range and density level?
- 156 Hinman Goal 10 requires a table showing the number of units by price ranges and rent levels and to then disaggregate that by housing type.
- 164 VanLandingham Is there some specific requirement now that states that the cities have to use the model as provided by Richard Bjelland of Oregon Housing and Community Services Division?
- 175 Laptook They did not do a detailed enough analysis of the population. Some assumptions were made, and the statute clearly states that the analysis

- 189 VanLandingham should be done at a deeper level.
It doesn't explicitly state that, but reading the Goal and the statute together you come up with that.
- 190 Laptook Correct.
- 193 Kirkpatrick The law is not clear on this issue. If we are to approve what the city has done, if it is appealed, what would happen?
- 200 VanLandingham The city is stating that the level of analysis has not been required before.
- 202 Kirkpatrick Is it required by the statute or the goals?
- 203 VanLandingham I don't see it explicitly required. It isn't an unreasonable interpretation by 1000 Friends, but it isn't explicitly required.
- 208 Shipsey In the guidelines for planning for Goal 10, it does state that the minimum should included a determination of expected housing demands at varying rent and cost level ranges. This is the Commission's Goal, so if this issue goes up on appeal, your decision will be given a lot of deference.
- 222 VanLandingham Are guidelines treated as requirements? The language states "should", but legislatively, "should" is not a requirement.
- 225 Shipsey But it states "should at a minimum".
- 228 VanLandingham That seems to say that you should have to do it, but you don't have to.
- 231 Shipsey If a city's plan doesn't do an analysis in the manner that the guidelines suggest, to meet the statutory and Goal requirements you have to do the analysis another way. The policy question before you is, is the other way that the city suggests that they've met the government assisted housing analysis sufficient?
- 236 Kirkpatrick Why are you comfortable with what the city has done?
- 239 Condit Clarifies their position on the appeals process and the likelihood of how the policy decision would be interpreted by the courts. The policy decision is that if the city has to go back and do an analysis, it won't lead to a planning decision that will have any effect.
- 270 Moore Discusses that he has reviewed a lot of plans and the level of detail that was applied to McMinnville was greater than any other plan that he has reviewed.
- 288 Derby One argument is that the city needs to quantify with respect to price range and income level the demand side of affordable housing need for the forecasted period. But from what the city just stated, the next step would be to quantify the supply side with the implication to balance demand and supply. This could cause a huge problem to the city's plan.
- 317 Laptook Discusses that during the planning process there were a variety of housing advocates that approached the city with measures that they felt should be included in the plan, but none of them were.
- 324 VanLandingham What is an example of that?
- 325 Laptook Minimum density requirements in R1-R4 zones, investigating ways to reduce development costs, actively working on policy decisions in partnership with the Housing Authority, lot sizes in relation to the

- housing needs analysis. None of the issues that were brought up were incorporated or adopted by the city. If they had to redo their analysis, they would need to consider some of these options.
- 345 Derby But the exercise would include quantifying the demand for a particular population?
- 347 Laptook Correct. According to the city's figures, thirty-five percent of the households in McMinnville earn less than half of the area's median income.
- 355 Derby To make that meaningful, does that mean that you have to relate that to a real or proposed supply?
- 360 Laptook In order for those thirty-five percent to be housed at an affordable level then yes, but that isn't totally the city's responsibility.
- 365 Derby If the analysis is done, would the supply and demand ratio be able to be determined?
- 371 Moore We know about the supply of current land and housing, but we are trying to forecast out twenty years, and since no one can agree who or how much the population will be, to determine the housing needs for those twenty years is difficult. There are some land use issues, as identified by Mr. Laptook, that the city could do and wouldn't have a huge impact to the city. But the biggest issue is that doing the analysis may not provide us with any more information than we already know. McMinnville has a huge housing affordability problem and the ability for the public sector to do anything about that is very limited.
- 418 VanLandingham The land use system in this state has serious affordable housing limitations. Doing the analysis that Goal 10 requires would make cities consider the possible tools. I don't think that it is fair to tell McMinnville at the end of the process that they "should" have done the analysis. (Commissioners Worrix, Kirkpatrick, Derby and Jenkins agree.)
- 469 VanLandingham Recesses for lunch at 12:33 p.m.
- 481 VanLandingham Reconvenes the meeting at 1:33 p.m.
- 485 Shipsey Asks the Commissioners to disclose any relevant conversations that the Commissioners might have had between the April meeting and this meeting.
- 493 VanLandingham No disclosures needed.
- 506 Kirkpatrick Asks if there were any issues or objections that could be taken off the table to make the McMinnville appeal get resolved more quickly.
- 535 VanLandingham The next issue is the single-family/multi-family split. Does the department have concerns about the city's findings?
- 548 Hinman No, in our report, our concern was only with government-assisted housing.
- 552 Montgomery Discusses the buildable land map relating to where the multi-family housing land will be in the future.
- 560 VanLandingham The plan doesn't show where medium and high-density housing would be?

- 561 Montgomery Not on the maps available today.
- 564 VanLandingham I think that the proposed 60-40% split of single vs. multi-family is an ambitious goal and I hope the city gets it.
- 578 Hinman Discusses Issue 5, regarding floor area ratios (FAR) for commercial, office, industrial and public uses and that the department's recommendation was to increase the FAR's for commercial and office. The department feels that the city could meet the need with better efficiency and is required to do that under Goal 14.
- 598 Friedman The city's adopted economic opportunities analysis states that commercial, office and industrial uses typically use land more efficiently than the city has projected and there was no explanation for that.
- 611 Moore Discusses how the city determined their economic opportunities analysis.

Tape 3, Side B

- 005 Moore Discusses employment floor area ratios and how those numbers are determined. Explains that about 15% of the forecasted employment won't need any employment land. Explains how employees per acre (EPA) was used to calculate the FAR, but that the numbers as shown are wrong.
- 059 Montgomery Further discusses that the calculation that was used to calculate the FAR was wrong.
- 067 Friedman The city is using its employment ratios to use land very inefficiently. Cites pg. 13 of the city's findings, Table 8 and that the city makes no findings as to the number of employees per acre (**Exhibit U**).
- 079 VanLandingham There are a number of ways to compute commercial lands need. The city did it by using the employees per acre.
- 085 Friedman That method is acceptable, but employees per acre has two components, how many square feet per employee and how much land for the amount of built space. The city concluded that they would need a little under 3 million square feet of built space, about 65 acres. They then concluded they needed 366 acres of buildable land to accommodate those 65 acres of built space. That isn't a reasonable conclusion and is not supported in the record.
- 093 Moore There is no need, when determining employees per acre, to convert that into a FAR. Discusses how calculations are made and that they change based on the starting set of assumptions regarding employees per acre or floor area ratios. There are many technical details in determining these numbers.
- 125 VanLandingham Recesses at 1:52 p.m.

Tape 4, Side A

- 000 VanLandingham Reconvenes at 1:57 p.m.
- 001 Friedman The key point is that the city has projected their EPA and employment uses to use land very inefficiently.
- 003 VanLandingham The city's response is that an EPA of 20 is in the allowable range.

- 004 Friedman We disagree.
- 006 Hinman Discusses what the FAR should be for offices versus public facilities. States that because the city's information about their FAR's was erroneous, the staff report will not be accurate either.
- 015 Worrix If the FAR was eliminated from the Economic Opportunities Analysis, would the removal leave blanks in your analysis?
- 017 Moore No, it is one line in one table that was not used in the calculation.
- 018 Worrix Everything else is intact and unchanged?
- 019 Moore If you accept our assumptions about employees per acre, yes.
- 020 Friedman If you remove that information from their report, there is no basis for the city's adoptive findings.
- 022 Montgomery Cites pg. 6-4 of the Economic Opportunities Analysis (EOA) and that there is no policy in the plan that states what the city's FAR should be (Exhibit V).
- 032 Moore That is an important point because there is the contention that there is no basis of fact. The EOA is very clear and the findings are clear that the EOA was used. What isn't clear is the erroneous number regarding the FAR in one table.
- 037 Friedman Our point is that their EOA for employment uses would be inefficient.
- 039 VanLandingham Would you like to respond to the statement by staff that an "EPA higher than 20 could have been used"?
- 041 Moore We could have used a higher than 20 number, but 20 is a number that is generally average. These are assumptions and they are in the relevant range. The higher you push the employees per acre, the more you push down on the need for employment land.
- 049 VanLandingham Is there any historical data in the record?
- 051 Moore I don't believe so.
- 053 Worrix Does staff have any recommendations or context for whether "20" is a valid EPA?
- 055 Hinman I am not prepared to discuss the employees per acre issue.
- 060 Worrix You don't recall what other jurisdictions are using for their range?
- 061 Hinman No.
- 063 Worrix The relationship between the amount of land and the number of employees does seem to be a difficult number to arrive at. What substantive reasons are there for 20 EPA being a reasonable number?
- 071 Jenkins Cites the March 30, 2004, staff report response to objections (Exhibit W), pg. 5, and that other cities with similar statistics as McMinnville have similar EPA's.
- 078 Friedman The city did not project a number of 20 EPA, but a number of 17 EPA.
- 082 Kirkpatrick Why is the city's EPA lower than the 20-25 range?
- 086 Moore Theoretically the argument is that there is a relatively high amount of manufacturing land and that you don't find the kind or size of office buildings as you would in Eugene.

- 094 Friedman The place to decide what an appropriate EPA is or whether McMinnville is justified should be at the local level.
- 099 VanLandingham You are suggesting that we remand McMinnville so that they can decide what a proper EPA would be?
- 100 Friedman You should remand because they projected their employment uses to use land inefficiently.
- 104 VanLandingham That argument assumes that 17 EPA is inefficient.
- 105 Friedman We didn't come here with new evidence as to why that is inefficient. If you don't have the evidence in your materials to substantiate that, then the proper thing to do is remand.
- 110 Worrix I don't find the difference between the numbers that they are using and the numbers that are projected significant enough to remand.
- 118 VanLandingham Did the department object to this item based on the EPA number?
- 120 Hinman The objections were based on the floor area ratio (FAR).
- 122 Friedman We based our objections on the city's adopted findings.
- 124 VanLandingham The Commission needs to decide if the city provided substantial evidence that the commercial land supply is okay based on the 17 EPA, or if they need to provide more evidence.
- 130 Shetterly Did Mr. Moore say that there wasn't empirical evidence to support the 17 EPA?
- 133 Moore The work wasn't done by the city in detail as to what is there right now.
- 134 VanLandingham There is no historical data.
- 135 Moore Discusses that for the City of Eugene, they looked at their employment data and land data for several industries. Those averages were all across the board. The Commission's rules require that there be an estimate of employment land and what the city used to get that number by forecasting employment, but getting from employment to acres is an art. The average number that is used is 20 employees per acre.
- 148 VanLandingham Where in the City's plan does it show the 17 EPA number?
- 148 Moore It is a derived number. Explains that it is calculated by taking the total employment number, divide it by the total acreage, and the average is 17.
- 153 VanLandingham Is that number cited somewhere?
- 156 Shetterly Does that derived information constitute substantial information?
- 160 Shipsey The overall review is for goal compliance, adequate findings and substantial evidence. It may be that you can determine goal compliance by compiling information that has been submitted, or you may prefer to have them submit it differently. But the Commission can find goal compliance under either scenario.
- 169 Moore Cites Tables 6-2, -3 and -4 in the Economic Opportunities Analysis (Exhibit X) to explain how they determined their EPA of 17.
- 187 VanLandingham Table 6-2 has employee per acres ratios.
- 188 Moore Discusses that the implied FAR is what is being questioned as inefficient.

- 197 Friedman Discusses why he believes that the city may be incorrect in their projected numbers.
- 209 VanLandingham There are three tables that explain how they projected their numbers and there is substantial evidence to explain their justification.
- 220 Friedman Our overall objection is to the inefficient use of employment land.
- 227 Jenkins Asks about Table 6-2 and the employee per acre percentages cited and that if those numbers are averaged, it is 22.5% (**Exhibit X**).
- 232 Moore Explains that the overall average has to be looked at because of the amount of land in each category.
- 239 Kirkpatrick Asks why the FAR was used in the determination when there is evidence to explain how they reached their EPA?
- 243 Hinman The city's analysis represents that their own interpretation of floor area ratio is their measure of efficiency which describes their decision.
- 250 Montgomery In fall of 2001 when this document was being drafted, we stated that we weren't using the FAR as a method of projecting future land need to the DLCD staff of that time.
- 258 Hinman I'm not disputing their methodology. The information in the tables is implicit in how the city represented in their plan and calculated their FAR.
- 266 VanLandingham But the text underneath the tables talks only of employees per acre.
- 267 Friedman Cites pg. 6-4 of the Economic Opportunities Analysis and the language of implied floor area ratio (**Exhibit V**).
- 277 Kirkpatrick Why is there information that leads to two different assumptions?
- 279 Moore We wished we had done this differently. Explains their methodology behind how they made their calculations and how the report was written. States apology for confusion and wishes that they had made it more clear.
- 294 McCurdy The burden is on the city to comply with Goal 2 and that their internal planning documents are consistent.
- 302 Montgomery The question on efficiency is how we craft our zoning ordinances and not an analysis.
- 309 Condit The objection raised was that there was an inefficient use of land. We have acknowledged our internal inconsistencies in the plan, but does that inconsistency demonstrate an inefficient use of land? If you accept our EPA, then the answer is no.
- 320 VanLandingham There are two different issues being discussed: 1) the inconsistency created by the reference to FAR in the table and text, and 2) the city needs to gather more information on employee per acre numbers.
- 325 Worrix Discusses that she feels the city has reached a reasonable assumption.
- 351 VanLandingham Could we address the inconsistency by remanding the city to delete the FAR language?
- 357 Shipsey One option that the Commission has is to remand with instructions to either add or delete language from a work task submittal.
- 360 Shetterly That would be based on whether the conclusion that the 17 employees

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- per acre is supported and adequate.
- 366 Hinman Yes, you can ask them to strike that language which would improve their work task.
- 369 McCurdy States that they still feel that the city has demonstrated an inefficient use of buildable land.
- 374 VanLandingham The city's argument is that if they had not included the FAR language, the question would be only about their EPA and if 17 is supported by the record.
- 377 McCurdy The square footage of building space that they need is 65 acres, but they are proposing to bring in 366 acres.
- 391 Derby But that 65 acres is a function of the FAR, correct?
- 393 McCurdy No, that refers to Table 6-4.
- 395 VanLandingham Can the city explain this?
- 396 Moore There are two different starting points. One starts from the employee per acre, and one is square feet per employee. Explains how the numbers are derived and states that there are several questions about the numbers that are implied and to determine whether the numbers are correct is difficult and could be off from actual numbers. As the consultant, I'd be happy to fix the numbers and make the numbers internally consistent.
- 432 McCurdy We are basing our objection on their numbers and information.
- 434 VanLandingham But the response is that those numbers are divided.
- 435 Moore Those numbers should work out, but they don't.
- 440 McCurdy We find that those numbers are inefficient.
- 445 Moore We don't have the obligation to discuss square feet of buildable acres, but to show how many acres are needed.
- 453 VanLandingham The two issues we are looking to fix is the language regarding the FAR's and whether or not there is adequate and consistent data regarding the EPA. The city doesn't seem to be saying there is anything wrong with their EPA, but just that they shouldn't have put the data in regarding the FAR.
- 467 Montgomery What we are saying is that yes we made a mistake, but that mistake doesn't hinder or change the project as it stands. Whether or not we use those land efficiently isn't part of this analysis, but is part of what the city will adopt as part of its zoning ordinance.
- 479 VanLandingham 1000 Friends is saying that the data doesn't support the numbers of acres based on an EPA approach regardless of the FAR.
- 484 Derby I thought that 1000 Friends was challenging the FAR and building area, not EPA?
- 494 Friedman We focused on that because that is what the city had focused on. The overriding issue for us is that the city's projected use of employment land is extremely inefficient. Cites Table 6-2 regarding office employees and that the numbers are the same for warehouse employees.

- 517 Montgomery The opportunity to refute this information was provided a number of times at hearings at the local level.
- 520 Kirkpatrick I'm concerned about the confusion and the clarity of the analysis. Can we have a summary of what evidence is in the record for both sides?
- 542 VanLandingham There are two issues here: 1) that we could approve the work plan and require that they clean up the FAR language, 2) is there evidence in the record to support the employees per acre number?
- 546 Moore The only thing that is in the record is pg. 6-4 under employees per acre (Exhibit V).
- 558 VanLandingham There is agreement that the language regarding FAR's needs to be removed.
- 567 Derby I'd be willing to support a motion to approve the work task with the amendment to remove the FAR language.
- 571 VanLandingham You feel that the evidence in the record is substantial to support the EPA?
- 572 Derby Yes.
- 580 Shetterly Does the city want to take the chance of moving forward with a motion of this type subject to review by the Court of Appeals?
- 593 Condit We agree that due to the level of confusion on this point, it would be better to remand this task, fix the language and re-submit.
- 603 VanLandingham That leaves the question of new evidence in the record.
- 608 Condit We will submit new evidence and 1000 Friends or others will have the chance to submit additional evidence as well at the local level.

Tape 4, Side B.

- 007 VanLandingham The next issues deal with park land and flood plain land.
- 009 Hinman It also states, in the response to the exception, the potential for sharing park facilities with the school district and Linfield College. Cites that most of the designated parkland is in a residential plan designation and farmland. Siting parkland in residential zones does add it to the buildable land category and makes it subject to the requirements of ORS 197.296.
- 028 **Mark Davis,
Citizen** Agrees with Mr. Hinman's statement about parklands being sited on designated residential land. The city has not considered sharing lands with the McMinnville school district or Linfield College.
- 038 Friedman Cites that 30% of urbanizable land is designated for parks.
- 051 Condit Explains that the Park master plan calls for development of community and neighborhood parks. Those are developed parks that are for active recreational use and should be located in neighborhoods. Discusses that there have been projected parks placed in those neighborhoods based on the city's policy not to develop parks in flood plains.
- 064 Montgomery McMinnville has historically sited a park in a flood plain, but the city needs a park on the west side and there are limited flood plain areas there.
- 090 **Ron Polmeroy,
City of** Testifies regarding the flood plain ratio and how that relates to existing

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- McMinnville
 099 Friedman and proposed community parks.
 Cites the Housing Needs Analysis, pg. 3-2, regarding buildable land and that "constrained land is identified as a wetland" (Exhibit Y).
- 107 Davis Considerable acreage is being used right now in conjunction with the school district and Linfield College which isn't in the plan.
- 117 VanLandingham Flood plain areas are not on the westside where the parks are needed.
- 120 Davis States that he feels there are areas, outside of wetland, where parks could be sited but the city hasn't sited them there.
- 124 Friedman We are not arguing that all neighborhood parks should be in the floodplains, just some of the parks. The city does not have an adopted ordinance that prohibits park facilities in a flood plain.
- 136 Montgomery We do have policies to encourage shared park facility usage with Linfield College. We do have an adopted park plan and believe that is consistent.
- 143 VanLandingham How are you going to protect this land from being developed when you don't have the resources to buy it?
- 148 Montgomery I don't know. I would just ask that you let us try. We have been trying for years to develop a plan and we feel that this will allow us to go to the voters to do that.
- 153 Derby Do you have parks system development charges (SDC)?
- 154 Montgomery Yes.
- 155 Derby Have you factored in funding for land acquisition with parks SDC beyond what the bond levy is?
- 156 Montgomery I don't believe that the SDC factors in all of the recommendations of this park plan.
- 159 Condit There is nothing in the goal that requires us to have the funding to do the planning. Discusses that the parks master plan is tied in with neighborhood activity centers which have to happen when neighborhoods are developed.
- 171 Montgomery Over half of the parks that we enjoy now were gifted or donated to the city.
- 173 Davis The reason that the land is donated is because the land is in the flood plain and can't be developed.
- 178 Condit The historical record for using floodplain for park land is not the best evidence because of the development of restrictions of usages in flood plains and the flooding that has occurred.
- 184 VanLandingham What about the concern about the lack of calculation of shared land by the school district and Linfield College?
- 186 Montgomery Linfield college isn't located in an area that serves a residential area. The schools are using all of their property for their students and don't have any extra land to be developed for parks.
- 195 Derby Discusses a park land issue in his area where they tried to find a way to share land with the local school district, but that they couldn't find a way to make it happen.

- 208 VanLandingham Is it accurate that 30% of the buildable land is for parks?
- 210 Montgomery Yes.
- 211 VanLandingham That seems like a big number.
- 215 Condit That number was derived from our Parks master plan and how many acres of parks were needed based on projected population.
- 221 Montgomery McMinnville is in a catch-up mode because we don't meet the national standards for parks per population.
- 226 McCurdy We aren't disputing the need for parks, just whether that land needs to come out of the buildable lands inventory, which is all farm land. It is speculative to think that they can purchase that land for parks.
- 236 VanLandingham How many acres is 30% of the buildable lands?
- 238 Friedman Between 250 -260 acres.
- 239 VanLandingham What does the plan call for, for the average size of a community or neighborhood park?
- 247 Montgomery A community park is greater than 12 acres, and a neighborhood park is 5-13 acres.
- 249 VanLandingham How many community parks do you have now?
- 250 Montgomery One and we have no neighborhood parks.
- 253 Davis States that there are 3 community parks.
- 254 Montgomery Correct, apologizes and states that he was thinking of regional parks of which there is one.
- 256 VanLandingham There are no neighborhood parks now?
- 256 Montgomery Correct.
- 258 Worrix Are you questioning the number of acres for parks or where those parks are located?
- 260 Davis I share some of the concerns about where the money will come from to buy those lands, but would love to see that amount of land designated for parks.
- 264 Worrix The language in the recommendation has the city remanded to reduce the number of acres for parks to account for those parks that are in the flood plain, correct?
- 271 Hinman The recommendation is to account and justify for their information.
- 279 Worrix Giving the city the option to justify why they are citing their new parks not in flood plains is an option?
- 288 Hinman Yes.
- 290 VanLandingham The parkland that the city would like to add is not near a flood plain - is that the information that you need to change your recommendation?
- 293 Hinman Yes, but I did hear from 1000 Friends that they need a park in an area that does have a flood plain.
- 298 VanLandingham You still think that there is some flood plain land on the west side that could be used for parks?
- 299 Hinman I think it is up to them to come back with substantial evidence as to why they haven't placed the park in a flood plain on the west side.

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- 305 Condit Our parks master plan is in the record which clearly shows that they are not near any floodplain areas. For the Commission to tell us to include a specific amount of flood plain land for our parks is in essence repealing our parks master plan. We feel that there is substantial evidence in the record to substantiate where and the number of acres designated for parks.
- 321 Davis Explains that the parks master states that "as in the case of neighborhood parks, exact sites for proposed community parks have not been determined". The City Council did not adopt a master plan map for where parks are going to be located.
- 328 Montgomery What we did adopt is where neighborhood activity centers will be and state that a park is a central component of that and then we make sure that a park is located within walking distant of those centers. We will use some floodplains for parts of our parks.
- 340 Condit Although the exact areas for where the parks should go aren't fixed, they are in an area where it was defined that a park is needed.
- 345 Friedman If you located all 250 acres of those parks near neighborhood activity centers, there wouldn't be room for those centers. If this is remanded, we ask that neighborhood parks should be included as well.
- 354 VanLandingham Would the city like to respond?
- 356 Montgomery Explains that the designated acreage for neighborhood parks is 80 acres, community parks are 118 acres and for greenway spaces, for which 1/3 are in floodplain areas, there are 106 acres.
- 367 Friedman The city later expanded an existing park by 60 acres in a flood plain area.
- 371 Davis States that he doesn't feel that the shared facility issue has been answered.
- 375 VanLandingham States that the city did answer that by stating Linfield is in the wrong area and that the schools weren't talked to.
- 377 Montgomery Explains that the shared parkland issue has also run into problems when the liability issue is raised.
- 380 Davis When this issue was raised at the local level, it was acknowledged that there was some current sharing of facilities.
- 389 VanLandingham Discusses his concern with having 250 acres designated for parklands and that there is no legal way to keep it from being developed for housing.
- 402 Kirkpatrick States that the sharing of land with the school district is an option that she wishes had been explored further. Discusses that while the plan might be hard to achieve it was done within the guidelines of the goals and shouldn't be second-guessed.
- 434 Worrix Discusses that while 250 acres is a lofty goal, the city is in a catch-up role. States that not all of the donated park lands are in the flood plains and that the city has done a lot to develop their financial base to fund their plan.
- 451 Jenkins The city has identified the requirements for placing their parks near their community centers and it may be tough to keep all of the land

- reserved for parks and not turned into houses.
- 461 VanLandingham I don't question the good intention of the city, but my concern is the ability to pay for it all. Given the state's emphasis on preserving farmland, this may be hard to achieve.
- 468 Jenkins I'd like to hear from the city about their assurance for providing those acres for parks.
- 476 Condit We won't be able to demonstrate that we will be able to pay for and plan every acre for parks. There are, however, tools in the plan to make those parks happen.
- 496 VanLandingham That land will ultimately have to be bought, correct?
- 499 Condit The Commission's role isn't to ultimately decide our policy issue, but to decide whether or not we have complied with the rules and goals. We believe we've demonstrated the need for the parkland, and we have a process in place to limit conversion until that property is developed.
- 527 Worrix Didn't the city recently have to purchase park property in an area where it was needed to satisfy residential development which was at an all-time high, per-dollar, per-acre?
- 533 Montgomery Yes, at that time, it was at an all-time high. That number has been eclipsed since then.
- 537 Davis Discusses that while there are some parks needed around the activity centers, there is still a lot of park land needed in other areas that could be placed in flood plains around the city.
- 563 VanLandingham States that the majority of the Commission will uphold the city on this issue.
- 580 Shipsey Regarding floodplain areas in UGBs, the Court of Appeals decided a case, *Milne v. City of Canby*, last week in which the court decided that the need for bringing in land has to be established under Goal 14. Right now, there aren't any findings in the record for any basis for the need for unbuildable lands for residential purposes.

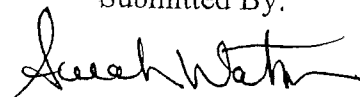
Tape 5, Side A

- 002 Condit Discusses the *Milne v. City of Canby* case regarding flood plain lands and how that affects their justification for including those lands.
- 020 Friedman We also raise the Grandhaven area and hope that that area would be included in the remand as well.
- 028 VanLandingham Everyone agrees that we will remand issue 1g for the Three-Mile Lane area, Norton Lane and Grandhaven.
- 031 VanLandingham Recesses at 3:34 p.m.
- 032 VanLandingham Reconvenes at 4:12 p.m.
- 040 Shipsey Discusses that the order of the Commission would be that issues 1a, b, c, and d are found in favor of the city and are acknowledged. Issue 1e would be remanded on the basis of the substantial evidence question on employees per acre and floor area ratios. Issue 1f would be remanded for the city to work on it if they choose. Issue 1g would be remanded in light of *Milne v. City of Canby*. As to the other objections that have been raised, the city can look at those and either make changes or

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- resubmit them as they are. The order would also acknowledge the inclusion of the exception areas to which there was no objections, the lands brought into the UGB that are in exception lands.
- 067 Hinman There were four exception areas brought in, but one of those is in the Three-Mile Lane area and it should be brought in as well.
- 072 Montgomery We agree.
- 073 Hinman There are three exception areas: Riverside South, Redmond Hill Rd., Fox Ridge Rd. In addition, the city adopted a list of city properties that were brought into city limits and rezoned, without objection. Several of those properties everyone agrees on, and can be rezoned.
- 084 Jacobson Cites Table 73, parcels 7, 9 10, 15, 16, 19, 20 that can be rezoned **(Exhibit D)**.
- 091 Shipsey ~~Does that mean the memo of Sept. 10, 2004 is still accurate?~~
- 092 Jacobson The recommendation is for the inverse of that memo. That memo recommends and cites parcels to be remanded. The parcels just stated are those that can be acknowledged.
- 096 Worrix **Motion** – Moves the acknowledgement order as stated by Steve Shipsey and amended by Jim Hinman and Eric Jacobson.
- 097 Jenkins Seconds motion.
- 099 Condit Thanks the Commission for their patience and working with the city.
- 100 McCurdy Is the parkland issue included in the remand?
- 101 Condit Yes.
- 102 Shetterly That was remanded on the understanding that the city can look at it again and submit it again without any changes.
- 104 Condit On the issues that we've been remanded to do specific work on, we will do that. On the other issues, we may look at those issue, but not change them upon resubmitting them.
- 107 VanLandingham Asks Mr. Shipsey to draft the order, run it by all parties and then present it back to him for his signature.
- 108 Shipsey The Director could also sign the order.
- 113 VanLandingham **Vote** – 5-0 unanimous, Commissioners Josi & Henri are excused.
- 116 VanLandingham Discusses that he appreciates the work that has gone into this project. Recognizes that the commission's review took a long time, but feels that it was good for the parties and for the commission. It is some of the best work that he has seen in his five years on the Commission.
- 123 Shetterly Discusses draft agenda for the Sept. 29-Oct. 1, 2004, Commission meeting.
- 141 VanLandingham Adjourns the hearing at 4:23 p.m.

Submitted By:



Sarah Watson,

Department of Land Conservation and Development

