

**Exhibit Summary:**

- A. Agenda Item 1, Letter by Director Lane Shetterly, 4 pgs.
- B. Agenda Item 1, Testimony – City of McMinnville, 7 pgs.
- C. Agenda Item 1, Summary Arguments – City of McMinnville, 6 pgs.
- D. Agenda Item 1, Responses to Objections - City of McMinnville, 6 pgs.
- E. Agenda Item 1, Testimony – Mark Davis 3 pgs.
- F. Agenda Item 1, Summary of Arguments – 1000 Friends of Oregon, 30 pgs.
- G. Agenda Item 1, Testimony – 1000 Friends of Oregon, 2 pgs.
- H. Agenda Item 1, Summary of Objections to Responses – DLCD Staff, 7 pgs.
- I. Agenda Item 1, Revision to Staff Recommendation – DLCD Staff, 1 pg.
- J. Agenda Item 1, April 20, 2004 Staff Report – DLCD Staff, 33 pgs.
- K. Agenda Item 1, March 30, 2004 Staff Report – DLCD Staff, 11 pgs.
- L. Agenda Item 1, Maps of the City of McMinnville – 1000 Friends of Oregon, 3 pgs.
- M. Agenda Item 1, Housing Needs Analysis, Table 68 – *previously submitted into record*, 1 pg.
- N. Agenda Item 1, Population Projection, Table 2 – *previously submitted into record*, 1 pg.
- O. Agenda Item 1, Urban Growth Management Plan, Page 2-2 – *previously submitted into record*, 1 pg.
- P. Agenda Item 1, Housing Needs Analysis, Page 4-9 – *previously submitted into record*, 1 pg.
- Q. Agenda Item 1, Housing Needs Analysis, Page 4-4 – *previously submitted into record*, 1 pg.
- R. Agenda Item 1, Urban Growth Management Plan, Page 2-4 – *previously submitted into record*, 1 pg.
- S. Agenda Item 1, Buildable Land Analysis, Page B-11 – *previously submitted into record*, 1 pg.
- T. Agenda Item 1, Housing Needs Analysis, Page 5-22 – *previously submitted into record*, 1 pg.
- U. Agenda Item 1, Land Needs Analysis, Page 13 – *previously submitted into record*, 1 pg.
- V. Agenda Item 1, Economic Opportunities Analysis, Page 6-4 – *previously submitted into record*, 1 pg.
- W. Agenda Item 1, Response to Objections, Page 5 – *previously submitted into record*, 1 pg.
- X. Agenda Item 1, Economic Opportunities Analysis, Tables 6-2,6-3,6-4 – *previously submitted into record*, 2 pgs.
- Y. Agenda Item 1, Housing Needs Analysis, Page 3-2 – *previously submitted into record*, 1 pg.





# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

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August 6, 2004

# COPY



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*Re: Continuation of McMinnville Urban Growth Boundary Expansion Hearing*

Interested Parties:

This letter will confirm the continuation of the hearing on the McMinnville Urban Growth Boundary expansion, and describe how the department and Commission intend to proceed. Our purpose is to provide all parties and their representatives with notice in advance of the hearing, so as to better ensure a fair and efficient process.

The hearing will be held on September 10, 2004, beginning at 8:30 a.m., in the LCDC hearing room in the basement of the Agriculture Building at 635 Capitol Street NE, Salem.

In advance of the hearing the department will issue an agenda for the meeting, with copies provided to the city, all objectors, and Yamhill County. To our knowledge, the continuation of this hearing will be the only item of business before the commission at the meeting.

With this letter I enclose the following, to assist you in your preparation for the hearing:

- (1) A copy of the portion of the minutes of the April hearing that pertain to this proceeding.

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(2) A copy of the letter from 1000 Friends of Oregon to Steve Shipsey, dated May 12, 2004, expressing concerns as to matters that were raised by the city during the April hearing. To the extent that the matters referred to in the letter constitute new evidence in the record, the objectors will be permitted to respond to and rebut the information during the time allotted to them at the September hearing. We ask that all parties be cognizant of the record, as described below, and limit their argument before the commission to matters that are in the record.

(3) A verbatim transcript of a portion of the discussion between Commissioner Henri and Mr. Buzz Ortiz under a separate agenda item on Friday, April 23, 2004, on a matter unrelated to the McMinnville UGB proceeding. Since this testimony inadvertently touched on matters at issue in the McMinnville proceeding, we wanted to make it available to all parties. This testimony will be made a part of the record of the proceeding, and all parties will have an opportunity to respond to or rebut it during the time allotted to them at the September hearing.

(4) A decision matrix, which has been prepared to assist the Commissioners to follow the arguments of the parties, and to locate the references to the arguments in the record. If any party wishes to propose any amendments to the decision matrix, to make it more useful to the Commission, please let us know prior to the hearing.

For your information, Commissioner Hanley Jenkins, whose term on the Commission had not begun at the time of the April hearing, will attend the September hearing and will participate in the final decision. Commissioner Jenkins attended the entire proceeding in April and will be provided with a tape of the proceeding and copies of all of the documents in the record for his review prior to the September hearing.

Audio tapes of the April hearing, relating to McMinnville, will also be distributed to all parties within the next week.

To assist all parties and the Commission in managing their time and their presentations in the conduct of the hearing, we are offering to all parties the opportunity to file written summaries of their arguments. All summaries must be limited to the written record of the proceeding, as described below, and must be filed with the department, with copies served on all other parties, by not later than September 7, 2004. Summaries must be limited to not more than 30 pages, double-spaced. The Commission reserves the right to reject any written summaries filed after September 7, or that are not served on the other parties by the same date. Parties are not required to file a written summary, but may do so as they wish. The Commission will not accept additional written replies or responses to another party's written summary.

At the hearing, the Commission intends to proceed according to the following outline of subject matter and timeline:

8:30 – 8:40 a.m. Call to order; instructions on proceeding and standard of review by Steve Shipsey, Department of Justice.

Recap of Issues Relating to Needs Analysis

8:40 – 8:50 a.m. Staff presentation  
8:50 – 9:05 a.m. City of McMinnville  
9:05 – 9:20 a.m. 1000 Friends of Oregon, et al  
9:20 – 9:30 a.m. Community Development Law Center (CDLC)  
9:30 – 9:35 a.m. Mark Davis  
9:35 – 10:30 a.m. Staff summary and Commission deliberation  
[Break]

Issues Relating to Alternatives Analysis

10:45 – 10:55 a.m. Staff presentation  
10:55 – 11:15 a.m. City of McMinnville  
11:15 – 11:25 a.m. 1000 Friends of Oregon, et al  
11:25 – 11:30 a.m. CDLC  
11:30 – 11:35 a.m. Mark Davis  
[Break]

1:15 -- 2:00 p.m. Staff summary and Commission deliberation

Issues Relating to Implementation

2:00 – 2:30 p.m. Staff presentation  
2:30 – 3:00 p.m. City of McMinnville  
3:00 – 3:20 p.m. 1000 Friends of Oregon, et al  
3:20 – 3:40 p.m. CDLC  
3:40 – 4:30 p.m. Staff summary and Commission deliberation  
  
4:30 – 5:00 p.m. Concluding deliberations/Other

The written record of the proceeding, as referenced in this letter, will consist of the following:

- The written record as identified as “Attachment K Statement of the Record” for the April hearing (Agenda Item 7c), a copy of which is enclosed.
- Verbatim Transcript of discussion between Commissioner Henri and Mr. Ortiz from the April 23, 2004 LCDC meeting (enclosed).
- 1000 Friends of Oregon letter to Steve Shipsey dated May 12, 2004 (enclosed).
- Written summaries submitted by the parties on or prior to September 7, 2004.
- Any supplemental written response from the department to the summaries submitted by the parties or any other matter in the record. (A written response from the department may be submitted up to the time of the Commission hearing.).

I hope this letter clearly indicates how the department and the Commission intend to move forward with this proceeding. If there are any concerns or questions about the process as outlined in this letter, please provide me with written notice as soon as possible. Otherwise, this matter will continue according to the process as outlined in this letter.

Thank you for your courtesies.

Yours very truly,

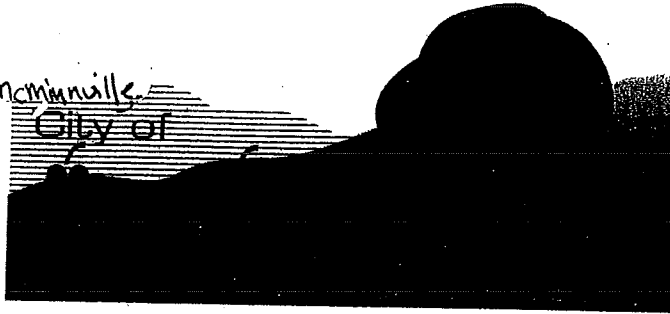
LANE SHETTERLY  
Director

*Enclosures*

cc: Jim Hinman  
Steve Shipsey  
LCDC Commission Members

*Ips:/sw/mcminnville.080504*

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SUBMITTED BY: City of McMinnville



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September 3, 2004

DEPT OF

SEP 07 2004

LAND CONSERVATION  
AND DEVELOPMENT

Mr. Lane Shetterly  
Department of Land Conservation and Development  
635 Capitol Street, NE, Suite 150  
Salem, OR 97301-2540

Re: Continuation of McMinnville UGB Amendment Hearing

Dear Director Shetterly:

We are in receipt of your August 6, 2004, letter outlining the procedure for the September 10, 2004, continuation of the McMinnville Urban Growth Boundary Expansion Hearing. We would like to respond to several points in that letter.

We have one objection to the proposed schedule of testimony and timeline. It is the same objection that we made at the April 22, 2004, hearing: The schedule and timing does not give the City adequate time to respond to issues raised by the other parties, most particularly in rebuttal to testimony from 1000 Friends of Oregon ("1000 Friends"), the Community Development Law Center ("CDLC"), and Mark Davis. We are essentially defending the City's decision against adverse comments by DLCD Staff and the other parties, but are given only about 25 percent of the total time to make our case. Additionally, we are sandwiched in the middle of adverse testimony, which by itself totals more than twice the time allotted to the City. If the Commission were governed by the same rules as the Court of the Appeals or the Land Use Board of Appeals ("LUBA"), all of the opponents would have to share the same amount of time that the City is given, and the City would be entitled to reserve some of its time for final rebuttal.

We appreciate that the Commission is scheduling an entire day for the continued hearing and understand the need not to get bogged down, but the City has been working for years developing this plan and deserves the opportunity to fully respond to objections. If the Commission continues its practice of asking clarifying questions that enable us to respond, as it did at the April 22 hearing, then our fears are lessened. However, to ensure some opportunity for proponents' rebuttal, we respectfully request that the City be given an additional 10 minutes at the end of each segment.

Mr. Lane Shetterly  
September 3, 2004

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Otherwise, we accept the procedure and have no objections to participation by new Commissioner Hanley Jenkins.

We would also like to respond to the May 12, 2004, 1000 Friends letter, because you state that you will allow the objectors to submit new evidence into the record to rebut the alleged new evidence submitted by the City. Our response is provided in the following paragraphs and attached spreadsheet.

At the threshold, we note that many of 1000 Friends' objections relate to our written exceptions to DLCD's March 30, 2004, staff report, and to our oral testimony presented at the April 22, 2004 hearing. As we noted in our exceptions, the DLCD staff report raised several new objections that DLCD had never raised at the local level and based many of its recommendations on evidence or considerations outside of the record. If you are going to allow 1000 Friends to submit rebuttal evidence, then you need to apply the same standard to the City's responses to the Department's staff report.

1) 1000 Friends first objects to the City's statement that some parkland located within the 100-year floodplain sustained damage in the 1996 Floods. This is an example of 1000 Friends' apparent strategy to nit-pick the plan to the death. The City's stated reason as why more parkland is not located in the flood plain is that much of the need identified in the Parks Master plan is for Community and Neighborhood parks (LUBA record, p. 169-170, and p. 743, Table 5-27; and, Minutes, joint public hearing, August 12, 2003). By definition, these types of park facilities need to be located in the neighborhood served, and because improved park areas should be kept out of the floodplain to avoid damage ("Parks, Recreation and Open Space Master Plan," Table I). The comments made by Mayor Ed Gormley and me about the 1996 flood damage occurred in direct response to a question from one of the Commissioners and were based upon our personal and common local knowledge. Flood damage to City parks is also a fact acknowledged in the City's adopted "Parks, Recreation and Open Space Master Plan."<sup>1</sup> If 1000 Friends wants to attempt to demonstrate that the City did not repair the damage that occurred, or perhaps that no damage to improvements had actually occurred, the City does not object, but that does not undermine the City's argument or reasoning as to why it chose not to satisfy more of its park land need with lands located within the 100-year flood plain.

2) 1000 Friends objects to a comment that it is City policy not to include wetland or floodplains in neighborhood or community parks, and states that the record indicates that the City has expanded parks into the floodplain. 1000 Friends mistakes argument for evidence. The City fully explained its reasoning and evidence in the record for not satisfying more of its identified park land need with floodplain lands (see citations above.) The fact that the City has existing parks in the floodplain and has expanded those parks is irrelevant to the question of whether it is good policy or would meet the identified land need to continue to do so. It is important to again note that, as referenced in the adopted "Parks, Recreation and Open Space Master Plan," linear

<sup>1</sup> On page 14 of the City's adopted "Parks, Recreation and Open Space Master Plan," in reference to Joe Dancer Park, it states, in part: "Recent flood damage has been repaired . . ."



parks, greenspace/greenways/natural areas, and trails and connectors are park types more commonly associated with floodplain location. The City has assumed that more than a third of greenspace/greenways/natural area parks will locate within the 100-year floodplain; the City has not included in its Plan acreage for linear parks or trails and connectors.

3) 1000 Friends objects to the City's alleged comment that including unbuildable lands in neighborhood and community parks would be inconsistent with the City's adopted plans as relying on evidence not in the record. Again, 1000 Friends mistakes argument for evidence. The City's argument is supported at "Parks, Recreation and Open Space Master Plan," Table I, and Minutes, joint public hearing, August 12, 2003.

4) 1000 Friends states that "the City seemed to assert" that resource land in floodplains was included in the City limits because it would allow higher density development on the buildable portion of the resource area. If in fact the City did say this, which we believe was in response to a question from Commissioner Marilyn Dell Worrix, it was incorrect. The City's reasons for including the floodplain is threefold: 1) To allow extension of public facilities to serve urban property within the urban growth boundary, consistent with the terms of the Yamhill County and City of McMinnville Urban Growth Boundary Management Agreement (doesn't permit extension of utilities outside UGB); 2) to provide buffer and physical separation between urban development and adjacent agricultural activities; and, 3) provide land within UGB for linear parks, trails and connectors, and open space parks. These issues have been discussed at several public hearings held on the MGMUP (August 12, 2003, being the most recent), and is described in further detail in the text of the Plan findings and MGMUP.

5) 1000 Friends states that there is no evidence in the record that the City's needs analysis includes construction of accessory dwelling units in the R-2 zone. This is not true. The needs analysis considered construction of all types of dwelling units ("McMinnville Growth Management and Urbanization Plan" (MGMUP) p. 5-16, and Table 16 on p. 7-28). The City's comments simply confirmed this. Indeed, the MGMUP considered and estimated how much of the housing need could be met by the City's proposed enactment of an accessory dwelling unit ordinance that would allow accessory dwelling units on all developed residential land city-wide; with the exception of the newly adopted R-5 Multiple-Family Residential zone (MGMUP page 5-16, and p. E-1, E-2, and E-17 – E-19). The record demonstrates the City fully considered how many of its needed dwelling units could be met by accessory dwelling units.

6) 1000 Friends states that there is no basis in the record to support the City's comment that only a small number of duplexes have been built in the R-2 zone since 1988. This is incorrect ("McMinnville Residential Land Needs Analysis," p. 4-4 Table 4-3; p. 4-5 Table 4-4; and, 4-9 Table 4-8). While the City has not had benefit of reviewing the tapes from the April 22, 2004, Commission hearing, we believe that our statement was in reference to the number of duplexes that may have been built in an R-2 zone that replaced existing single-family homes. Even so, the record is clear that of the 3,320 dwelling units constructed from 1988 to 2000, only 6.2 percent were duplex housing. Arguably, even if all such duplex development had occurred in only the R-2 zone, it is still a "small number."

7) 1000 Friends objects to the City's explanation that because its planned development process permits clustering of allowable units, construction of multi-family housing under that process does not increase net units per acre. 1000 Friends claims that there is no evidence of this in the record. As noted above, the City's planned development ordinance is part of its duly adopted Zoning Ordinance, and the Commission can take official notice of how it works. See ORD 3380, Chapter 17.51, Planned Development Overlay. Further, the nature and functioning of the City's Planned Development process is discussed in many places in the record. See, for example, MGMUP at pages 5-2, 5-3, and in the attached spreadsheet. ~~The City agrees with 1000 Friends that its planned development process permits it to use lands more efficiently, but this impact was fully considered by the City in its determination of housing need.~~

1000 Friends' objections 8 through 20 are objections to statements contained in the City's April 9, 2004, Exceptions to DLCD report on McMinnville's Task 1 and UGB Amendment. At the threshold, we note that these Exceptions were on file with DLCD two weeks prior to the April 22, 2004, hearing. 1000 Friends could therefore have raised these objections at the time of the initial hearing but failed to do so. These objections attempt to get additional argument into the record outside of the scheduled hearing process.

8) 1000 Friends argues that the City's exception (p. 7) contains new information regarding the number and location of multi-family projects in the R-2 zone between 1988 and 2000. This is not correct. This information is shown in the record at LUBA record p. 268-406 (Residential Land Inventory), 771 (Zoning Map), and p. 775 (Historic Residential Development Activity).

9) 1000 Friends argues that the City's exception (p. 21) contains new information that areas in the hills west of McMinnville were excluded because they were at elevations above the planned service levels for water and other urban services. In point, this evidence is located in the Record in the MGMUP, "Exception Lands Analysis Summary," p 6-10 and otherwise described in the MGMUP at p. C-116, C-118, C-120, C-124, C-125, C-130, C-131, C-135, at LUBA Record p. 634, 773, and in the "McMinnville Residential Land Needs Analysis," p. D-1.

10) 1000 Friends argues that the City's exception (p. 21) contains new evidence regarding soil types in the hills west of McMinnville. This is not correct. This information is shown in the record on the soil class maps submitted by 1000 Friends at the August 4, 2003, joint public hearing.

11) 1000 Friends argues that the MGMUP does not describe why its UGB proposal does not include Class IV soils at the east end of the Airport runway (City Exception p. 21). This is not correct, this information is shown in the MGMUP Findings document, pages 50-52, and City staff "Response to Comments Received" memo, p. 19, Item 5 (submitted at the Aug. 12, 2003, joint public hearing). We have no objection if 1000 Friends wishes to rebut this testimony.

12) 1000 Friends states that evidence that the area of Class IV soils east of the airport area is adjacent to a day and night Police SWAT training area is not in the record. (See City Exception, p. 21). This is not entirely correct. This information is shown in the record in the Aug. 12, 2003, City staff "Response to Comments Received" memo, p. 19, item 5 (submitted at the Aug. 12, 2003, joint public hearing); Findings document p. 50-52; and, soil class maps submitted at joint public hearing by 1000 Friends on August 4, 2003. Additionally, it is common local knowledge that the weapons training facility exists and that it exists for the sole purpose of serving general police and SWAT live weapons training efforts. We have no objection if 1000 Friends wishes to rebut this testimony.

13) 1000 Friends argues that the City's exception (p. 21) states that less than 30 acres of Class I soil are proposed for inclusion in the amended UGB. This is not correct. This information is shown in the record on the soil class maps submitted by 1000 Friends at the August 4, 2003, joint public hearing, and in the City staff "Response to Comments Received" memo, p. 19, item 5 (submitted at the Aug. 12, 2003, joint public hearing).

14) 1000 Friends claims that there is no evidence in the record that "that largest collection of Class I soils are found in the Westside Road exception area." (City Exception, p. 21) This is not correct. This information is shown in the record at MGMUP p. C-213. 1000 Friends misquotes the Exception as the actual language states, "Isolated pockets of soil capability class I land are found in the area of the Westside Road sub-area, [...]" p. 22. We have no objection if 1000 Friends wishes to rebut this testimony. We also note that this is merely an observation; given that the West Side Road area is an exception area, the soil classification information is interesting but irrelevant.

15) 1000 Friends objects to the City's characterization of the evidence 1000 Friends submitted on household size. (City Exception, p. 6) 1000 Friends confuses "evidence" with argument. Further, even if the City characterization of evidence submitted by 1000 Friends is incorrect, it is irrelevant to the key question regarding whether the City's estimated household size is supported by substantial evidence. It is.

16) 1000 Friends objects to the City's characterization of 1000 Friends' position with regard to the appropriate time period for analyzing household size. (City Exception, p. 4; and, DLCD Memorandum, March 30, 2004, p. 21). 1000 Friends again confuses "evidence" with argument. They were free during the hearing to object to the City's characterization of their position. This argument also does not undermine the validity of the City's primary point: If the City had used the period from 1988 to 2000 to analyze population growth, the average annual growth rate (4.1 %) would be substantially higher than the 2.2% average annual growth rate the City based its current population estimate on. This figure would have resulted in a much higher population projection, and thus a need for a much larger UGB expansion, than the City has adopted.

17) 1000 Friends complains that the City Exception (p.5) contains conclusions regarding the impact of household size on land need that aren't part of the local record. 1000 Friends does not explain which conclusions they object to. Nothing prevents the City from drawing new conclusions based upon evidence that is in the record (2000 Census data submitted by 1000 Friends; and, MGMUP, Appendix B, page B-7).

18) 1000 Friends argues that the record doesn't support the City's position that the growth in persons per household as a result of the increasing Hispanic population will be offset by other demographic trends. Again, this is argument, not evidence. The City's projected household figure was based upon the professional analysis of ECONorthwest. Indeed, the original ECONorthwest projection of household size was 2.4 persons. This calculation was based upon evidence that the household size in virtually every other demographic area apart from the Hispanic population has been consistently dropping; e.g., the population is aging, there are more single parent households, people are having fewer children at older ages, a higher percentage of people are living alone. It is also predicated upon a change in the City's planned future housing mix (shift to greater percentage of multi-family housing, which have a lower number of persons-per-household). DLCD had previously agreed that this original estimate of household size was reasonable. During the proceedings in 2001, the City Council and Planning Commission increased this number to 2.54 persons based in large part on 1000 Friends' analysis. The City is entitled to rely on the professional analysis of its consultant, whose expertise in this area has not been challenged by any party.

19) 1000 Friends notes correctly the City's Exception introduces new evidence from the U.S. Census and Population Research Center at Portland State University with regard to population trends in the County unincorporated area to support the City's forecast that such population would decline relative to the increase in population in the urban areas (Exception, page 3). This evidence was submitted in direct response to DLCD staff's recommendation with regard to this issue. As noted previously, DLCD staff did not raise this issue at the local level (indeed, DLCD had supported the City's population projection in all previous official correspondence), and so the City did not have an opportunity to directly respond to this objection when the local record was open. We do not object to allowing 1000 Friends to rebut this testimony, but excluding this testimony and possibly remanding the City's plan on this issue would be unfair and unnecessary as this has been our first and only opportunity to respond to DLCD's new shift of position on this issue. We also reiterate our primary point that substantial evidence in the record supports the City's population projection regardless of the lack of explanation of this issue in the prior record. The City is entitled to rely on ECONorthwest's analysis.

20) 1000 Friends is correct that the traffic study cited in City's exception on page 27 is not in the record. We do not object to 1000 Friends submitting rebuttal testimony to this traffic study. However, we note that the City's primary response was that only a small portion of the rezoned 20 individual parcels identified in Table 73 are vacant and buildable for residential use. This is sufficient to demonstrate that the rezone will not "significantly affect a transportation facility" within the meaning of OAR 660-0120060(2). The traffic analysis of those parcels simply

Mr. Lane Shetterly  
September 3, 2004

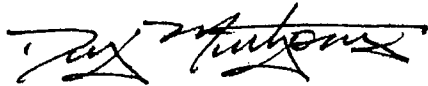
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confirms that this is the case. Also, this issue was not raised by DLCD prior to the close of the City's public hearing. Our response --- the traffic analysis --- was conducted by the developer of this property at the request of the City so that the proposed development could move forward. Similar to DLCD's issue with the City's population forecast, this is our first chance to address this concern since the close of the public record.

In conclusion, the City would like to return to its main theme: Population projections, housing need, household size and the other decisions at issue here are not subject to precise mathematical formulas, but are instead based on a host of assumptions and prognoses and even professional best guesses. The standard of evidence is not "beyond a reasonable doubt," but "substantial evidence in the whole record." The scope of review is not whether 1000 Friends or individual LCD Commissioners might have made different choices than the McMinnville City Council, but whether the choices that the Council made are reasonable in light of the record as a whole. If the answer to that question is "yes" - and we believe it is - then the Commission must defer to the local decision and should acknowledge the City's plan.

Thank you for the opportunity to comment.

Sincerely,



Doug Montgomery, AICP  
Planning Director

DRM:pja  
Attachment

- c LCDC Commission members
  - Mayor Ed Gormley, City of McMinnville
  - Candace Haines, City of McMinnville
  - Jeff Condit, Miller Nash, LLP
  - Terry Moore, ECONorthwest
  - Robert Parker, ECONorthwest
  - Steve Shipsey, Oregon Department of Land Conservation and Development
  - Mary Kyle McCurdy, 1000 Friends of Oregon
  - Sid Friedman, 1000 Friends of Oregon
  - Leon Laptook, Community Development Law Center
  - Mark Davis



EXHIBIT: C  
LAND CONSERVATION &  
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DATE: 9/10/04

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SUBMITTED BY: City of McMinnville



**DATE:** September 3, 2004  
**TO:** Oregon Land Conservation and Development Commission  
**CC:** Lane Shetterly, DLCD  
Jim Hinman, DLCD  
Eric Jacobson, DLCD  
Mary Kyle McCurdy, 1000 Friends of Oregon  
Sid Friedman, 1000 Friends of Oregon  
Leon Laptook, Community Development Law Center  
Mark Davis  
**FROM:** City of McMinnville  
**SUBJECT:** SUMMARY ARGUMENTS

*"We need to make our land use system less process-oriented and more outcome-oriented."*

Governor Ted Kulongoski, January 13, 2004.

The "McMinnville Growth Management and Urbanization Plan" is the product of nearly 10 years of intense analysis, public debate, and refinement by the City of McMinnville and its consultants. It is the result of a hands-on, citizen-led planning process that has fully addressed the requirements of law, and the objections raised by those that participated. Documenting that process has resulted in hundreds, probably thousands, of pages of analysis, testimony, and minutes (only a small portion of which has been shared with this Commission). Controversy is inevitable, as is the desire for facts and certainty to reduce that controversy. The City believes the State's process has required its staff, elected officials, and citizens to spend too much time pursuing a specificity that is neither appropriate nor possible. No amount of research or discussion is going to lead unambiguously to a "right answer" about aspects of the City 20 years in the future: about the amount or composition of its population, the type of housing that will accommodate them, or the amount of land that will develop or redevelop. Everyone, including people with a professional obligation and expertise to make such forecasts, knows that. Our interpretation of the State planning goals is that local governments must think carefully about the future and about a reasonable range for possible futures for many aspects of land development, document that thinking so that interested parties can debate it, and, finally, make a decision about where in that reasonable range they conclude that they should be, given their aspirations and the constraints imposed by policy and likely market conditions. McMinnville has done that. In fact, McMinnville has done that very well.

The State, of course, needs more than our assurance that we have done it well: it wants some independent evaluation. Evaluation implies critique, and critique means focusing on what is less than perfect. Little of the discussion before the Commission is about what the plan does well or how it works overall—most of it focuses on alleged shortcomings.

We understand that the State process invites—in fact, requires—such debate. We accept that there will always be something to disagree with in our plan; that people have different perspectives about how McMinnville should grow, and that they will find something in statute or administrative rules to provide a legal justification for the change they recommend, just as we can find justification for our original recommendation.

~~In the past, we have engaged that debate, point by point. We have done it in informal and public meetings, with DLCD staff and special interests, and in our previous submissions to the Commission. The record is established. It adds nothing—rather, it detracts from—the points we want to make in this memorandum.~~

Those points are about the big picture; about the broad objectives the Plan is trying to achieve and why it is likely to succeed in doing so. We remain passionate in our resolve to argue the merits of this Plan, and in our belief that this Plan provides the best possible future for McMinnville. We are hopeful that some of the time we will have together on September 10 can be spent discussing what this Plan is, so that the inevitable debate about its alleged failures on the details has some context.

### **What This Plan Is:**

#### ***It is a Plan that enjoys broad community support.***

- This is a Plan that was conceived and defined through well-attended, hands-on Community Forums; surveys; and an extensive and inclusive public hearing process. It reflects the desires and development goals of the overwhelming majority of those that participated in the local process. The Plan was approved—or recommended for approval—by five separate review bodies. It is part of a planning process (Periodic Review) that, for the City of McMinnville, started in September of 1988.

#### ***It is a Plan that has been recognized and praised by the planning profession.***

- In 2003, the Oregon Chapter of the American Planning Association awarded this Plan its Certificate of Recognition for Professional Achievement in Planning. Immediately prior to the City's adoption of this Plan, DLCD staff wrote, for the record: "The information contained in the plan and supporting appendixes can serve as a model for similarly sized communities throughout the state."

#### ***It is a Plan that has been prepared by a highly qualified and respected planning firm, with assistance from a McMinnville Planning staff that has extensive knowledge of the community. It is a Plan that is technically and legally sound.***

- The principle authors of the Plan are Terry Moore, FAICP, and Bob Parker, AICP, with ECONorthwest, a firm used often by DLCD in matters of housing and economic analysis and policy. Mr. Moore was a contributing author to "Planning for Residential Growth: A



Workbook for Oregon's Urban Areas," a guide for the conduct of buildable lands and housing needs analysis, and a principal author, with Bob Parker, of "Sufficiency of Commercial and Industrial Land in Oregon." He has contributed to books by the American Planning Association and the Lincoln Institute of Land Policy on land use, buildable land analysis, economic development, and transportation. His extensive experience with planning in Oregon led DLCD staff to invite him to participate in two statewide committees working to improve parts of the Oregon planning program: the Economic Development Planning Advisory Committee and the Urban Growth Boundary Work Group. Mr. Parker is a professor at the University of Oregon and teaches planning and economics, and is the Director of the Community Planning Workshop at this institution. These individuals have completed many buildable lands and housing needs analyses throughout Oregon and the western United States and lecture frequently on planning issues.

- McMinnville's planning staff, Ron Pomeroy, AICP, and Doug Montgomery, AICP, have 25 years combined experience with the City of McMinnville Planning Department, and 40 years work experience in Oregon land use planning.
- Jeff Condit, a principle in the Miller Nash law firm, provided legal guidance for the Plan. Mr. Condit has extensive experience in Oregon land use law and lectures frequently at planning and law conferences on this subject.
- We are unaware of any other similarly sized community in Oregon that has produced a buildable lands analysis as detailed and rigorously reviewed and tested as McMinnville's. This inventory process employed the latest aerial and GIS mapping technologies available to the City; each of the more than 9,000 parcels in the McMinnville urban area was inventoried and field checked for accuracy; each of the "partially developed" parcels identified was individually "shadow platted" to determine the amount of additional developable land that may be available.

***It is a Plan that has been responsive to objections.***

- All of the objections filed by 1000 Friends of Oregon, Mr. Mark Davis, and the Community Development Law Center, which now appear before the LCDC, have been raised and answered—most on numerous occasions—at the local level by each of the five bodies that reviewed this Plan. None of these objections is new. Each has been respectfully and fully considered, and, based upon the evidence in the record, not supported by the City of McMinnville.
- The DLCD staff that reviewed the objections filed by 1000 Friends of Oregon, Mr. Mark Davis, and the Community Development Law Center did not attend a single public hearing held on the Plan, nor, apparently, did they review prior to the drafting of their staff report some of the documents that are part of the public record and on which findings in the Plan are based ("McMinnville Parks, Recreation and Open Space Master Plan" for example). The DLCD staff have also recently (since the adoption of the Plan by the City) shifted positions on population and persons-per-household—positions that up until April 1, 2004, were publicly supported by that agency (no less than five different staff persons, two directors, and one interim director), and on which the land needs analysis is based.
- On June 4, 2003, the City provided notice of this Plan's adoption to DLCD, some 50 days in advance of the first public hearing held on the Plan, consistent with the requirements of the

post-acknowledgment plan-amendment process. Prior to the first hearing, DLCD staff offered comments, which were addressed by City staff and review bodies at the hearings held on the Plan. The City assumed that DLCD's comments were based on their thorough review of the Plan. Because issues raised by DLCD in prior years were not referenced as objections in their last letter to the record, nor in their oral testimony provided at the final public hearings, the McMinnville and Yamhill County review bodies believed that all of DLCD's objections had been satisfactorily addressed. Several of the objections now raised by DLCD for their Commission's consideration—population, persons-per-household, rezoning of certain properties—were not shared with the McMinnville City Council during its deliberations. This occurred despite the fact that DLCD was afforded time to review and draw their own conclusions regarding the Plan, and that these same objections now offered by 1000 Friends were discussed during the City's review process.

- McMinnville has been endlessly responsive to objections raised. The debate continues for two reasons. The first is inappropriate: DLCD staff failed to raise clearly and in writing its objections in a timely manner. Moreover, in phone calls and meetings from City staff throughout this long process requesting examples of acceptable analysis from other plans or a clear explication of required changes or minimum standards, the City got little more than a statement that no guidance could really be given until the plan in its entirety could be reviewed by staff. The second reason the debate continues is appropriate: McMinnville's response to some objections is that it does not agree, and it provides its reasoning. The objectors do not find the reasoning persuasive and continue to object. That is understandable; in fact, it is inevitable. McMinnville has run an open and inclusive process and reduced all the disagreements about its 20-year plan and process to the dozen or so key ones now in front of the Commission.

***It is a Plan that has been coordinated with other local, County, and State planning efforts.***

- The Plan's parkland projections are based upon information and findings contained in the City's adopted "Parks, Recreation, and Open Space Master Plan." This plan involved the input of over 500 McMinnville residents.
- The Plan's school land needs are based upon input provided by School District 40 Superintendent, Ms. Elaine Taylor, and their adopted facilities plan.
- The Plan's population forecast has been coordinated with Yamhill County, and was, from 1998 to April 1, 2004, supported by DLCD staff.
- The Plan's vacancy rate and persons-per-household assumptions were supported, from 1998 to April 1, 2004, by DLCD staff.
- The Plan has been reviewed by the Oregon Department of Transportation, which has offered guidance as to their ability to serve certain non-resource areas (Bunn's Village; Old Sheridan Road).
- The Plan is consistent with the recommendations and findings of the adopted "McMinnville Downtown Improvement Plan," the "McMinnville Public Facilities Plan," and "Highway 18 Corridor Refinement Plan."

***It is a Plan that uses conservative— in some cases, overly conservative— assumptions for purposes of forecasting future growth and land needs.***

- The Plan's population forecast is a simple compounding of an annual 2.2 percent growth rate over the 20-year planning period<sup>1</sup>. Behind that simplicity is an extensive technical analysis and political debate about an appropriate growth rate for the forecast. The rate eventually chosen by the City Council—for the choice of a rate and forecasting method is as much a policy decision as it is a technical one, once a reasonable range of possible forecasts has been established—is about one-half the rate experienced by McMinnville in the preceding decade. It is also nearly one percent less than the rate experienced over the city's prior 100-year history. This forecast was, from 1998 until April 1, 2004, supported by DLCD staff; it has continuously been supported by Yamhill County with whom this effort has been coordinated.
- Both standard technical practice and Oregon law could have supported a much higher forecast. A higher forecast would have required McMinnville to bring even more land into its UGB: an amount of land in excess, probably far in excess, of the amounts of land that objectors are trying to get removed from the proposed UGB based on arguments about housing mix, density, parkland, and so on. The main reason for the City's decision to go with the lower growth rate was to be consistent with the County coordinated forecast.
- The Plan's buildable lands analysis assumes that *all* partially vacant land will develop over the course of the planning period. For that assumption to be realized, land partitioning will have to occur at levels unprecedented in McMinnville's history. Further, it is important that the Commission understand what has been included as "partially vacant" land. In this Plan's analysis, such land includes the vacant backyard area of every parcel in McMinnville that is at least twice the size of the minimum lot size of the zone in which they are located, and on which there exists a housing unit. To obtain this figure, the City "shadow platted" each and every such parcel, drawing assumed "partition" lines using minimum setback standards to define their location. Practical experience would lead a reasonable person to conclude that this method of inventory inflates the final supply figures significantly; at a minimum, the likely direction of any error is clear: supply is overstated.
- The Plan's parkland projection includes land for only three of the seven park types identified in the City's adopted "Parks, Recreation and Open Space Master Plan." Those park types not included in this analysis—mini-parks/playlots, special use parks, trails and connectors, and linear parks—exist in McMinnville and will continue to develop during the planning period. They will consume land not presently accounted for in this analysis.
- The Plan proposes to increase its historical density by more than 18 percent during the planning period. This increase is stacked upon the Plan's recent development densities, which reflect a time in the City's history in which unprecedented multi-family housing construction activity occurred.

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<sup>1</sup>: "McMinnville's population forecast was updated using the 2002 PSU population estimate of 28,200 as the base and applying a 2.2 percent average annual growth rate (the same growth rate accepted by Yamhill County and DLCD in the prior analysis) through the year 2023." (MGMUP, Appendix A, Page A-4).

***It is a Plan that features an urban form defined by natural and physical edges, compact development, walkable neighborhoods, transportation and housing choices, and downtown investment and redevelopment.***

- The Plan proposes to contain urban expansion within the rivers and creeks, and major highways that provide an edge and give identity to McMinnville. To spill beyond these boundaries—to include areas such as Bunn's Village or Westside Road, for example—places future urban development in areas prohibitively expensive to serve and in conflict with adjacent agricultural practices, as extensively documented in the Plan. The Plan also directs development away from areas of natural or man-made hazards, such as floodplains and the airport and weapons-training facility.
- The Plan proposes to accommodate much of its future residential and commercial land needs in four "Neighborhood Activity Centers." These are compact, mixed-use, walkable areas within which would be contained neighborhood commercial uses, public parkland, transit facilities, and a mix of housing. These developments model the principles contained in the Transportation and Growth Management's "Commercial and Mixed Use Development Code Handbook."
- This Plan is consistent with the objectives of the State's Executive Order No. 97-22 that directs Oregon communities to promote compact development within urban growth boundaries to minimize the costs of providing services and infrastructure and to protect resource land outside urban growth boundaries.

***It is a Plan that reduces urban expansion through its aggressive application of growth management policies and practices.***

- The Plan proposes to add to the City's already expansive list of efficiency measures (see MGMUP, page 5-25) such that land need is reduced by an estimated 225 acres.

***It is a Plan that can be amended, should long-range forecasts or assumptions prove inaccurate.***

- The Plan and its long-range forecasts are based upon a rigorous review of national, state, and local demographics and trends expected to shape McMinnville during the planning period by recognized experts in the fields of housing and economics. These forecasts and assumptions have undergone extensive public review and debate, and have been further tested and refined as a result of that process and the input received from professional staff, consultants, and citizens that possess extensive knowledge of the city's political, social, and physical landscape and Oregon planning law. Even so, some (probably most) of these assumptions and resulting forecasts, or those advanced by objectors to this Plan, will become increasingly at odds with reality over the course of the projected planning period. Any reputable forecaster should acknowledge that point, which derives from the inherent complexity and uncertainty of the systems we are trying to forecast.
- The State planning process recognizes the inherent difficulty in planning with accuracy over such a long range and has established in law periodic review, "PAPA," and other similar planning processes to allow for reassessment of these forecasts. This Plan would be bound by such laws and subject to periodic review and monitoring.

**CITY OF MCMINNVILLE RESPONSE TO 1000 FRIENDS LETTER OF MAY 12, 2004**

No.	Objection: "There is <u>no</u> evidence in the record to support the City's statement that [...]"	Record Reference	Notes
1	... some parkland located in the floodplain sustained damage in the 1996 floods.	Parks Master Plan p. 14, last paragraph ("Recent flood damage has been repaired...").	The City's reference to flood damage was in response to a question posed by Chair VanLandingham (see LCDC minutes from April 21-23, page 20, 284.
2	... It is City policy to not include wetlands or floodplain in neighborhood and community parks.	LUBA record p. 169-170; Minutes, joint public hearing, August 12, 2003.	
3	... including unbuildable land in neighborhood and community parks would be inconsistent with the city's adopted plans.	Parks Master Plan: Master Plan Map, and Table I; Minutes, joint public hearing, August 12, 2003. Also, see Note #1.	Of all the community and neighborhood parks shown on the Parks master plan, only one is located near an identified floodplain.
4	... resource land in floodplains currently being farmed would likely be included in the city limits because of transfer of development rights would result in higher density in the buildable portions of these resource areas.	McMinnville Zoning Ordinance (ORD 3380) Section 17.48 Flood Zone Area	
5	... the City's analysis included the construction of ADUs in the R-2 zone.	MGMUP, Page 5-16 (3rd paragraph); MGMUP, Table 16, p. 7-28	As an "efficiency measure," the MGMUP allocates 200 ADUs within residential zones.

**CITY OF MCMINNVILLE RESPONSE TO 1000 FRIENDS LETTER OF MAY 12, 2004**

No.	Objection: " <u>There is no evidence in the record to support the City's statement that [...]</u> "	Record Reference	Notes
6	... there have been only a small number of duplexes built in the R-2 zone since 1988.	BLI p. 4-4 Table 4-3; p. 4-5 Table 4-4; and, 4-9 Table 4-8	The City has not had benefit of reviewing the tapes from the April 22, 2004 hearing, but believes that our statement was in reference to the number of duplexes that may have been built in an R-2 zone that replaced an existing single-family home. Even so, the record is clear that of the 3,320 dwelling units constructed from 1988 to 2000, 6.2 percent were duplex housing. Arguably, even if these were all allocated to the R-2 zone, it is a "small number."
7	... because the City allows density averaging through the PD process, multi-family housing approvals in the R-2 zone do not result in increased overall density.	April 9, 2004, Exceptions to Objections Raised, p. 7	Through the PD process, the City has approved the use of density averaging. In those cases, single-family housing lot sizes average the minimum lot size of the zone; the entire development, if located in west McMinnville, will be permitted a density maximum of six dwelling units per acre, a cap imposed by McMinnville Plan Policy 71.01. These developments do not result in an overall density greater than that permitted by policy.

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**CITY OF MCMINNVILLE RESPONSE TO 1000 FRIENDS LETTER OF MAY 12, 2004**

No.	Objection: "There is <u>no</u> evidence in the <u>record</u> to support the City's statement that [...]"	Record Reference	Notes
8	... is described on page 7 of the City's exception to the DLCD staff report regarding the number and location of multi-family projects constructed in the R-2 zone between 1988 and 2000.	LUBA record p. 268-406 (Residential Land Inventory), 771 (Zoning Map), and p. 775 (Historic Residential Development Activity)	
9	... areas in the hills west of McMinnville were not included in the UGB are at elevations well beyond the planned service levels of water and other urban services.	MGMUP p. C-116, C-118, C-120, C-124, C-125, C-130, C-131, C-135; LUBA Record p. 634, 773; BLI p. D-1;	
10	... the description of soil types of land in the hills west of McMinnville is accurate and is in the record.	Soil class maps submitted at joint public hearing by 1000 Friends on August 4, 2003	
11	... the MGMUP describes why its UGB proposal does not include the Class IV soil lands east of the airport.	Findings document p. 50-52	
12	... the areas of Class IV soils east of the airport are in close proximity to an area used for day and night time training of SWAT and police personnel from the region.	City staff "Response to Comments Received" Memo, p. 19, item 5 (submitted at Aug. 12, 2003, joint public hearing) Findings document p. 50-52; and, Soil class maps submitted at joint public hearing by 1000 Friends on August 4, 2003.	

**CITY OF McMINNVILLE RESPONSE TO 1000 FRIENDS LETTER OF MAY 12, 2004**

No.	Objection: "There is no evidence in the record to support the City's statement that [...]"	Record Reference	Notes
13	... less than 30 acres of Class I soil are proposed for inclusion in the amended UGB.	City staff "Response to Comments Received" Memo, p. 19, item 5 (submitted at Aug. 12, 2003, joint public hearing); Soil class maps submitted at joint public hearing by 1000 Friends on August 4, 2003	
14	... the largest concentration of Class I soils are found within the Westside Road exception area.	MGMUP p. C-213; Friends misquotes the Exception -- actual language states "Isolated pockets of soil capability class I land are found in the area of the Westside Road sub-area, [...]" p. 22	Based upon observation of soil maps submitted by 1000 Friends on August 4, 2003.
15	... the only evidence on household size 1000 Friends entered into the record was 2000 census data.	1000 Friends submitted census data from the years 1980, 1990, and 2000.	This data, as submitted by 1000 Friends in the local record, was considered by five separate local reviewing bodies. The City, based upon this and other demographic factors and analysis, adopted a persons-per-household assumption of 2.54 (see MGMUP, page 2-2).
16	... 1000 Friends recommended using the time period 1988-2000 to analyze household size.	DLCD Memorandum, March 30, 2004, p. 21.	



# CITY OF McMINNVILLE RESPONSE TO 1000 FRIENDS LETTER OF MAY 12, 2004

No.	Objection: "There is <u>no evidence in the record to support the City's statement that [...]"</u>	Record Reference	Notes
17	<p>... the City's conclusions regarding the impact of household size on land need are accurate.</p>	<p>2000 Census data submitted by 1000 Friends; and, MGMUP, Appendix B (page B-7)</p>	<p>1000 Friends submitted 2000 Census data from which persons-per-household information is available. Using this data, and the methodology described in Appendix B of the MGMUP (page B-7), the City determined the impact on land need.</p>
18	<p>... increases in persons-per-household due to a growing Hispanic population will be offset by other demographic trends, and that the household size will drop from 2.66 to 2.54.</p>	<p>MGMUP, page 2-2</p>	
19	<p>... the county population is declining, as described in the City's exception to the DLCDC staff report (page 3).</p>	<p>DLCDC staff did not raise this issue at the local level and so the City did not have an opportunity to directly respond to this objection when the local record was open. The City is now attempting to respond to the issue as raised by DLCDC staff and 1000 Friends through this LCDC review process.</p>	<p>DLCDC had supported the City's population projection in all previous official correspondence. Regardless of this, it doesn't change the fact that the City's population forecast is based upon an annual growth rate of 2.2 percent, as documented in Appendix A (page A-4) of the MGMUP.</p>

**CITY OF McMINNVILLE RESPONSE TO 1000 FRIENDS LETTER OF MAY 12, 2004**

No.	Objection: "There is no evidence in the record to support the City's statement that [...]"	Record Reference	Notes
20	... there are no traffic impacts related to the development of two parcels rezoned by the City as part of its "efficiency measures," based upon a recently completed traffic impact analysis.	This is new information and was not available prior to the close of the local record.	

**NOTES:**

- Footnote 1 in 1000 Friends of Oregon's letter of May 12, 2004, references a statement from page E-12 of the MGMUP. It is taken out of context and does not reflect the meaning of the entire statement, nor does it reflect an understanding of the physical conditions present. The statement in the MGMUP states: "A community park should be located adjacent to the proposed elementary school site and, to the extent possible, incorporate identified wetland corridors to connect to other residential neighborhoods to the east." Those that have walked this area know of these wetland corridors and their narrow width, which it is important to note, were included as "vacant buildable land" on the City's buildable lands inventory.

CT

TR

Mark Davis  
652 SE Washington Street  
McMinnville, OR 97128

DEPT OF

SEP 07 2004

LAND CONSERVATION  
AND DEVELOPMENT

September 3, 2004

Lane Shetterly  
Department of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

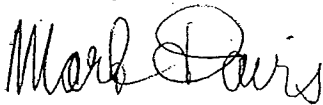
Re: Summary of Argument for September 10 Hearing

Dear Mr. Shetterly:

Thank you for your letter of August 6<sup>th</sup> explaining the procedures to be followed in the continuation of the hearing for the McMinnville Urban Growth Boundary expansion. I would like to take advantage of your offer to submit the enclosed summary of my arguments.

Thank you for the time spent reviewing my previous comments and for giving this summary the same careful consideration.

Sincerely,



Mark Davis

Enclosure

cc: City of McMinnville  
Miller Nash LLP  
Community Development Law Center  
1000 Friends of Oregon  
EcoNorthwest

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**Summary Arguments**  
**McMinnville Urban Growth Boundary Expansion**  
**Park Land Issue**  
By Mark Davis

**The Big Picture**

In considering how much land is needed for parks it is instructive to look at Table 12 of on page B-15 of the appendices of the McMinnville Growth Management and Urbanization Plan. More than 30 % of the buildable land to be brought into the City is for parks. If you consider that the Parks Master Plan calls for sharing of needed land between the schools and parks, then some of the 96 acres of school land identified in Table 12 could also meet the City's park need. This means nearly 40 % of the 1035 acres shown in Table 12 have a potential to meet the City's declared park need.

I have supported increasing the number of parks in McMinnville, but to insist that 314 acres of *buildable* land must be used to create them denies the historical record, the Parks Master Plan, economic reality and common sense.

**Justification for Park Land**

In making any of the projections needed in this UGB study, the City has relied either upon a historical analysis or made the case that alternative circumstances will cause the future to vary from the past (or some combination of these two). Below is a short summary of what the record indicates regarding park land need:

Historical Analysis: The record shows that 52.11 % of all parks in McMinnville are in the floodplain (34.34 % of Greenways/Greenspaces and 64.63 % of Community

Parks). Using this historical percentage reduces the buildable land needed for parks by 137 acres.

Alternative Analysis: Outside of 55 acres for Greenways/Greenspaces, the City's alternative analysis rejects the use of any of the 600+ acres of constrained land included in the proposed UGB (e.g., floodplains, slopes) for use as parks. They claim the Parks Master Plan insists upon using only buildable land for Community Parks even though the Plan states that floodplains can be used "if facilities are to be located above the 100-year flood elevation." Park Plan implementation was estimated to cost \$52 million in 1998, but the only funding the City cites to carry out the plan is a 20-year parks bond for only \$9 million. The City's alternative for 314 acres also ignores the already implemented Parks Plan recommendation of sharing park facilities with the school district and Linfield College.

### **Conclusion**

The historical record calls for a reduction in the land need for parks by 137 acres. The City's adopted alternative reflects perhaps an ideal of using only buildable land, but it flies in the face of the adopted Parks Master Plan and economic reality. When you are trying to justify the implementation of a 20-year supply of park land that the City must purchase and construct to the tune of more than \$50 million, citing as justification a \$9 million bond levy over that 20-year period is woefully inadequate. In addition, the alternative does nothing to address sharing of facilities with others.

Given these facts, the appropriate action is a remand of the park land issue as recommended by the DLCD staff memo of April 20, 2004 in VII. B. 1. f) on page 30.



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DEPT OF

SEP 07 2004

LAND CONSERVATION AND DEVELOPMENT

1000 FRIENDS OF OREGON SUMMARY OF ARGUMENTS

LAND CONSERVATION & DEVELOPMENT COMMISSION  
DATE: 9/10/04  
PAGES: 30  
SUBMITTED BY: 1000 Friends Oregon

McMinnville has a total of 1,310 gross buildable acres within its existing Urban Growth Boundary (UGB).<sup>1</sup> McMinnville has amended its UGB to include an additional 1538 acres of land, most of which is prime farmland. There are only 2 larger UGB expansions in state history that we are aware of, Brookings and Metro, and we are not aware of any UGB expansion that has included this much farmland. It should therefore not surprise the City to find that Department and interested parties have reviewed their proposal with a high level of scrutiny.

McMinnville has overestimated and miscalculated both its land needs and the capacity of land in its existing UGB to meet those needs. As a result, the expansion contains hundreds of acres of extra land that have not been justified.

The City has included hundreds of acres of farm land that are currently in production but are located in the floodplain and thus are unbuildable.<sup>2</sup> The City's findings do not identify these acres as meeting any identified land need. This land is on the outer edges of the expansion areas, beyond the areas proposed for urban uses. Therefore, of the 1,538-acre expansion, only 880 acres are buildable.<sup>3</sup> The unbuildable farm land in floodplains should not be included.

<sup>1</sup> MGMUP, P. B-22 Table 20

<sup>2</sup> The City's analysis maps these areas but provides no acreage total.

<sup>3</sup> MGMUP, p. C-206 Table 17

The City also has included hundreds of acres of Class I and II soils and other high-value farmland and excluded exception lands and resource lands with lower capability soils.<sup>4</sup>

Finally, the City has failed to adopt plan amendments and implementation measures upon which its Urban Growth Management Plan and UGB expansion are based. Instead, it has adopted implementation measures that are: a) internally inconsistent; b) inconsistent with goal requirements; and c) inconsistent with the findings used to justify the UGB expansion.

These actions violate statutes, goals, and rules.

## I. Issues Relating to Needs Analysis

### A. Parkland projections

An exceptionally large portion of the City's UGB expansion is for parkland, almost 30% of all gross buildable land included in the UGB expansion is for parks.

The City has included park land in the category of buildable residential acreage but has not adopted any land use measures to protect this acreage for eventual park use, nor has the City proposed any funding mechanism to purchase this many buildable acres of parkland.

We do not dispute the projected need for additional parkland. We *do* dispute the assumption that no portion of Neighborhood and Community Parkland needs can be met on unbuildable lands, including within the floodplain or other unbuildable land.

The McMinnville Growth Management and Urbanization Plan (*MGMUP*) and the *Housing Needs Analysis (HNA)* ignore the fact that nearly 65% of McMinnville's

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<sup>4</sup> The City's analysis maps soils but does not quantify acres by soil-type or Class.



current Community Park parkland needs have been met in floodplain. Instead, it calculates all Neighborhood and Community Park needs as requiring buildable lands. At the hearing on April 22, the City asserted that including unbuildable land in neighborhood and community parks would be inconsistent with the city's adopted plans. This assertion is false. In fact, the McMinnville Growth Management and Urbanization Plan, which is in the record, explicitly calls for *inclusion* of unbuildable land in **community and neighborhood parks in specific locations.**<sup>5</sup>

At the hearing on April 22, the City also claimed that it is city policy not to include wetlands or floodplain in neighborhood or community parks. In fact, the local record shows that the City recently passed a bond measure to begin implementation of the adopted parks plan. The first major project funded under that bond measure was a large expansion of an existing park into floodplain.

Finally, at the hearing, the City stated that the 1996 floods damaged some fields in a portion of the parkland located in floodplain. There is no evidence in the local record to support this assertion, nor is there any evidence in the record to support the conclusion that such damage, if in fact it occurred, was anything more than minor damage.

By assuming that neighborhood and community parks will use land less efficiently than they have in the past **the City inflates residential land needs by approximately 94 gross buildable acres.**<sup>6</sup> This assumption is inconsistent with Factor 4 of Goal 14, ORS 197.732(1)(c)(B), and Goal 2, Part II(c)(2).

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<sup>5</sup> MGMUP: Page E-12, "A community park should... incorporate identified wetland corridors" Page E-13, "A neighborhood park should be located adjacent to the South Yamhill River." Page E-14, "... a neighborhood park should be located within the central portion of the [SW] sub-area... The wetland areas should be incorporated into the park, as practical."

<sup>6</sup> The City UGB expansion includes 207 acres of buildable land for Neighborhood and Community Parks. (MGMUP p. B-26 Table 23).  $207 \text{ acres} \times 65\% = 135 \text{ acres}$ .

For these reasons, the Commission should accept the Department's recommendation to remand Task 1 and the UGB amendments for reconsideration of land need.

### B. Employment Land

The ratio of buildable land required to accommodate a given amount of building space is a key component in determining future employment land needs. 20,000 square foot of floor space in a one-story building that covers  $\frac{1}{4}$  of a lot will require four times as much land as the same amount of floor space in a two-story building that covers  $\frac{1}{2}$  of a lot. The ratio of land to floor area is commonly referred to as Floor Area Ratio or FAR. In the examples above, the first building has an FAR of .25, the second one has an FAR of 1.0.

The City's projections of land need assume employment uses will use land extremely inefficiently. Overall, the City assumes that about 366.7 acres of gross buildable land will be needed to accommodate 65.6 acres of floor space. (Findings Table 8, p. 13).<sup>7</sup> This is an average Floor Area Ratio only .179, which is lower than the FAR of McMinnville's Wal-Mart.

The City assumes very low FARs of .177 for commercial and office uses, .164 for industrial uses, and .321 for public uses. As your staff points out, even auto-oriented retail typically uses land more efficiently than the city's overall average projection.

The City's decision to project employment land needs based on extremely inefficient FAR's is in direct conflict with the text of the *Economic Opportunities*

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<sup>7</sup> McMinnville projects a need for 2,856,796 sq. ft. of building space. There are 43,560 s. ft. in an acre.  $2,856,796 \div 43,560 = 65.58$  acres.  $65.58 \text{ acres} \div 366.7 \text{ acres} = .179$

*Analysis* (EOA) adopted by the City, which states: "The ratio of building floor area to site area (FAR) typically ranges from .35 for industrial/flex buildings to .50 for office buildings."<sup>8</sup>

In other words, the City decided without explanation that the projected need for roughly 650,000 sq. ft. of office space will require nearly triple the amount of land that its own EOA says is typical. The record contains no factual basis to support the ratios of land to building space assumed in the analysis. **These extremely low Floor Area Ratios violate Factor 4 of Goal 14, ORS 197.732(1)(c)(B), and Goal 2, Part II(c)(2).**

**As detailed in our objections, the City's decision to not project employment land needs based on Floor Area Ratios it elsewhere cites as typical inflates employment land needs by a total of 194 gross buildable acres.** For these reasons, the Commission should accept the Department's recommendation to remand Task 1 and the UGB amendments for reconsideration of land need.

#### C. Household Size

Projected household size is a key component of determining future residential land needs. 1500 people at 3 persons per household will require 500 housing units and a corresponding amount of land. The same number of people at 2 persons per household will require fifty percent more housing units - 750- and a correspondingly greater amount of land. A relatively small change in projected household size can result in a very large difference in projected land needs.

As we point out in our objections, McMinnville has a 20-year trend of increasing household size and the rate of increase has been accelerating. In 1980 McMinnville's

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<sup>8</sup> *Economic Opportunities Analysis*, p. 6-17

average household size was 2.48. In 1990 it was 2.54. By the 2000 census average household size in McMinnville had risen to 2.66 persons per household.

If the rate of increase remains constant, McMinnville will have an average household size of 2.90 in 2020. Instead, the City based its residential land needs on an assumed average household size of 2.54 persons per household. **Compared to existing trends, the city's decision inflates projected land need by 131 gross buildable acres at the city's assumed overall densities.**

In justifying this assumption the City found that *"the 2000 Census will likely show a noticeable decrease in the persons per dwelling unit."* (Findings p. 114, Emphasis added). The City adopted this finding in 2003. We had submitted into the record the 2000 census data showing that average household size had shown a noticeable increase, not decrease. There is no substantial evidence to support the City's determination of future household size. Therefore, its decision fails to accurately analyze and calculate the number of dwelling units and the types and densities of housing that will be needed, in violation of ORS 197.296(3), ORS 197.303, Goal 10, and OAR chapter 660, division 008.

For these reasons, the Department's original recommendation was to remand Task 1 and the UGB amendments for reconsideration of land need with directions to:

"Amend the Housing Needs Analysis employ the year 2000 household size of 2.66 persons per household or justify why this factor should be reduced to 2.54."

The Department changed its recommendation in response to several false assertions in an exception filed by the City. The City's exception (pp.4- 6) states that the only evidence on household size 1000 Friends entered into the record was 2000 census

data and that 1000 Friends recommended using the time period 1988- 2000 to analyze household size. These assertions are false. We entered extensive evidence into the record from the 1980, 1990, and 2000 censuses related to McMinnville and many other similar cities in the Willamette Valley and submitted an extensive analysis of household size using three sets of census data from 1980, 1990, and 2000.

The City's exception (p. 5) states that the McMinnville Housing Needs Analysis (pp. 5-4 through 5-8) documents that increases in persons per household due to the City's growing Hispanic population will be offset by other demographic trends and that household size is therefore assumed to drop from the 2000 Census figure of 2.66 to 2.54. This assertion directly contradicts the city's adopted findings, which fail to acknowledge the 2000 census data. Moreover, contrary to the city's claim in its exception, neither the portion of the record cited by the City nor any other portion of the Housing Needs Analysis acknowledges the City's growing Hispanic population.

The Department's original recommendation was correct. The Department changed its recommendation in response to several false assertions in an exception filed by the City. The City's finding on household size is contrary to the evidence in the record and is therefore unjustified. Therefore, the Commission should adopt the Department's original recommendation.

D. Boundary amended to include hundreds of acres of land that cannot meet identified needs.

Within three of the five resource sub-areas proposed for inclusion in the UGB, the City has unnecessarily included large areas that cannot reasonably accommodate identified needs. The City classifies all land in floodplains as unbuildable. Nonetheless,

the City proposes to extend the UGB *beyond* the buildable portions of the Three Mile Lane, Norton Lane, and Grandhaven sub-areas to include hundreds of unbuildable acres of *prime farmland* located in the floodplain. In each instance, the buildable areas are adjacent to the existing UGB and inclusion of these extra acres of farmland is neither justified nor necessary.<sup>9</sup> These extra acres constitute over a third of the 1144 acres of farmland included within the expanded UGB.<sup>10</sup>

With respect to the Three Mile Lane and Norton Lane areas, the Department recommends that the Commission remand Task 1 and the UGB amendments for reconsideration of land need with directions to:

“Delete the unbuildable floodplain portions of the Three Mile Lane and Norton Lane areas or justify the need for these lands for urban uses under Goal 14, factors 1 and 2.”

At the hearing on April 22, the City for the first time asserted that resource land that is currently being farmed might be included in the city limits because transfer of development rights from unbuildable land would result in higher density in the buildable portions of these resource areas.

The City has not previously advanced this argument, nor did they raise it in their adopted findings. Since the City does not assign development rights to unbuildable land, there will be no development rights to transfer. Therefore, their argument is spurious. Nonetheless, if inclusion of unbuildable farmland will result in higher residential densities elsewhere than would otherwise be allowed, less of the buildable farmland will be needed to accommodate residential needs. The decision should be remanded so that

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<sup>9</sup> See *MGMUP*, Figures 73, 77, 85, 109 at pages C-147, C-152, C-163, and C-197

<sup>10</sup> See *MGMUP* p. C-206, Table 17. 443 acres are in floodplain of these 3 areas are classified as constrained or developed. These 3 areas have only 23 existing structures, *MGMUP* pages C-147, C-152, C-163, C-197

the size of the UGB expansion can be reduced accordingly. In addition, if the buildable lands are capable of achieving higher densities through TDRs, then the City should upzone them accordingly. There is no need to include unbuildable farm land to achieve those densities.

With respect to the Grandhaven area, which is predominantly Class II farmland, the Department argues “only a small fraction of the Grandhaven area is in the floodplain” and refers to a general city-wide map. The much more detailed maps and tables specific to the Grandhaven area show that floodplain equals about 40% of the total area, approximately 90 acres. (MGMUP, p. C-194, p. C-198). These floodplain acres cannot meet identified land needs and should not be included in the UGB.

For these reasons, the Commission should remand Task 1 and the UGB amendments for reconsideration of land need with directions to:

“Delete the unbuildable floodplain portions of the *Grandhaven*, Three Mile Lane and Norton Lane areas or justify the need for these lands for urban uses under Goal 14, factors 1 and 2 *and reduce the overall size of the UGB expansion to reflect the accommodation of urban uses on these lands.*”

E. Buildable Lands Analysis Understates Development Potential,

Projected Residential Density is too low (R-2 land).

The Revised Buildable Lands Analysis is based on calculations that development in the future will occur at densities lower than the historical average in the R-2, R-3, and R-4 zones. Even though the City is planning for a small increase in overall density, the City’s adopted findings do not explain why development in these *specific* zones is expected to occur at lower densities than the past. As a result, the city has *underestimated* the development capacity of existing urban land in these zones and *overestimated* the amount of new land in these zones that will be needed to meet future

growth. These assumptions fail to comply with factor 4 of Goal 14, Goal 2, Goal 10, and ORS197.303 and 197.296.

There is no factual basis for these assumptions. The City has not amended its code to restrict the allowed uses in these zones in a manner that would reduce the likely density of future housing. Neither the plan nor the City's findings advance any argument as to why it believes development is likely to use land less efficiently than it has in the past. On the contrary, the City has added accessory dwelling units (granny flats) as an allowed use. This will *increase* the capacity of land within these zones, not decrease it.

As we detail in our objections, **the presumed drop in density within these zones inflates the UGB expansion by at least 72 gross buildable acres, compared to historical density.** The City's findings and the MGMUP present no rationale for assuming the future drops in density in the R-2, R-3, and R-4 zones.

#### R-2 zone

The city's unexplained assumption that future development in certain specific zones will in the future use land less efficiently is particularly unreasonable in the R-2 zone. Historically, 38% of all units built in the R-2 zone have been attached housing or multi-family (545 units out of 1,448 total units). However, here the City projects *all* new future housing in the R-2 zone to be single-family detached homes or manufactured homes in subdivisions.<sup>11</sup> As noted above, the City has not amended its code to restrict the allowed uses in the R-2 zone in a manner that would reduce the likely density of future housing. On the contrary, the City has amended its regulations to allow accessory dwelling units in it, which will have the affect of increasing density over historical patterns. **It is not reasonable to assume that the number of multi-family and**



**attached housing units built in the R-2 zone will drop from 545 over twelve years to 0 over twenty years.**

The Department recognizes the unreasonableness of this assumption regarding redevelopment and recommends the Commission remand the Buildable Lands Analysis for the city to consider redevelopment potential in the R-2 zone for multiple family dwellings. Since it is implausible to assume that no *redevelopment* with multi-family housing will occur within the R-2 zone, it is even more implausible to conclude that no new development of multi-family or attached housing will occur on *vacant* land in the R-2 zone.

Moreover, within the new R-5 zone, advanced by DLCD as a potential theory for the drop in density within the R-2 zone, the City only has only projected apartments. It does not project any attached housing.<sup>12</sup> The new R-5 zone cannot explain the assumption that zero attached housing units will be built in the R-2 zone over the next twenty years.

At the hearing on April 22, the City stated orally that there have been only a small number of duplexes built in the R-2 zone since 1988. There is no evidence in the record to support this allegation. In fact, while the record does not indicate how many duplexes have been constructed in the R-2 zone, the record does show that between 1988 and 2000, 228 single-family attached units, which includes duplexes, were constructed in the R-2 zone. An additional 317 multi-family units were constructed in the R-2 zone over the same period.<sup>13</sup>

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<sup>11</sup> MGMUP, p. B-10, Table 8

<sup>12</sup> MGMUP, p. B-10, Table 8

<sup>13</sup> Housing Needs Analysis, p. 4-9, Table 4-8

The City allows multi-family housing in the R-1 and R-2 zones through a Planned Development process. The City stated orally on April 22 and in its exception (p. 7) that because this process entails averaging of densities, multi-family housing approvals in the R-2 zone do not result in increased overall density. This new assertion is in direct conflict with the City's adopted findings and Housing Needs Analysis, which state:

"Analysis of the data... indicate that the R-2 zone achieved densities that actually outperformed it's own maximum allowable density by 5%... **This density overachievement is due to the development of multi-family homes in the R-2 zone as made possible through the flexibility afforded by application of the city's Planned Development review process.**"<sup>14</sup>

The city's projected drop in future density within the R-3 and R-4 zones is also unjustified for the reasons detailed in our objections and exceptions, although the impact on the overall size of the UGB expansion is small.

#### F. Housing Needs Analysis

The City's Housing Needs Analysis is inadequate. DLCD, 1000 Friends, and low-income housing providers raised this issue during the local proceedings.

The City's analysis fails to correlate projected incomes with needed housing-types and density. It identifies a special housing need for thousands of people, including farm workers, government-assisted housing, and other specific populations, but fails to plan to meet those needs. It relies on an ineffective "trickle-down" theory that assumes new housing will only be affordable to High Income and Upper Middle Income households and that the housing needs of all other households will be met by "used housing."

McMinnville is required to determine, plan, and zone for the full range of housing types to meet the need shown for housing at particular price ranges and rent levels. ORS 197.303, 197.296, Goal 10, OAR ch. 660, div. 008. However, the City has not correlated

future income levels with housing need to make conclusions about needed housing types and densities, and land. In addition, the City has failed to project the type and density of government-assisted and farmworker housing that will be needed.

The Department erroneously concluded that the city compared the forecasted ability to pay for housing with housing costs to determine the needed housing mix in Tables 5-19 and 5-22 of the Housing Needs Analysis. (Response to Objections, p.45.) These tables do **not** compare the forecasted ability to pay for housing with housing costs or consider future trends. The tables *only* consider year 2000 income levels and housing costs. Table 5-22 also assumes that only High Income and Upper Middle Income households can afford new housing, and that the housing needs of all other households will be met by “used housing,” as higher income households “move up.”

The City forecasts a significant job shift from higher-paying jobs in the manufacturing sector to lower-paying jobs in the retail and service sectors.<sup>15</sup> The City’s Housing Needs Analysis concludes that this trend “will reduce household’s ability to purchase housing and could increase the affordability gap,” but it does not consider the resulting implications for needed housing.

The record also documents the rapidly increasing share of McMinnville’s population that is Hispanic. The City’s Economic Opportunity Analysis states that:

“Hispanics earn less than other groups. According to the Oregon Employment Department, ‘there is little doubt that in Oregon, Hispanic income levels are lower than those for other Oregonians.’”<sup>16</sup>

The City’s Housing Needs Analysis fails to identify or consider this trend and its implications for needed housing.

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<sup>14</sup> Findings, p. 96, and Housing Needs Analysis, p. 4-5

<sup>15</sup> BOA, p. 5-9

Finally, the Housing Needs Analysis identified and quantified several “special populations” and concludes that they have housing needs distinctly different than the general population. Yet, the City acknowledges that it did “not attempt to estimate the number or types of units needed to house individuals with special housing needs.”<sup>17</sup>

*Under statute and Goal, the city cannot identify and quantify a population with distinctly different housing needs and then fail to provide for it, especially when that population will comprise a significant portion of the total population. Because the city does not address the needed housing of a portion of its current and future population, it has failed to comply with ORS 197.296(3), 197.303, Goal 10, and OAR ch. 660, div. 008. Because the City did not account for these needed housing units in calculating needed density and needed housing-types, it underestimates needed density and miscalculates the needed split between single-family and multi-family housing types. For these reasons, the Commission should remand Task 1 and the UGB amendments for reconsideration of the land need for residential uses and to complete the following tasks:*

*“Amend the Housing Needs Analysis to **correlate the forecasted ability to pay for housing with housing costs to determine needed housing**, project the type and density of government assisted housing and farmworker housing that will be needed, including multifamily; reevaluate the planned ratio of single family to multiple family units; and ensure that sufficient land is planned in each residential zone to accommodate the need.”*

G. Population projection is too high.

McMinnville developed a population projection of 38,720 for 2020. DLCD and the County accepted that projection and the assumptions on which it was based. The City revised this projection to 44,055 for 2023. This is an increase of 5,335 people over the

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<sup>16</sup> BOA, p. 4-4

<sup>17</sup> HNA, p. 5-28

previously agreed to projection and adds significantly to the size of the proposed UGB expansion.

The City claims that the new, higher projection used the same assumptions accepted by DLCD in the older projection. This claim is inaccurate. The previous projection assumed that the County's absolute population in unincorporated areas would remain constant. The new projection assumes that population in the County's unincorporated areas will drop by over 10% between 2003 and 2023.

Goal 2 requires that land use decisions have an adequate factual base. The record contains no factual basis to support the assumption that population in unincorporated areas of the County will decline by over 10% over the next 20 years nor does the record offer any explanation for this new assumption.

For these reasons, the Commission should accept the Department's recommendation to remand Task 1 and the UGB amendments for reconsideration of land need.

## **II. Issues Relating to Alternatives Analysis**

Of the 1538 acres proposed for expansion, about three quarters -1144 acres – are zoned for exclusive farm use and almost all of this resource land is classified as prime Class I and II farmland and other high-value soils. The City has excluded exception lands and resource lands with lower capability soils. These actions violate 197.298, Goal 14, ORS 197.732(1)(c)(B) and Goal 2, Part II(c)(2). These provide specific criteria to apply when amending an urban growth boundary. Under ORS 177.298, land that is in an exception area must be included before resource land if it can reasonably accommodate some portion of the identified land need. Similarly, when it is necessary to include farm

or forestland, land with lower capability soils must be included before land with higher capability soils if they can reasonably accommodate some portion of the identified land need.<sup>18</sup>

The City's UGB expansion *excludes* over 225 **BUILDABLE** acres of exception land in 5 areas. Under ORS 197.298, exception land must be included in a UGB instead of resource land if it can reasonably accommodate some portion of identified needs,<sup>19</sup> which these areas can. It is always easier to urbanize flat farmland than exception areas. The 5 excluded exception areas are no different than any other exception areas in this regard. Resource areas with lower capability soils that McMinnville passed over in its UGB expansion include areas both east and west of the City.

Our objections and exceptions detail why the City has not justified the exclusion of these exception and lower-quality resource areas. The City has not demonstrated why they cannot reasonably accommodate some portion of the identified land need.

A. Bunn's Village

The Bunn's Village exception area contains approximately 126 gross vacant buildable acres.<sup>20</sup> Our objections and exceptions detail why this area *can* reasonably accommodate some portion of the identified land need. In rejecting our argument, the Department concludes that, "the city's evidence that major street, water and sewer improvements would be required to serve the area are sufficient to conclude that it is not reasonable to serve the areas."<sup>21</sup>

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<sup>18</sup> Similar criteria are found in factor 6 of Goal 14

<sup>19</sup> In *Residents of Rosemont v. Metro*, the Court of Appeals ruled the statute asks whether exception areas can accommodate the use at all, not whether they can do so as efficiently or beneficially as farmland.

<sup>20</sup> *MGMUP*, p. C-36

<sup>21</sup> Response to Exceptions, p. 9

The Department apparently misconstrues the applicable law. Resource land cannot be included within the expanded UGB and Bunn's Village excluded simply because major street, water and sewer improvements are required to urbanize the 126 buildable acres in Bunn's Village. Major street, water and sewer improvements are almost always required when large areas are urbanized. Bunn's Village is no different in this respect. The Three Mile Lane area included within the UGB contains just a little more buildable land than Bunn's Village, 157 gross vacant buildable acres. Highway 18 is at least as wide as the North Yamhill River. Major street, water and sewer improvements must be extended under Highway 18 to urbanize this prime farmland. By including Three Mile Lane and other resource areas in the UGB while excluding Bunn's Village, the City has violated ORS 197.298.

B. Westside Road

The evidence in the record does not support a finding that the Westside Road exception area could not reasonably accommodate a portion of identified residential land needs. According to the *MGMUP*, it contains approximately 14 gross vacant buildable acres (40% of the total acreage in the sub-area).<sup>22</sup> Adjacent areas within the existing UGB are already developed or planned to develop with residential uses.<sup>23</sup> It is within a ¼ mile of a City Park (Tice Park).<sup>24</sup> It is within about ½ mile of the Grandhaven Elementary School and a future middle school site.<sup>25</sup> There are two possible alternatives to connect the sub-area to the city's sanitary sewer system.<sup>26</sup> The area can be served by a potable

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<sup>22</sup> *MGMUP*, p. C-9

<sup>23</sup> *MGMUP*, p. C-5

<sup>24</sup> *MGMUP*, pp. C-5, p. C-8

<sup>25</sup> *MGMUP*, pp. C-16, C-18

<sup>26</sup> *MGMUP*, p. C-9

water line placed either under Baker Creek or suspended above it.<sup>27</sup> Electrical service could be provided at low cost.<sup>28</sup>

The City's findings and exception rely heavily on the presence of Baker Creek as a barrier to urban services and as a natural edge to the UGB. This argument is negated by the City's adopted expansion across Baker Creek into portions of the Grandhaven expansion area.<sup>29</sup> Baker Creek is 40 feet wide in the Westside Road area.<sup>30</sup> The City's findings also speculate that there may not be property owner interest in annexing to the city. This is not a valid basis for determining that some portion of need cannot reasonably be accommodated on the vacant buildable land in this exception area.

The City's findings point out that Westside Road is currently not improved to urban standards. This is not unusual for a road that is currently outside the UGB nor is it a basis for determining that some portion of need cannot reasonably be accommodated in this exception area.

For these reasons, the Department originally recommended that the Commission remand the UGB amendments for reconsideration of which lands are to be included with directions to, "add the Westside Road exception area to the UGB and delete an amount of resource land which is equal to the added buildable landed capacity."

The City's exception asserts that legally, urban development of the area would require the owner of the southernmost property to first annex their property. This

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<sup>27</sup> MGMUP, P. C-12

<sup>28</sup> MGMUP, p. C-13

<sup>29</sup> Findings, p. 25; MGMUP, p. C-194 and p. C-197, Figures 106 and 109

<sup>30</sup> MGMUP, p. C-6, Fig. 2



assertion is false. 9 of the area's 13 parcels are adjacent to the existing city limits.<sup>31</sup> The City's exception asserts that:

"The current owner of this property, Mr. Scott Brosius (for those baseball fans, the former New York Yankee third baseman and 1998 World Series MVP), has expressed his strong desire that the neighborhood in which he lives remain rural."

Mr. Brosius did not testify in the local proceedings and there is no evidence in the record to support this assertion.

In changing their recommendation, the Department concludes that it is infeasible to provide access to the buildable land in the area. The map on page C-5 of the *MGMUP* shows the buildable land in the western portion of the exception area can be readily accessed. The map also shows that while access to the buildable land in the eastern portion of the area may be difficult, it is certainly not infeasible and is certainly less difficult than access to the portions of the Grandhaven expansion area that push across Baker Creek. For these reasons, the Commission should adopt the department's original recommendation regarding the Westside Road expansion area.

#### C. Booth Bend Road

The Booth Bend Road exception area contains approximately 13 gross vacant buildable acres.<sup>32</sup> The *MGMUP* concludes that, "urban services necessary to support [urban densities]... can be extended to it."<sup>33</sup> Costs of providing water and electrical service are estimated as low.<sup>34</sup> Adjacent areas within the existing UGB are developed residential areas.<sup>35</sup> The school district has just purchased a future elementary school site

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<sup>31</sup> *MGMUP*, P. C-7, Fig. 3

<sup>32</sup> *MGMUP*, p. C-88

<sup>33</sup> *MGMUP*, p. C-93

<sup>34</sup> *MGMUP*, p. C-92

<sup>35</sup> *MGMUP*, p. C-84

less than 1000 feet from the boundary of the sub-area.<sup>36</sup> This area can reasonably accommodate some portion of the identified need for residential and commercial land.

In accepting exclusion of the Booth Bend Road area, DLCD erroneously concluded:

“...it would be an isolated extension of the UGB across the highway, making walking to nearby destinations extremely difficult. North Plains was not required to cross a state highway to urbanize a small exception area, McMinnville should not be required to urbanize this area.”<sup>37</sup>

As we explained in our exceptions, this conclusion misunderstands the relevant facts. Unlike North Plains, McMinnville’s pre-expansion UGB *already* extends across Highway 18. In fact, the city has proposed to include an additional 321-acre area of prime farmland on this same side of Highway 18 that directly abuts the Booth Bend Road area to the east. This is the Three Mile Lane within which the city has planned for a Neighborhood Activity Center.<sup>38</sup> The Department’s Response to Exceptions does not dispute these facts or respond to them. Instead, it observes that the Booth Bend Road area is a patch of land adjacent to the state highway.<sup>39</sup> This area can reasonably accommodate some portion of the identified land need and the Commission should reject its exclusion from the UGB.

D. Old Sheridan Road

The Old Sheridan Road exception area contains approximately 36.5 gross buildable acres and the sub-area is virtually flat.<sup>40</sup> Adjacent areas within the existing UGB are already developed or planned to develop with residential uses.<sup>41</sup> The *MGMUP* concludes that, “urban services necessary to support [urban densities]... can be extended

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<sup>36</sup> 1000 Friends Objections, p. 37. News-Register article placed in local record.

<sup>37</sup> Response to Objections, p. 40

<sup>38</sup> *MGMUP*, p. C-207, Figure 115.

<sup>39</sup> Response to Exceptions. P. 9

<sup>40</sup> *MGMUP*, p. C-97

to it.”<sup>42</sup> Costs of providing water and electrical services are estimated to be moderate and low, respectively.<sup>43</sup> While sewer costs are estimated to be high, this is due, in part, to the cost of providing service to the southern portions of the sub-area, which are more distant from the existing UGB.<sup>44</sup> The City did not consider the costs of sewer service if just the portions of the sub-area closest to the UGB were to be included.

In accepting exclusion of the Old Sheridan area, the DLCD erroneously concluded:

**“This area extends in a linear fashion southwest along Highway 99W. Since the highway is the most direct way to reach almost all other destinations in the city, the additional traffic would necessarily use the highway for most trips rather than any local streets.”<sup>45</sup>**

The conclusion that traffic from the area would have to use the highway for most trips is at odds with the facts. The area also fronts Old Sheridan Road, which provides equally direct access to almost all other destinations in the city. In fact, urban levels of residential development are already occurring within the adjacent part of the city to the east that also lies between Highway 18 and Old Sheridan Road. This development has no access to Highway 18 and takes all access from Old Sheridan Road. This is clearly illustrated in Figure 51 the MGMUP, Appendix C, page C-100. There is no reason that this exception area can't be developed with the same traffic pattern as the adjacent land already within the city.

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<sup>41</sup> MGMUP, p. C-100

<sup>42</sup> MGMUP, p. C-107

<sup>43</sup> MGMUP, p. C-106

<sup>44</sup> MGMUP, p. C-104

<sup>45</sup> Response to Objections, p. 40

The Department's Response to Exceptions does not dispute these facts or respond to them. This area can reasonably accommodate some portion of the identified land need and the Commission should reject its exclusion from the UGB.

E. Riverside North

The Riverside North area contains over 36 gross vacant buildable acres within the "natural edge" of the Yamhill River that the *MGMUP* states should define the urban area.<sup>46</sup> It is evident from the aerial photo on page C-42 of the *MGMUP* that virtually all of the land outside the floodplain is vacant. The sub-area is "predominantly flat to gently rolling terrain..."<sup>47</sup> The *MGMUP* concludes that, "urban services necessary to support [urban densities]... can be extended to it."<sup>48</sup>

In accepting the exclusion of the Riverside North area, the Department agrees with the City that the area cannot reasonably accommodate *residential* use because of proximity to industrial uses, the sewage treatment plant, and railroad.<sup>49</sup> However, neither the City's findings nor the Department asserts that the area cannot accommodate some portion of the identified need for commercial land or other non-residential uses.

Moreover, as we note in our exceptions, City has not adequately addressed the possibility of bringing Riverside North into the UGB as industrial land, and then rezoning existing industrial land within the existing UGB for residential and/or commercial uses, contrary to Goal 14 and the Goal 2, Part II standards. This would allow land needs to be reasonably accommodated on higher priority lands, rather than lowest priority lands. Our exceptions identify a large, vacant tract of industrially zoned land, inside the existing

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<sup>46</sup> *MGMUP*, p. C-45

<sup>47</sup> *MGMUP*, p. C-41

<sup>48</sup> *MGMUP*, p. C-49

<sup>49</sup> Response to objections, p. 40

UGB and directly adjacent to land planned for residential uses, that would be a good candidate for such redesignation to residential and would reduce potential land use conflicts.<sup>50</sup> Ironically, similar potential conflicts are the very reasons the city advances for *excluding* Riverside North.

Finally, this is a large area. It contains developable land that is up to half a mile from either the sewage treatment plant or any industrial use. Residential and other urban uses are frequently near railroads. There should be ample opportunities to provide buffering between any incompatible uses.

Although we raised this issue in our exceptions, the Department's Response to Exceptions does not address it. Its sole observation specific to Riverside North is that it is impacted by railroads. So is much of the inner east side of Portland. This area can reasonably accommodate some portion of the identified land need and the Commission should reject its exclusion from the UGB.

#### F. Resource Areas

There are extensive areas of poorer quality soils adjacent to the existing UGB, particularly to the west of Hill Road as well as smaller areas north and east of the airport and between the two Riverside exception sub-areas. The City expanded its UGB onto higher quality soil instead of into these areas. Also, the boundary of the Northwest sub-area was drawn to include Class I and II soils north of the area of Class III soils, rather than westward to include Class III and IV soils just north of the Fox Ridge Road sub-area.<sup>51</sup>

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<sup>50</sup> 1000 Friends Exceptions, p. 24

<sup>51</sup> See *MGMUP*, p. C-190. soil maps placed in local record

At no point during the local hearings process did the city ever publicly address, discuss, or consider these higher-priority areas, either orally or in writing. The City's exceptions contain new factual assertions regarding these areas that are unsupported by evidence in the record. These assertions are false. The City has not justified their exclusion.

#### West Resource Areas

The City's exception (p. 21) contains new assertions regarding soil types in the hills west of McMinnville on lands that were not included in the UGB. We do not concede the accuracy of these assertions, nor do they establish that these lands are lower priority for inclusion in the UGB than the Class I and II soils that the City did include. The City's exception (p. 21) states that areas in the hills west of McMinnville that were not included in the UGB "exist farther west and are at elevations well beyond the planned service levels for water and other urban services." This assertion is inaccurate. Areas of poorer soils directly west of the Northwest expansion area and directly south of the Thompson property are both lower and further east than lands within the existing city limits planned for urban development and both lower and further east than the Redmond Hills expansion area, which the City included within the UGB. The City's exception (p. 21) states that less than 30 acres of Class I soil are proposed for inclusion in the amended UGB. This is a new factual allegation for which there is no evidence in the record.

The City's analysis does not breakdown the acreage proposed for inclusion in the UGB by soil-type or class. However, there are soil classification maps in the record that show there are over 30 acres of Class I soil in the Northwest resource area alone.<sup>52</sup>

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<sup>52</sup> MGMUP, p. C-190, Figure 103

Additional Class I soils are located in the Three Mile Land and Norton Lane Resource areas.<sup>53</sup>

The Department erred in accepting the city's assertion that no significant areas of Class I soils have been brought into the UGB. (Response to Exceptions, p. 19).

#### East Resource Areas

The City's exception (p. 21) states that the MGMUP describes why its UGB proposal does not include the Class IV soil lands east of the airport.<sup>54</sup> This is a new allegation, and is not supported by evidence in the record. In fact, like the West Hills area referred to above, the MGMUP does not even mention this area or *any* other of the excluded areas of poorer soils. Instead, it describes only the areas that *were* analyzed, and all analyzed areas were included in the expanded UGB.<sup>55</sup>

The City's exception (p. 21) states that the area of Class IV soils east of the airport is in close proximity to an area used for day and night time training of SWAT and police personnel from the region. We do not concede the accuracy of this assertion. But more importantly, this information is not in the local record, there has been no opportunity to submit rebuttal evidence to the local decision-makers, and it cannot be relied upon now.

The Department's original recommendation was to remand the UGB amendments for reconsideration of which lands are to be included, with directions to:

"...identify areas with class 3 and 4 agricultural soils and either (1) include them in the UGB instead of areas with class 1 and 2 soils, if any, or (2) explain why they should not be included based on the standards in ORS 197.298(3)."

<sup>53</sup> MGMUP, p. C-158, Figure 81 and p. C-167, Figure 87

<sup>54</sup> The City claims this description appears on pages 6-12 and 6-13 of the MGMUP

<sup>55</sup> MGMUP, p. C-146 and pp. 6-12 to 6-13

The Department amended its recommendation to exclude areas of Class III and IV soils east of the airport in response to these unsupported assertions in the exception filed by the City. The Department's original recommendation was correct. For this reason, the Commission should adopt the Department's original recommendation with additional directions to remove the large area of Class 1 soil in the northernmost portion of the Northwest expansion area.

### **III. Issues Relating to Implementation**

McMinnville's Urban Growth Management plan describes a healthy future development pattern based on compact, pedestrian-friendly neighborhoods where people of varying incomes can live together in a variety of housing types within walking distance of neighborhood services.

Unfortunately, the actual numbers that form the basis for the plan, along with the proposed implementing amendments to Comprehensive Plan and Zoning Ordinance, fall short of this laudable prose and will not result in the positive development pattern that the city aspires to. In addition, the disconnect between the text of the plan and the implementing measures adopted inflates land need.

The Department has recommended that the Commission remand the plan and related implementing regulation, to make them internally consistent, consistent with the findings used to justify the UGB amendment, and to comply with applicable goal requirements.

#### **A. Transit Corridors**

The text of the *MGMUP* and the City's findings put forth higher-density transit corridors with an average of ten dwelling units per as a key component of the plan.



Unfortunately, the City did not adopt plan policies and regulations to implement these corridors.

Instead, the City adopted criteria that: (1) effectively prevent high-density housing anywhere that is more than 500 feet from the center of a transit route or more than 1/8 mile from shopping centers, and (2) prohibit development over 6 units per acre more than 500 feet from the center of a transit route on the westside, unless it is in a Neighborhood Activity Center.<sup>56</sup>

For reasons detailed in our submittals and by the Department, this fails to implement the plan. Therefore, the Commission should accept the Department's recommendation to amend the policies and to develop a program that will achieve the 10 dwelling units per acre within transit corridors. Because compliance will reduce overall residential land need, the Commission should further direct that a corresponding amount of land be removed from the expanded UGB, in accordance with the priorities established in ORS 197.298.

#### B. Residential rezoning

**The MGMUP is based on specific residential rezonings that the City failed to adopt.** The text of the MGMUP states:

“The proposed changes would change the R-1 zoning to R-2 on 204 acres of land... this measure will decrease residential land need by some 38 acres.”<sup>57</sup>

And:

“... to facilitate and promote higher density housing along potential transit routes in west McMinnville... Opportunities are shown as identified in Figure 3. In addition, the City proposes to take action to legislatively rezone certain vacant parcels...”

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<sup>56</sup> Plan policies 71.13 and 71.01

<sup>57</sup> MGMUP, p. 5-19

Finally, the City's findings list specific proposed transit corridor parcels proposed for upzoning.<sup>58</sup>

The City has not upzoned a single acre from R-1 to R-2, upzoned any of the listed transit corridor parcels, or upzoned a single parcel in west McMinnville.<sup>59</sup> This is a failure to implement the plan. For these reasons, the Commission should remand the work task as recommended by the Department and should add the highlighted language we propose. The Commission should direct the City to:

“Rezone those parcels identified as suitable for medium- and high-density housing *and from R-1 to R-2* in order to implement the plan.”

### C. Neighborhood Activity Centers

The *MGUMP* presents the Neighborhood Activity Centers (NACs) as a cornerstone of McMinnville's urban planning. The text describes them as compact, pedestrian-friendly, and transit-supportive development. The *MGMUP* largely relies upon the NACs to justify the purported need for large blocks of flat farmland and as evidence that the City is sufficiently implementing “efficiency measures.”

Unfortunately, the adopted plan and code fall far short of the descriptive text. The City has not adopted the necessary implementation measures and thus will not achieve the outcomes the City says it aspires to. The NAC locations, the proposed “illustrative plans”, portions of the proposed code and plan language, and the residential and employment densities upon which they are based all undermine their stated function.

The City has adopted policies *limiting* overall density within an entire NAC to no more than 7.5 units per net buildable acre, and *prohibiting* high and medium density

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<sup>58</sup> Findings, page 154

<sup>59</sup> *MGMUP*, p-5-15, Table 7, and p. F-10, Attachment 2

housing within most NACs. The City also adopted "Illustrative Plans" into its comprehensive plan that show low-density residential development in areas where the text calls for higher density housing. Within the NACs, the City's plan policies and regulations allocate too much commercial land for the targeted building square footage.

For the reasons detailed in our submittals and by the Department, these actions will preclude the development of compact, pedestrian-friendly, and transit-supportive neighborhood activity centers. They also result in a plan and related implementing regulations that are internally consistent, inconsistent with the findings used to justify the UGB amendment, and which fail to comply with applicable goal requirements.

Therefore, the Commission should accept the Department's recommendation to remand certain portions of the plan related to the NACs. Because compliance will reduce overall land need, the Commission should further direct that a corresponding amount of land be removed from the expanded UGB, in accordance with the priorities established in ORS 197.298.

D. Other Implementation issues

We concur with the Department's recommendations regarding; a) definitions of low-, medium-, and high-density residential development; b) traffic impacts and analysis of the rezonings in Table 73; c) development restrictions on Parcel 13; d) accessory dwelling units and minimum lot sizes; e) the C-1 zone; and f) clear and objective standards.

We disagree with the Department's recommendation to accept the rezoning of properties along Highway 18 to General Commercial. These properties are identified on *MGMUP* page F-15 as properties #11, #12, #13, and #14. These redesignations along

Highway 18 are inconsistent with the City's adopted plan policies to avoid auto-oriented, strip commercial development. Moreover, this particular location, at the gateway to the city on the state highway bypass, is a particularly inappropriate location for auto-oriented commercial uses.

#### **IV. Conclusion**

McMinnville has adopted a UGB expansion that includes hundreds of acres that have not been justified. It has expanded its boundary onto prime farmland and excluded exception lands and resource lands with lower capability soils. The City has failed to adopt plan amendments and implementation measures upon which the MGMUP and UGB expansion are based. Instead, it has adopted implementation measures that are; a) internally inconsistent; b) inconsistent with goal requirements; and c) inconsistent with the findings used to justify the UGB expansion. These actions violate statutes, goals, and rules.

1000 Friends of Oregon, Friends of Yamhill County, and Larry Rucker appreciate the diligence of DLCD staff and the LCDC Commission in working to ensure appropriate resolution of issues related to McMinnville's Periodic Review Task 1 and UGB amendments. In addition to the issues raised herein, we also hereby renew all issues and points raised in our original objections and exceptions.



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EXHIBIT: 6

LAND CONSERVATION &  
DEVELOPMENT COMMISSION

DATE: 9/10/04

PAGES: 2

SUBMITTED BY: 1000 Friends of Oregon

September 9, 2004

BY FACSIMILE

Mr. Lane Shetterly  
Department of Land Conservation and Development  
635 Capitol Street, NE Suite 150  
Salem, OR 97301-2540

*Re: Procedural Matters in Continuation of McMinnville UGB Expansion Hearing*

Dear Director Shetterly:

We have just received the September 3 letter from the City of McMinnville, which among other things objects to the schedule the Commission intends to follow at the hearing tomorrow, Sept. 10. We do not agree with the City's proposed changes, for the following reasons:

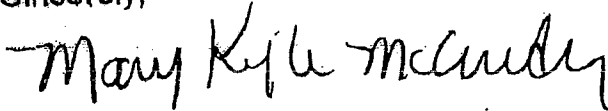
- The schedule was sent to the interested parties on August 6; this objection arrived more than a month later and 2 days prior to the hearing, which does not provide adequate notice to the Commission or other parties;
- All parties must contend with adverse testimony from the Department staff, as well as other parties. This is not unique to the City. We raised many objections with which the DLCD staff did not agree and to which we must respond.
- If the Commission followed the rules of procedure used by the Land Use Board of Appeals or the Court of Appeals, it would be 1000 Friends of Oregon and other objectors who would be entitled to rebuttal time as petitioners, not the City.

1000 Friends does propose one change to the schedule, which does not alter the time allotted to us or the overall hearing time. We anticipate needing more time to address the Alternatives Analysis and less time to address Implementation than contemplated by the schedule, so we propose cutting 10 minutes from our time on Implementation and instead adding that to our time on Alternatives Analysis.

Finally, while we plan to submit rebuttal evidence to rebut new evidence entered by the City in its testimony in April and in its exceptions, we continue to believe that the Commission should rely only on the record that was originally submitted by the City, to exclude new evidence submitted by the City and any consequent rebuttal evidence, and remand to the City those items for which sufficient evidence does not exist in the record.

Thank you for your consideration.

Sincerely,



Mary Kyle McCurdy  
Staff Attorney

C: Steve Shipsey, Assistant Attorney General  
Jeff Condit, MillerNash  
Candace Haines, City of McMinnville  
Mark Davis  
Leon Laptook, Community Development Law Center  
Sid Friedman

City of McMinnville: Task 1 and UGB Amendments  
 Summary of Objections and Responses

Objection	City's Submittal	DLCD Report March 30, 2004	Exceptions	DLCD Response April 20, 2004	Notes
1000 Friends #1 Population projection too high	Plan, p. 2-1 to 2-2 Findings, p. 7-10 Appendix A HNA, p. 5-2 to 5-3 HNA, Appendix C EOA, p. 2-1 to 2-2 EOA, p. 3-2 to 3-4	Agree, in part, p. A 1-3 <b>Recommendation 1(a)</b>	City, p. 3-4	Disagree, p. 11-12, but city may be able to justify its forecast	
1000 Friends #2 Housing needs analysis a) multiple family b) historical density c) blank d) government assisted housing e) special needs	Plan, p. 2-3 to 2-4 Findings, p. 94-145 Appendix B, p. 1-16 HNA, p. 5-1 to 5-31	Agree, in part, p. A 3-4 on government assisted housing and ratio of multiple family to single family housing <b>Recommendation 1(d)</b>	City, p. 9-12 1000 Friends, p. 1-7 CDLC, p. 2	Disagree, p. 13-15 Agree, in part, p. 2-3 regarding farmworker housing Recommendation 1(d) amended	
1000 Friends #3 Planned residential density is too low	Plan, p. 2-3 to 2-4 Findings, p. 94-145 Appendix B, p. 1-16 HNA, p. 4-4 to 4-9 HNA, p. 5-1 to 5-31	Disagree, p. A 4-5	1000 Friends, p. 7-10	Disagree, p. 3-4	
1000 Friends #4 Planned floor area ratio of commercial land is too low.	Findings, p. 91-93 Appendix B, p. 17-18 EOA, p. 6-1 to 6-7 EOA, p. 6-17	Agree, p. A 5-6 <b>Recommendation 1(e)</b>	City, p. 13-15	Disagree, p. 15-16	

Submitted by: JHS  
 Date: 7/20/04  
 Development Commission  
 & Conservation and  
 Planning

City of McMinnville: Task 1 and UGB /  
 Summary of Objections and Responses /  
 tents

Objection	City's Submittal	DLCD Report March 30, 2004	Exceptions	DLCD Response April 20, 2004	Notes
1000 Friends #5 Economic opportunities analysis underestimated infill and redevelopment opportunities	EOA, p. 6-4 to 6-5 BOA, Table 6-2	Disagree, p. A 6-7			
1000 Friends #6 More parkland need can be accommodated on floodplain land	Appendix B, p. 23-26 Appendix E, p. 12-14 HNA, p. 5-31 to 5-33	Agree, p. A 7-9 Recommendation 1(f)	City, p. 16	Disagree, p. 16-17	
1000 Friends #7 Efficiency measures; residential need could be accommodated on less land	Plan, p. 5-1 to 5-26	Disagree, p. A 9-10			
1000 Friends #8A Activity centers at Three Mile Lane and Southwest should be relocated to Norton Land and Riverside South areas	Plan, p. 7-1 to 7-30 Appendix C, p. 148- 204 Appendix D, p. 7-8, 18-24	Disagree, p. A 10-13			



City of McMinnville: Task 1 and UGB Amendments  
 Summary of Objections and Responses

Objection	City's Submittal	DLCD Report March 30, 2004	Exceptions	DLCD Response April 20, 2004	Notes
1000 Friends #8B Residential density in activity centers is too low	Appendix D p. 21-24	Agree, in part, p. A 13-19 Recommendations: 3(a) 3(b) 3(c) 3(d) 3(e)	City, p. 22-23	Disagree, p. 19-24	
1000 Friends #8C Activity center illustrative plans are not consistent with plan policies; planned residential density is too low	Plan, p. 7-8 to 7-20 Appendix D p. 6-10	Agree, p. A 19-21 Recommendation 3(f)	City, p. 24 City, p. 25 City, p. 26	Disagree, p. 24-25 Disagree, p. 25-26 Disagree, p. 26	
1000 Friends #8D Floor area ratio Same as objection #4					
1000 Friends #9 Household size is too low	Plan, p. 2-2 Findings, p. 110, 114-116 HNA, p. 5-5 to 5-8 HNA, Appendix D	Agree, p. 21-22 Recommendation 1(b)	City p. 5-6	Agree, p. 12-13 Recommendation 1(b) deleted	

Objection	City's Submittal	DLCD Report March 30, 2004	Exceptions	DLCD Response April 20, 2004	Notes
1000 Friends #10 Buildable lands analysis understates development potential	Plan, p. 100-109 HNA, Chapter 3 HNA, p. A-1 to A-5	Agree, in part, p. A 22-23 Redevelopment potential in R-2 zone Recommendation 1(c)	City, p. 7-8	Disagree, p. 13	
1000 Friends #11 Transportation plan does not support planned uses	Plan, p. 5-15	Agree, p. A 23-25 Recommendations: 3(g) 3(n)	1000 Friends, p. 10- 11 City, p. 27 City, p. 33-35	Agree, p. 4 Recommendation 3 amended Disagree, p. 26-27 Disagree, p. 28-29	
1000 Friends #12 Designation of commercial lands at Cruiksbank Road and in Three Mile Lane activity center	Plan, p. 5-15	Agree, in part, p. A 25-28, regarding Parcel 13 and Three Mile Lane illustrative plan Recommendations 3(f); see objection 8C 3(h)	1000 Friends, p. 11-12 City, p. 28	Disagree, p. 4-5 Disagree, p. 27	

City of McMinnville: Task 1 and UGB Amendments  
 Summary of Objections and Responses

Objection	City's Submittal	DLCD Report March 30, 2004	Exceptions	DLCD Response April 20, 2004	Notes
1000 Friends #13A Plan policies	Appendix D				
Policy 49.02	p. D-5	Disagree, p. A 28-29.	1000 Friends, p. 13	Agree, p. 5-9, rec. 3(o)	
Policy 71.01	p. D-6 to D-7	Disagree, p. A 29			
Policy 71.01 & 71.08	p. D-6 to D-8	Disagree, p. A 29			
Policy 71.07(5)	p. D-7 to D-8	Disagree, p. A 29			
Policy 71.09	p. D-9 to D-10	Agree see objection 8	City, p. 22-23	Disagree, p. 19-24	
Policy 71.13	p. D-10	Agree see objection 8			
Policy 86.00	p. D-11	Disagree, p. A 30			
Policy 89.00	p. D-12	Disagree, p. A 30			
Policy 92.01	p. D-12	Disagree, p. A 30			
Policy 188.00(4)	p. D-18	Disagree, p. A 30	1000 Friends, p. 14	Agree, p. 5-9, rec. 3(p)	
Policy 188.03	p. D-19 to D-20	Disagree, p. A 30	1000 Friends, p. 15	Agree, p. 5-9, rec. 3(g)	
Policy 188.04	p. D-20	Disagree, p. A 31			
Policy 188.05	p. D-20	Disagree, p. A 31	1000 Friends, p. 16	Disagree, p. 5-9	
Policies 188.10, .18, .26 & .34	p. D-21 to D-24	Disagree, p. A 31			
1000 Friends #13B Code standards					
Accessory dwellings	Existing R-1, 2, 3, 4 zones (see city code)	Agree, part, p. A 31, <b>Recommendation 3(i)</b>	City, p. 29	Disagree, p. 27-28	
C-1 FAR & setback	Existing C-1 zone (see city code)	Agree, p. A 32, rec. 3(i) & 3(k)	City, p. 30	Disagree, p. 28	
Activity Center	Appendix E, p. 14-15	Disagree, p. A 33			
R-5 Sec. 17.22.020	Appendix E, p. 18	Disagree, p. A 33			
R-5 Sec. 17.22.040	Appendix E, p. 19	Disagree, p. A 34	City, p. 31-32	Disagree, p. 28	
R-5 Sec. 17.22.055	Appendix E, p. 20	Agree, p. A 34, <b>Recommendation 3(l)</b>			
Code Sec. 17.36.030 & 17.42.020		Disagree, p. A 34			

City of McMinnville: Task 1 and UGB A  
 Summary of Objections and Responses

Objection	City's Submittal	DLCD Report March 30, 2004	Exceptions	DLCD Response April 20, 2004	Notes
1000 Friends # 14 Exception areas should have been added to UGB before resource lands; lower capability resource lands should have been added first; floodplain land should not have been included in UGB	Plan, Chapter 6 Findings, p. 22-74 Appendix C	Agree, in part, p. A 35-42, regarding Westside Road exception area, resource lands of low capability, and floodplain lands. Recommendations: 1(g), 2(a), 2(b), 2(c)	City: Floodplain p. 17-18 Westside p. 19-20 resource land p. 21	Disagree, p. 17-18 Agree, p. 18, rec. 2(b) deleted Agree in part, p. 18-19, rec. 2(c) amended Disagree, p. 9-10	
CDLC #1 Government assisted housing analysis is lacking	Findings, p. 116-119, 124-130 HNA, p. 5-8 to 5-10, 5-16 to 5-29	Agree, p. A 42-44 Recommendation 1(d); see also 1000 Friends objection #2	City, p. 9-12	Disagree, p. 13-15	

City of McMinnville: Task 1 and UGB Amendments  
 Summary of Objections and Responses

Objection	City's Submittal	DLCD Report March 30, 2004	Exceptions	DLCD Response April 20, 2004	Notes
CDLC #2 Single family to multiple family housing "split"	Plan, p. 2-1 to 2-3 Findings, p. 94-100, 121-124, 137-138 Appendix B, p. 2-9 HNA, p. 5-22 to 5-25	Agree, p. A 44-46 <b>Recommendation 1(d)</b> ; see also 1000 Friends objection #2 & CDLC objection #1	CDLC, p. 1-2	Agree in part, p. 10, regarding farmworker housing, recommendation 1(d) amended	
CDLC #3 Implementing measures do not adequately promote efficient use of residential land	Plan, p. 2-3, 3-4 Plan, Chapter 5 Appendix E, p. 16	Agree, in part, p. A 46-48, regarding siting standards in R-4 zone <b>Recommendation 3(m)</b>	CDLC, p. 2-3  City agrees, p. 32	Disagree, p. 2-3	
CDLC #4 City lacks mechanisms for annexation of land for affordable housing	Appendix E, p. 5-15	Agree, in part, p. A 48-49 regarding completion of concept plans and Planned Development ordinance <b>Recommendation 3(n)</b>	City, p. 33-35	Disagree, p. 28-29	
Mark Davis objection A portion of the parkland need can be met in floodplain (See 1000 Friends objection #6.)	Appendix B, p. 23-26 Appendix E, p. 12-14 HNA, p. 5-31 to 5-33	Agree, p. A 7-9 <b>Recommendation 1(f)</b> see also 1000 Friends objection #6	Mark Davis	Agree, in part, p. 11 regarding shared park facilities, recommendation 1(f) amended	



To: LCDC and Interested Parties

From: Eric Jacobson

Date: September 10, 2004

Re: Revision to Staff Recommendation

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3. Remand the plan to amend plan and implementing regulations, *including the rezonings in Table 73 of the parcels specified below*, to make them internally consistent, consistent with the findings used to justify the UGB amendment, and to comply with applicable goal requirements, including the following tasks:

...

g) Conduct an analysis to determine the traffic impacts of the rezonings of parcels 1, 2, 3, 4, 5, 6, 8, 11, 13, 17, and 18 in Table 73 and include findings to address OAR 660-012-0060 or complete such an analysis in a transportation systems plan.

LAND CONSERVATION &  
DEVELOPMENT COMMISSION  
DATE: 9/10/04  
PAGES: 1  
SUBMITTED BY: DCD staff





DATE: 9/10/04

PAGES: 33

SUBMITTED BY: DLCD staff



# Oregon

Department of Land Conservation and Development

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Web Address: <http://www.lcd.state.or.us>

Theodore R. Kulongoski, Governor

April 20, 2004

TO: Land Conservation and Development Commission

FROM: Jim Hinman, Urban Specialist and Eric Jacobson, Transportation Specialist  
via Rob Hallyburton, Community Services Manager

SUBJECT: Agenda Item 7c, April 21-23, 2004, LCDC Meeting

**REFERRAL OF THE CITY OF McMinnville's  
PERIODIC REVIEW TASK 1 AND UGB AMENDMENT**

**RESPONSES TO EXCEPTIONS**

**I. EXCEPTIONS RECEIVED**

The department received the following timely exceptions:

- A. 1000 Friends of Oregon, Friends of Yamhill County and Larry Rucker
- B. Community Development Law Center (CDLC)
- C. Mr. Mark Davis
- D. City of McMinnville

**II. SUMMARY OF RECOMMENDED ACTION**

The department recommends that the Commission:

- partially approve the city's submittal for the amendment of the UGB to include several exception areas; and
- remand portions of the Task 1 and UGB submittals for reconsideration of (1) the twenty-year land need, (2) the decision of which exception and resource lands to be added to the UGB, and (3) internal consistency of plan policies and implementing regulations and compliance with several specific requirements of the Statewide Planning Goals.

Based on the exceptions received the department has amended its recommendation to the Commission. The department's entire recommendation, with deletions shown as ~~striketrough~~ and additions shown in *bold italics*, is in section VIII of this report.

Also, a chart is attached to this report that summarizes the objections and exceptions received and the department's responses.

### III. BACKGROUND

(See the department's March 30, 2004 report.)

### IV. REVIEW CRITERIA AND PROCEDURES

(See the department's March 30, 2004 report.)

### V. ANALYSIS OF EXCEPTIONS

#### A. 1000 Friends of Oregon, Friends of Yamhill County and Larry Rucker

**Exception 1. The city's housing needs analysis lacks an adequate factual basis, fails to comply with statute and rule.** This exception relates to 1000 Friends' Objection 2 on pages 3 and 4 of the March 30, 2004 staff report, Attachment A. This exception states that the department failed to address whether the city's "needed density" of 7.2 dwelling units per acre is adequate. The exception further argues that the city's needs analysis is deficient in (a) correlating household incomes with housing needs, (b) determining the need for government assisted housing, (c) determining the need for special populations housing, including farmworker housing and (d) determining the historical and needed density and mix of housing types.

**DLCD response:** The department agrees with this exception in part.

(a) **Determination of needed housing, generally.** 1000 Friends, in effect, argues that the city's housing needs analysis is fatally flawed because it does not correlate income levels with housing need. Much of the exception is a quote from the department's previous appeal brief on the city's analysis. The department maintains that nothing requires that it attack the city's plan with the same ferocity as was exhibited in its LUBA appeal brief. The department has recommended a remand to reconsider the need for multifamily housing including government assisted housing and farmworker housing. However, for the reasons in the department's report cited above, the department does not recommend that the city be remanded to start its analysis completely over.

(b) **Government assisted housing.** The department has recommended a remand to reevaluate the ratio of single family to multiple family dwellings as it relates to the need for government assisted housing. The department agrees that if that ratio were to change, the overall planned density (now 7.2 units per acre) would also be likely to change. In recommending a remand on a particular issue, the department has not intended to list every part of the plan which may need to be amended in response to the remand.

(c) **Farmworker housing.** The department's staff report (Attachment A, pages 42 through 46) recommends a remand to reconsider the need for government assisted housing and the ratio between single family and multiple family housing. If there is an insufficient amount of multifamily land, private nonprofit providers of housing as well as private developers will also be affected. CASA of Oregon submitted local testimony about the need for multifamily land to provide housing for farmworkers (see attached letter of August 4, 2003). Also, as 1000 Friends points out, the "needed housing" statutes specifically requires local governments to plan for the housing needs of farmworkers. The city's Housing Needs Analysis on page 5-29 determined that there will be a need to house about 6,800 farmworkers in Yamhill County by the year 2020. The city's analysis concludes, "Our discussion of special needs housing and housing affordability suggests that housing need in McMinnville is considerable." However, the city did not go on to project the amount of farmworker housing which will be needed in McMinnville.

(d) **Historical data.** The question of whether the city's data on the mix of housing types constructed between 1988 and 2003 is valid is moot because the city did not use that historical ratio to determine the need for multifamily housing. The percentage of multiple family housing based on the historical period between 1988 and 2000 was 34 percent. The city determined that the "needed" percentage was 40 percent. This 40 percent happens to be the average of the city's "baseline" forecast and the higher percentage recommended by the Community Development Law Center (DLCD report Attachment A, page 45 and 46). The department did not finally agree with the city's percentage and recommends a remand. However, the department maintains that the city is not required to base its analysis only on the period from 1991 to 1995.

**Conclusion:** The department's recommendation is amended on page 8 of the March 30, 2004 report, as follows:

1.d) Amend the Housing Needs Analysis to project the type and density of government assisted housing *and farmworker housing* that will be needed, including multifamily; reevaluate the planned ratio of single family to multiple family units; and ensure that sufficient land is planned in each residential zone to accommodate the need.

**Exception 2. The city assumes that development will occur at less than historical densities in some zones.** This exception relates to 1000 Friends' Objection 3 on pages 4 and 5 of the March 30, 2004 staff report, Attachment A. 1000 Friends states that the city has reduced the planned density for several housing types in several of its residential zones below the actual historical densities without justification.

**DLCD response:** The department does not agree with this exception.

The city's methodology was to determine the planned density by housing type and then determine the average density by zone based on the planned mix of housing types. This resulted in an overall increase in gross residential density for new development from 4.7 dwelling units per acre in the period from 1988 to 2000 (Table 4-8, HNA, page 4-9) to 5.7 dwelling units per

acre to the year 2023 (Appendix B, page B-10, Table 8). In the R-2, zone the city plans to increase the gross density of single family detached housing from 3.8 to 4.1 (also from Table 4-8 and Table 8). The differences in the R-3 and R-4 zones cited by 1000 Friends are small and can be accounted for by averaging and rounding. 1000 Friends is correct that the city has planned for multiple family density in the new R-5 zone at 15 dwelling units per acre, which is less than the historic density achieved in the R-4 zone (also from Table 4-8 and Table 8). This decreased is explained through averaging the density for multiple family housing constructed in all zones. The city could have used the higher number, but if it is an error, it is small in magnitude (about 5 acres, according to 1000 Friends) and works in favor of providing more land for multiple family housing.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 3. Compliance with the Transportation Planning Rule.** This exception relates to 1000 Friends' Objection 11 on pages 23 through 25 of the March 30, 2004 staff report, Attachment A. 1000 Friends state that it is unclear whether the staff's recommended actions accurately capture and reflect the conclusions stated in the department's March 30, 2004 Staff Report, Attachment "A" considering the rezonings listed in Table 73 could be considered to be separate from the periodic review submittal.

**DLCD response:** The department agrees with this exception.

We do not believe there is a substantive disagreement concerning this exception. The department intended to remand the rezonings in Table 73 pending further analysis and related findings by the city.

**Conclusion:** To clarify this point, the department's recommendation is amended as follows:

"3. Remand the plan to ~~amend plan~~ and *related* implementing regulations, *including the rezonings in Table 73*, to amend the plan and implementing regulations to make them..."

**Exception 4. Proposal to rezone land to Commercial on Highway 18 at Cruickshank and Loop Roads and on Highway 18 overpass to downtown.** This exception relates to 1000 Friends' Objection 12 on pages 25 through 28 of the March 30, 2004 staff report, Attachment A. 1000 Friends makes two major points relating individually to Parcels 12/13 and Parcels 11/14, described below.

(a) **Parcels 12 and 13.** 1000 Friends states the city has applied conditions to these parcels that limit the allowed uses to those in the Agricultural Holding zone. Therefore, they assert, there is no reason to rezone these properties, and the applied conditions are not consistent with the plan designation of Commercial or the applied General Commercial zone.

(b) **Parcels 11 and 14.** 1000 Friends states that the designation of Parcels 11 and 14 for Commercial uses and C-3 zoning violates the city's policy to discourage auto-oriented strip commercial development since the parcels are near (approximately 300 feet from) Highway 18 and allow fast food restaurants and gas stations.

**DLCD Response:** The department does not agree with this exception.

(a) The department understands the city was desirous of eliminating the Comprehensive Plan Mixed Use (MU) designation. See Appendix F, page F-1. The city redesignated parcels designated MU to either residential, commercial, or industrial, and applied appropriate zoning categories and conditions, if necessary. ~~The city could likely have applied either industrial or commercial designations to these properties with appropriate conditions and they chose the commercial designations.~~ The exception does not explain how the adopted plan and zone designations are inconsistent with the statewide planning goals, rules, or statutes, or how the designations are internally inconsistent with the plan. The department finds the city's plan and zone designations to be reasonable and consistent.

(b) As noted in staff report, Attachment A pages 25 and 26, strip commercial development typically exhibits several characteristics. In this instance, Parcels 11 and 14 total 2.7 acres, are located adjacent to one another, and front on Loop Road approximately 300 feet from the intersection of Loop Road and Highway 18. While 1000 Friends is correct that the commercial designations and zoning allow retail uses typical of strip commercial development, the department believes it is reasonable for the city to conclude that these two parcels, in isolation and located 300 feet from Highway 18, do not constitute a strip.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 5. Specific amendments to plan text and code text.** This exception relates to 1000 Friends' Objection 13 on pages 28 through 35 of the March 30, 2004 staff report, Attachment A. This exception raises four issues.

(a) **Policy 71.01 restricts housing density within one-quarter mile of transit routes.** 1000 Friends state that Policy 71.01 should be amended since this policy restricts housing that is outside of designated Neighborhood Activity Centers (NACs) or more than 500 feet of planned or existing transit corridors to a density of six units per acre.

(b) **Illustrative plans should be amended to be consistent with Plan Policy 188.00(4).** 1000 Friends state that illustrative plans that depict R-2 zoning as part of NACs are inconsistent with Policy 188.00(4), which states the NAC support areas consist of medium and higher density housing.

(c) **Plan Policy 188.03 restricts housing density proximate to NAC focus areas.** 1000 Friends state Policy 188.03 should be amended since this policy restricts high density housing to no more

than 660 feet from the edge of a NAC focus area and medium density housing to no more than 1,320 feet from the edge of a NAC focus area.

(d) **Plan Policy 188.05 allocates excess land for commercial uses.** 1000 Friends state Policy 188.05 allocates an excessive amount of land to accommodate the amount of proposed commercial and office floor space, and that the planned floor area ratios are NAC policies to intending the NACs to be compact, pedestrian-friendly, and transit-supportive.

**DLCD response:** The department agrees with this exception.

(a) As noted in the March 30, 2004 staff report (Attachment A pages 13 and 14), and in this response to exceptions, the city is required to plan for and allow transit supportive uses, including medium- and high-density residential development, within one-quarter mile of transit routes. This is not to suggest that all properties located within one-quarter mile of a transit route must or should be designated for high- or medium-density residential development. However, limiting all residential development beyond 500 feet from a transit corridor to a density of six units per acre is inconsistent with the principles of transit-oriented development. The department correctly identified the need to amend Policy 71.13 but did not identify the need to also amend Policy 71.01.

(b) 1000 Friends correctly point out that Policy 188.00 states the NAC support area consists of medium- and higher-density housing. City policies define the R-2 zone to be a low-density housing zone, and yet the illustrative plans include areas designated R-2 as part of the NAC support areas. As indicated elsewhere in the staff report, Attachment A and in this response to exceptions, it is necessary for the city's plan to be internally consistent. Therefore, it is necessary for the city to either amend Policy 188.00(4) or the illustrative plans so that they are internally consistent.

(c) The department did not support this objection in our March 30, 2004 staff report (Attachment A, page 30) because we viewed this policy as a guideline for the arrangement of land uses and densities within a NAC and to not directly influence the land needs analysis. Since the NACs have an overall targeted density of 7.5 dwelling units per net acre, we did not support the objector's contention that the guidelines in this policy inflate the projected land needs and the size of the proposed UGB expansion. Upon further review, we agree with the exception that the policy should be rewritten to avoid delineating areas of medium- and high-density housing so narrowly. As described elsewhere in this response to objections and in the staff report, Attachment A, we support the notion of establishing a minimum density targets in the NACs while also allowing higher densities. However, since the land needs analysis is based upon projected development densities and minimum or "targeted" densities rather than higher densities that might be allowed within NACs and certain zoning districts, we do not agree with the objector's contention that modifying this policy will necessarily reduce the UGB expansion needs.

This policy appears to be an attempt by the city to define the general arrangement of land uses and densities within NACs. This policy appears to either encourage or require a gradient of

residential densities, from higher to lower, with higher densities being located closer to the focus area, and lower densities being located further away. The department agrees with and supports this as a logical planning methodology and guideline. On the other hand, while this policy purports to include "guidelines," the policy also uses the word "shall" and establishes the "maximum distance" that high- and medium-density development can be located from the NAC focus area. These terms are too prescriptive and limiting to be considered guidelines.

As noted in the exception, this policy states that the "maximum distance" high-density housing can be located away from the edge of a Focus Area is 660 feet, while the "maximum distance" from the edge of the Focus Area for medium-density housing is 1,320 feet. This policy, even in the context of a guideline, appears to indicate that high-density housing is not allowed (or is certainly discouraged from being located) more than 660 feet from the edge of a Focus Area. By definition, this policy states that medium- or low-density housing are the only appropriate uses beyond this 660-foot distance.

McMinnville's zoning ordinance states that the minimum lot size in the R-3 zone (a medium-density zone) is 6,000 square feet. Therefore, this policy limits high-density housing to no further than 660 feet from the edge of a Focus Area, and that beyond this line, residential development with minimum lot sizes of 6,000 square feet are allowed. 6,000 square foot lots can be a component of a transit-oriented development, but it is inconsistent with transit-oriented development principles to preclude higher-density housing types from being located more than 660 feet from a transit stop or neighborhood center.

As noted elsewhere in this response to exceptions and in Attachment A (pages 17-18), higher densities are desirable within NACs. In order for the city to achieve efficiencies in development patterns generally and within NACs particularly, it is necessary to establish both minimum or "target" densities, while at the same time allowing for higher densities should the market dictate higher density housing types. While we support the efforts of this policy to encourage a gradient of densities within NACs through guidelines, this policy is written in such a way as to too narrowly prescribe the precise limitations for the location of high- and medium-density housing. Should market conditions desire higher-density housing options, this policy would preclude those housing types from being located in close proximity to the NAC focus areas. This policy can and should be written to be more clearly a guideline that encourages a gradient of densities while at the same time not precluding high- and medium-density housing types from being located within walking distance of the NAC focus areas.

Allowing more flexibility in the location of high- and medium-density housing, in concert with a minimum or "target" density for NACs, depending upon market conditions, may enable the city to achieve more efficient development patterns over time, and these efficiencies are very desirable. However, we disagree with the objector that these efficiencies will necessarily translate into a reduced land need at this time.

(d) Policy 188.05 is a guideline that describes the ranges of land (in acres) and floor space for commercial, office, and institutional uses that "should" be provided and are acceptable for the NACs. Comparing the ranges of acres to the acceptable range of floor areas yields minimum and maximum floor area ratios (FARs) allowed in the NACs of 0.23 and 0.46, respectively. 1000

Friends asserts the minimum FAR is inherently inconsistent with the city's intent for the NACs to be "compact, pedestrian-friendly, and transit-supportive" and that the city needs to include findings explaining why such an excessive amount of land is needed to accommodate the projected amount of building space.

We disagree with the exception that the commercial and office FARs are necessarily inconsistent with the stated purposes of the NACs or that the city needs to provide a more detailed explanation of this policy. As noted in the staff report, the NACs are a creation of the city rather than the statewide planning goals, rules, or statutes. Therefore, the city should be afforded considerable deference in terms of defining the characteristics of the NACs. While the city may express the desire for the NACs to be pedestrian- and transit-friendly, this policy is the city's expression of the range and intensities of uses the city anticipates is necessary in order to carry out the plan.

While 1000 Friends correctly notes that FARs of about 0.23 are relatively auto-oriented, the department's experience has been that, outside of downtown areas, average intensities of about 0.25 FAR for retail uses and 0.35 FAR for office uses are not typically exceeded in most small- to medium-sized communities, including those served by feeder bus service. In addition, the department's experience has been that FARs are not the most important or effective tool to accomplishing pedestrian- and transit-oriented development in most small- to medium-sized cities such as McMinnville. While higher FARs than the city's minimum of 0.23 are desirable, design standards regarding the location and orientation of buildings and entrances, clustering buildings, and assuring safe, convenient, and direct pedestrian circulation are more important factors than regulating FARs. The city has adopted regulations guiding the arrangement of commercial uses within NACs to be pedestrian-oriented.

1000 Friends asserts a connection between this policy and the department's conclusion regarding 1000 Friends Objection 4, where the department concluded the city had not estimated and planned for employment and commercial land needs in a manner that maximizes the efficient use of land. While somewhat related, the issues raised in this exception are different than the issues raised in 1000 Friends Objection 4 and McMinnville's Exception 5. The issues in Objection 4 involve the assumptions used to estimate employment and commercial land needs. The issue in this exception involves a policy to implement the plan.

As noted in the response to 1000 Friends Objection 4 and in the response to McMinnville's Exception 5, the city has an obligation for determine employment land needs using assumptions that maximize the efficiency in the use of land and are consistent with the stated purposes of the NACs to be pedestrian- and transit-friendly. That analysis, rather than this policy, may affect the amount employment and commercial lands needed within the city. Upon completion of that analysis, the city will need to review this policy and assure it is consistent with and adequate to carry out the purposes of the plan.

**Conclusion:** The department amends its recommendation to add the following:

3(o) *Amend Policy 71.01 to indicate that densities higher than six units per acre are allowed within one-quarter mile of transit routes.*



- 3(p) *Amend the Illustrative Plans so that the NAC Support Areas consist of high- and medium- density designations. Alternately, amend Policy 188.00(4) to be consistent with the Illustrative Plans.*
- 3(q) *Amend Policy 188.03 to more clearly be a guideline and to not limit high-density housing from being a maximum distance of 1/8 mile (660') from the edge of a Focus Area.*

**Exception 6. Exception areas not included in the UGB and floodplain areas included in the Grandhaven area.** This exception relates to 1000 Friends' Objection 14 on pages 35 through 42 of the March 30, 2004 staff report, Attachment A. 1000 Friends argues that the Bunn's Village, Booth Bend Road, Old Sheridan Road and Riverside North exception areas should be included in the UGB. Also, floodplain areas at the edge of the UGB in the Grandhaven area should be deleted from the UGB.

**DLCD response:** The department does not agree with this exception.

**Exception areas.** With respect to Bunn's Village, 1000 Friends argues that the legal standard whether the area can "reasonably accommodate" the use means whether the exception area "can accommodate the use at all. . ." (Residents of Rosemont v. Metro, 173 Or App 321, fn. 6 (2001)). The city has provided extensive information about these exception areas in Appendix C. The four exception areas cited by 1000 Friends that were not included in the UGB have significant land use conflicts such that they cannot reasonably accommodate residential use.

As shown on the city's maps (see Appendix C, Fig. 1, for example), Bunn's Village, Booth Bend Road and Old Sheridan Road are made up of strips and patches of land adjacent to state highways. Bunn's Village and Riverside North are impacted by railroads as well. These transportation facilities produce noise, vibration and odor. These conflicts can be mitigated with setbacks, but such setbacks diminish the available land in these strips and patches of land. State highways can accommodate adjacent urban uses by reducing speeds and installing signals, intersections and crosswalks. In the case, such accommodations are not reasonable because about two miles of state highway would be impacted for a small gain in buildable land.

1000 Friends argues that, for Bunn's Village, a more detailed study of the cost per dwelling of providing services is needed. The city's evidence that major street, water and sewer improvements would be required to serve the area are sufficient to conclude that it is not reasonable to serve the areas (Appendix C, pages 19 through 40). If, as 1000 Friends suggests, the furthest portion of Hawn Creek Road were deleted from consideration, the need for about a half mile of water and sewer lines would be eliminated, but all of the other facilities identified by the city would still be required.

**Grandhaven.** The department's report stated that floodplain land in the Three Mile Lane and Norton Lane areas must be removed from the UGB unless it is needed for urban uses (Attachment A, page 42). 1000 Friends argues that the same logic applies to the Grandhaven area

since 40 percent of that area is in the floodplain. The city's map (Plan, Figure 12) shows that only a small fraction of the Grandhaven area is in the floodplain. The floodplain in the two areas cited by the department are much larger. The city is not required to remove every small piece of floodplain land from the UGB.

**Conclusion:** The department has not changed its recommendation in response to this exception.

### **B. Community Development Law Center (CDLC)**

**Exception 1. Single family, multiple family housing "split."** This exception relates to CDLC's Objection 2 on pages 44 through 46 of the March 30, 2004 staff report, Attachment A. CDLC disagrees with the department's conclusion that historical data supports the city's planned housing mix of 60 percent single family and 40 percent multiple family. CDLC also asserts that the city did not adequately address the housing need of special needs populations, including farmworkers.

**DLCD response:** The department agrees with this exception in regard to farmworker housing.

The department cited the actual split between single family and multiple family housing on page 45 of Attachment A in the staff report. The city's planned percentage of multiple family housing (40%) exceeds the actual amount reported by the U.S. Census. The percentage recommended by CDLC (46%) exceeds the percentage reported in the U.S. Census by a greater amount. Therefore, the U.S. Census supports the city's percentage more than CDLC's number. Similarly, the city's data on building permits issued between 1988 to 2002 supports the city's decision rather than CDLC's. CDLC argues that building permit activity between 1991 and 1995 supports a higher planned percentage of multi-family. The department agrees with the city that it is reasonable to use data for a longer period of time which tends to even out short-term fluctuations in the local housing market.

**Conclusion:** The issue of special needs populations and farmworker housing is addressed in 1000 Friends' Exception 1, above.

**Exception 2. Implementing measures.** This exception relates to CDLC's Objection 3 on pages 46 through 48 of Attachment A in the staff report. CDLC argues that the city needs to adopt smaller lot sizes and minimum densities to address the issue of "underbuild" (actual development has occurred at less than the allowed density) in the R-1, R-3 and R-4 zones.

**DLCD response:** The department does not agree with this exception.

This issue is addressed in the department's March 30, 2004 report, Attachment A, pages 46 through 48. As stated in that report, the city has adopted measures to improve efficiency in its residential zones. The city is not required to adopt the additional measures suggested by CDLC.

**Conclusion.** The department has not changed its recommendation in response to this exception.

**C. Mr. Mark Davis**

Mr. Davis points out that his objection was that the city had planned for an excess of at least 137 acres of parkland, as opposed to the 94 acres cited in 1000 Friends' objection. Also, the department did not respond to his argument that a portion of the need could be met through the use of shared facilities with the school district and Linfield College.

**DLCD response:** The department agrees with the exception, in part.

~~The department inadvertently incorporated its response to Mr. Davis' objection with its response to a similar objection from 1000 Friends (see the department's report of March 30, 2004, 1000 Friends Objection 6, pp. 7-9). The department agreed with the objections from both 1000 Friends and Mr. Davis that the city could accommodate some of the parkland need on lands which are in the 100-year floodplain. Mr. Davis' exception letter agrees with the department's conclusion on Objection 6, but points out that he believes the city over-estimated the park land need by 137 acres, rather than the 94 excess acres cited by 1000 Friends. The department recommended that the Commission remand this matter back to the city, but did not conclude exactly how many excess acres would have to be removed from the UGB. Therefore, no change in this part of the department's recommendation is needed with respect to this issue.~~

The second point in Mr. Davis' exception is that the department did not address his argument that a portion of the parkland need can be met through joint use of facilities with the school district and Linfield College. Mr. Davis states that there is a potential for sharing up to 300 acres of parks. Further, the parks master plan recommends the city, "Pursue joint use agreements with the School District, Linfield College and other partners to share the cost of facility development and maintenance" (attached as Exhibit 5 to Mr. Davis' exception letter).

**Conclusion.** The department agrees with the exception that a portion of the parkland need can be met through shared facilities, consistent with the city's Parks, Recreation & Open Space Master Plan. Therefore, the department's recommendation is amended as follows:

1(f) Reduce the planned need for buildable land for community parks to account for information on the portion of these parks that has actually occurred within the 100-year floodplain *and the potential for sharing park facilities with the School District and Linfield College.*

**D. City of McMinnville**

**Exception 1. Population projection.** This exception relates to recommendation 1(a) on page 8 of the March 30, 2004 staff report and 1000 Friend's Objection 1 on pages 1 through 3 of the same report, Attachment A. The city states that there is substantial evidence in the local record to support the forecast decrease in unincorporated county population. The city cites evidence from

the Population Research Center at Portland State University that the unincorporated population has actually decreased by over 1,600 people between 2000 and 2003.

**DLCD response:** The department does not agree with the exception, although it is possible that the department would change its recommendation if the city can adequately address the issue below in oral argument.

The city cites the fact that the county's unincorporated population has declined in the last three years as evidence to support its forecast. The city does not demonstrate that the 2003 data from PSU is in the local record, so the department will respond to the year 2002 PSU data, which is referenced in the city's Plan (Table 1 on page 2-1). Table 4 of PSU's 2002 population report (attached) shows that between the years 2000 and 2002, unincorporated population declined by 730 people. Projected over twenty years, this rate of decline would amount to a decline of 7,300 people in the unincorporated area (730 divided by 2 times 20). The same report, however, shows that between the years 1990 and 2002, the unincorporated population increased by 634 people. Since the two facts from PSU are opposite trends, the city needs to explain, based on the local record, why it chose the forecast consistent with the short-term decline in unincorporated population rather than a different forecast consistent with the long-term trend of increasing unincorporated population.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 2. Persons per household.** This exception relates to recommendation 1(b) on page 8 of the March 30, 2004 staff report and 1000 Friend's Objection 9 on pages 21 through 22 of the same report, Attachment A. The city states that there is substantial evidence to support the use of 2.54 persons per household rather than the 2.66 persons per household from the year 2000 Census. The city's reasons for such a decrease are a change in the planned mix of housing towards increased numbers of multifamily dwellings, which have a lower number of persons per household than single family housing, and demographic trends towards more female heads of household and an aging population, both of which have smaller family sizes than the average.

**DLCD response:** The department agrees with the exception.

In its March 30, 2004 report, the department observed that the number of persons per household (PPH) would have to be reduced from the year 2000 level of 2.66 rather than remain constant at the 1990 level of 2.54 as stated in the city's findings. The city has planned to increase the percentage of multifamily housing, which will result in a decrease in the average number of persons per household in newly constructed dwellings. This plan only went into effect after the year 2000, so its anticipated effect would be a decrease from the year 2000 number. Also, the well-known "bulge" in the population by age distribution represented by the "baby-boom" is only beginning to reach retirement age after the year 2000. Both of these trends which the city relies on will contribute to a reduction from the year 2000 Census PPH.

The city's finding that the number of persons per household would remain constant over the planning period (actually from the 1990 number to 2023) is not inconsistent with short-term fluctuations, either higher or lower. Therefore, an increase from the year 1990 to 2000 is not necessarily inconsistent with the city's assumed long-term trend. The city did base its decision on substantial evidence that the number will be reduced in the future from the year 2000 number.

**Conclusion:** The department agrees that the city has supported the forecast of 2.54 persons per household with substantial evidence. **The department amends its recommendation to delete recommendation 1(b).**

**Exception 3. Redevelopable R-2 zoned land.** This exception relates to recommendation 1(c) on page 8 of the March 30, 2004 staff report and 1000 Friend's Objection 10 on pages 22 through 23 of the same report, Attachment A. The city states that its findings that there is no potential for redevelopment in the R-2 zone is correct for the following reasons:

- (a) Since the city adopted a new R-5 zone for multiple family housing, it no longer allows multiple family housing in the R-2 zone.
- (b) The city considers large lots with a house to be partially vacant and thereby already accounts for their further development potential.

**DLCD response:** The department does not agree with this exception.

(a) The city states that it no longer allows multiple family development in the R-2 zone, but has not amended the development standards in that zone. That the standards in the R-2 zone have not changed would support the conclusion that historical data on the type and density of development in that zone is valid.

(b) The department agrees that the development potential of partially vacant lots is accounted for and that the redevelopment potential that remains is on small lots. In addition, the city has accounted for the development potential of the development of accessory dwellings (Plan, pages 5-16). Therefore, the remaining redevelopment opportunity is for siting of duplexes on corner lots currently occupied by a single family dwelling. However, the city has not provided any data on the number of duplexes built on redeveloped lots nor have they provided reasons why such a number would be too small to warrant a remand.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 4. Government assisted housing.** This exception relates to recommendation 1(d) on page 8 of the March 30, 2004 staff report and CDLC's Objection 1 on pages 42 through 44 of the same report, Attachment A. This exception addresses the following issues:

(a) The Housing Needs Analysis has identified that 53 percent of households in the year 2000 are low-income and many of these households would qualify for one or more government assisted housing programs.

(b) The department is holding the city to a higher standard than it has held any other jurisdiction in the state on this issue.

(c) The city has included the need for government assisted housing in the overall assessment of land need and has provided for that need in its allocation of land by zone.

(d) The department misinterprets Table 5-22, "Financially attainable housing type by income range."

(e) Since the city has determined the need for government assisted housing, then there is no reason to re-examine the ratio of single family to multiple family housing.

(f) The city agrees that the standard for siting multiple family housing in the R-4 zone is not clear and objective.

**DLCD response:** The department does not agree with this exception.

(a) The number of low-income households is a fact that is not in dispute. What is at issue is whether, based on the discussion below, the city has determined the need for government assisted housing at various price ranges and rent levels.

(b) The city is being held to the same standard as all cities in the state:

- ORS 197.303 defines "government assisted housing" as a "needed housing" type, and defines "needed housing," generally, as housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels;
- ORS 197.307 requires cities to provide for zones with sufficient buildable land to satisfy that need; and
- ORS 197.296(3)(b) requires the city to conduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years

(c) The city makes the argument that if the city determines the number of all housing units needed at particular price ranges and rent levels, it includes the need for government assisted housing. Government assisted housing is not a structure type, but rather housing for people at lower price ranges and rent levels that correspond to certain government programs. The department agrees with this position. However, the fundamental problem is that the Housing Needs Analysis (HNA) does not show the number of dwelling units needed in the year 2023 at various price ranges and rent levels. The HNA pages 5-16 through 5-29 only contains data on current household income, housing prices and rent levels, number of needed housing units by

type, tenure and density. There is no table showing how the city plans to meet the need for housing at particular price ranges and rent levels. Therefore, the city lacks substantial evidence to determine that the need for government assisted housing has been met. Since the city has not determined the need for government assisted housing, it has no basis to determine that it has provided sufficient land in its zoning districts.

(d) Table 5-22 provides a link between household income and needed housing types. As the city states, this table was added in response to comments from the department that the city had not adequately analyzed housing needs at various price ranges and rent levels as they relate to income. This table provides the basis for determining what housing types meet a need at various income levels and, by implication, price ranges and rent levels. Since the table shows that ~~government assisted housing is only attainable as "used housing" for very low-income~~ households, the department inferred that the city did not intend to plan land for the development of new government assisted housing. The department agrees that such a conclusion is not reasonable, but we do not see how any other conclusion can be drawn from the table. That is one reason the department believes the plan is not consistent and that the need for government assisted housing must be re-examined.

(e) For the reasons above, the city needs to re-examine whether it has provided sufficient multiple family land for government assisted housing within the overall need for multiple family land.

(f) The city and the department are in agreement that the standard for siting multiple family housing in the R-4 zone is not clear and objective.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 5. Floor area ratio (FAR).** This exception relates to recommendation 1(e) on page 8 of the March 30, 2004 staff report and 1000 Friends' Objection 4 on pages 5 and 6 of the same report, Attachment A. The city states that the information from the City of Boulder should not be considered by the Commission and that the information from the City of Salem is more relevant. Also, the city states that the projected floor area ratio is not relevant at all because it was not used in estimating the land need.

**DLCD response:** The department does not agree with this exception.

The study from the City of Boulder is a background document that explains what a floor area ratio is and provides pictures and site plans of typical commercial buildings at various floor area ratios. Nowhere has the department suggested that the city should attempt to achieve the same average floor area ratio as Boulder. As 1000 Friends observed in its objection, the city has planned for the average floor area ratio of its commercial lands to be less than that achieved in a Walmart store. The average floor area ratio should be higher than that for auto-oriented, big-box development.

The floor area ratio is a statistic that describes the intensity of use of land. The city stated that "FAR can be a useful tool." Whether the FAR is a statistic which describes the city's decision or was a factor in estimating the land need does not change the fact that the city has not maximized its planned efficiency in the use of land. The department could also have said that the city should have planned for more employees per acre, fewer square feet per employee or greater lot coverage.

The city closes its exception by stating that the city's plan allows and encourages higher floor area ratios. The department agrees with this approach, but argues that the city needs to plan for an amount of land consistent with the higher efficiency which can be achieved.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 6. Parkland within the 100-year floodplain.** This exception relates to recommendation 1(f) on page 8 of the March 30, 2004 staff report and 1000 Friends' Objection 6 on pages 7 through 9 of the same report, Attachment A. The city cites three reasons why it should not be required to plan for more parkland within the floodplain.

- (a) The city underestimated the need for parkland.
- (b) The parks master plan does not "depict" neighborhood or community parks adjacent to the floodplain.
- (c) The parks master plan recommends that facilities in community parks be located outside of the floodplain to avoid the need to repair damage caused by flooding.

**DLCD response:** The department does not agree with this exception.

- (a) The need for parkland is not at issue here. The issue is whether a greater portion of the identified need can be met within the floodplain.
- (b) The "depiction" of a preferred site is not the same as the designation of a site or a finding of the area where a park needs to be located to serve a particular area. As stated in the department's March 30, 2004 report, the city will designate land for parks as residential land. Since the city has included this land as part of the residential land inventory, the requirement in ORS 197.296 applies, requiring consideration of data on development that has actually occurred. As is documented by Mr. Davis, that data suggests that a greater portion of the parkland need will be met in the floodplain.
- (c) The department agrees that the location of a portion of park facilities in the floodplain, by definition, exposes them to some risk of damage. None of the objectors has suggested that the city must place all of its parkland or the most expensive park facilities in the floodplain. Rather it



is argued that a portion of future parkland can be located in the floodplain as has been done in the past.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 7. Non-inclusion of floodplain in certain areas.** This exception relates to recommendation 1(g) on page 8 of the March 30, 2004 staff report and 1000 Friends' Objection 14 on page 42 of the same report, Attachment A. The city states that these floodplain areas are needed under Goal 14, factors 1 and 2 for the following reasons:

(a) The city limits and South Yamhill River are logical boundaries for the UGB. The Norton Lane area is surrounded by the river and the city limits. Similarly, the floodplain portion of the Three Mile Lane area is surrounded by the river and the UGB.

(b) The city has included floodplain land in the UGB because it cannot be farmed in conjunction with any adjacent farm lands (which are on the other side of the river). Including the two floodplain areas provides for the "orderly and economic provision of services" under Goal 14 factor 3. Also, inclusion of the floodplain area allows the river to provide a buffer between the urbanizable area and adjacent agricultural land under Goal 14 factor 7.

(c) The department's position that floodplain land should be excluded from the UGB is inconsistent with its position that more of the parkland need should be met in the floodplain.

(d) The inclusion of the floodplain land in the UGB is consistent with the "locational" factors of Goal 14 once a need has been shown.

**DLCD response:** The department does not agree with this exception.

(a) The city has not explained what the need is under Goal 14 factors 1 and 2 that is met by designating the river as a "logical boundary" and including areas that would otherwise be surrounded by the city limits and the river.

(b) As in (a), above, this argument does not identify a need under factors 1 and 2 to include these lands in the UGB. While it is true that the river separates farmlands on either side, no evidence is cited that the lands within the floodplain cannot be farmed. Also, no evidence is cited that utilities or streets need to be routed through the floodplain to serve other areas within the UGB.

(c) The department's position on locating parkland in the floodplain and excluding floodplain from the UGB is consistent. It is the city that has decided that neighborhood and community parks cannot be located in the floodplain. If, as the department recommends, the city allocated more parkland to the floodplain, the city would justify the inclusion of more floodplain land in the UGB to meet the need for parks.

(d) The department agrees that once a need has been shown, the locational factors of Goal 14 apply to determine what areas best meet the need. However, the city has not clearly stated what that need is. Goal 14 factors 1 and 2 list four types of needs: population growth requirements, housing, employment opportunities, and livability. The city does not state which of these needs it intends to meet by including this floodplain land within the UGB.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 8. Westside Road exception area.** This exception relates to recommendation 2(b) on page 8 of the March 30, 2004 staff report and 1000 Friends' Objection 14 on pages 35 through 39 of the same report, Attachment A. The city states that the area is unlikely to develop with urban uses in the planning period, the southernmost property owner does not want to annex, and the city does not have a need for more land for low density housing.

**DLCD response:** The department agrees with this exception.

This is a small exception area that lies between a creek and a state highway. The city excluded this area from the UGB, based on substantial evidence that the area cannot reasonably be served with local streets. This meets the standard in ORS 197.298(3)(b) to exclude the area. The city's maps in Appendix C show that the pattern of lot lines and buildings in this small area make it infeasible to find a route for a local street to serve the area. The creek, although not an absolute barrier, is a factor that increases the cost of serving the area and would require the construction of a bridge to connect to other areas to the east. The department has also agreed with the city that the other small "strips and patches" of exception areas adjacent to state highways cannot reasonably accommodate urban uses. As the city points out, lack of a local street in this area would necessitate more driveway access onto the highway. A setback from the highway to provide a buffer would further reduce the already small number of homes this area could accommodate.

**Conclusion:** Because of its small size, pattern of existing development and the land use conflict with the adjacent highway, the area cannot reasonably accommodate urban uses and cannot reasonably be served with local streets. The city is justified to exclude it from the UGB. The department amends its recommendation to delete recommendation 2(b).

**Exception 9. Soil class.** This exception relates to recommendation 2(c) on page 8 of the March 30, 2004 staff report and 1000 Friends' Objection 14 on pages 41 and 42 of the same report, Attachment A. The city states that it did consider the priorities in ORS 197.298 when it decided to include areas with higher agricultural capability instead of those with lower capability.

(a) The city found that area with class IV soil east of the airport is inappropriate for residential or commercial uses because of conflicts with the airport and a police training facility. We understand the city's finding to be that the area cannot reasonably accommodate needed uses because of land use conflicts.

(b) We understand the city's finding to be that: (1) the area cannot reasonably be provided with water service because of its elevation; (2) the area cannot reasonably accommodate needed uses because of excessive slope; and (3) the area should be considered a low priority for inclusion within the UGB because of its moderate to high woodland capability.

(c) There are no significant areas with class I soil included in the UGB.

**DLCD response:** The department agrees with the exception in part.

(a) The department agrees that the city has excluded lands east of the airport, in consideration of the priorities in ORS 197.298, because the area cannot reasonably accommodate needed residential or commercial uses.

(b) The city has explained reasons for excluding areas west of the city but has not cited to evidence in the record. The city has not explained why it cannot reasonably plan for water service at higher elevations. The city has not established the extent of the severe slopes. For example, areas with slopes predominantly greater than 25 percent are generally not considered buildable land for purposes of Goal 10 (OAR 660-008-0005(2)). The city states that this area has moderate to high woodland capability but does say how it prioritizes the area in comparison with other areas under ORS 197.298.

(c) The department does not dispute the city's assertion that no significant class 1 areas have been brought in to the UGB.

**Conclusion:** The city has justified the exclusion of the lands east of the airport, based on the priorities in ORS 197.298. However, the exception in regard to areas west of the city is not supported with substantial evidence. The department's recommendation is amended as follows:

2(c) Using maps provided by the US Natural Resource Conservation Service and the Oregon Department of Agriculture, identify areas with class 3 and 4 agricultural soils and either (1) include them in the UGB instead of areas with class 1 and 2 soils, if any, or (2) explain why they should not be included based on the standards in ORS 197.298(3). *Areas with class III and IV soils east of the airport are excluded from this requirement.*

**Exception 10. Transit related densities.** This exception relates to recommendation 3(a) on page 9 of the March 30, 2004 staff report and 1000 Friends' Objection 8B on pages 13 through 19 of the same report, Attachment A. The city makes several major points in this exception in asserting the city should not increase the width of proposed transit corridors from 500 feet to one-quarter mile in width on either side of transit routes.

(a) **No sources cited.** The city states that DLCD did not provide a citation substantiating the assertion that the planning profession standard for transit-oriented developments include transit-supportive land uses within one-quarter mile of transit corridors.

(b) **It is unreasonable and impracticable to widen corridors.** The city states it would be unreasonable and impracticable to widen the corridors to one-quarter mile on either side of transit corridors since this would result in an "amorphous blob" that would cover approximately 70 percent of the existing growth boundary and "engulf" half, or more, of the width and length of every Neighborhood Activity Center.

(c) **Planning for high-density transit-oriented development not required by Goal 12 or the TPR.** The city states there is nothing in Goal 12 or the Transportation Planning Rule that even remotely requires this level of detail of impact, particularly considering that McMinnville is currently served by a dial-a-ride.

(d) **Not required of other jurisdictions or by DLCD workbook.** The city asserts that planning for high-density residential development within one-quarter mile of transit routes has not been required of any other jurisdiction and is not recommended in the DLCD workbook "Planning for Residential Growth."

(e) **The city's analysis considered all vacant, partially vacant, and potentially redevelopable parcels located within the city.**

(f) **Medium- and high-density residential development.** The city asserts they should not be required to plan for high-density housing beyond 500 feet from a transit route since the city's policies allow medium-density housing within one-quarter mile of transit routes.

(g) **Other factors used to evaluate parcels.** The city states that other factors, such as traffic, noise, and relation to existing surrounding development, are used to publicly review proposed rezonings within the transit corridors.

(h) **City is currently implementing density policy.** The city has approved developments on two of the six parcels identified on Map 3 and Table 9. The resulting developments have a combined average density of over 11 dwelling units per net buildable acre. Consequently, only four of the six properties remain that would be affected by this policy.

**DLCD response:** The department does not agree with this exception.

(a) DLCD cited two publications in the staff report, Attachment A (p. 14) primarily to describe the net residential densities typically considered to be transit-supportive. We anticipated that the minimum densities required would be more of an issue than the width of the transit corridors. The one-quarter mile radius is such a common standard that we did not think this needed to be specifically referenced. Nevertheless, two of the publications cited by DLCD on page 14 of Attachment A refer to the width of transit corridors, as follows:

"Transit supportive development" is a strategy to preserve regional mobility and quality of life, by reinforcing Tri-Met's transit system and supporting ridership growth. It recommends, simply, that land use planning be used to cluster new

development along existing and planned transit corridors, such that walking and transit are viable transportation options... Within these designated corridors, transit supportive development should occur within ½ mile of the LRT stations and one-quarter mile of the bus routes. (Planning and Design for Transit, Tri-Met, 1993, p. 17.)

A Transit-Oriented Development (TOD) is a mixed-use community within an average 2,000-foot walking distance of a transit stop and core commercial area... The size of a TOD must be determined on a case-by-case basis. The average 2,000-foot radius is intended to represent a 'comfortable walking distance' (+/-10 minutes) for a majority of people. (The Next American Metropolis, Peter Calthorpe, 1993, p. 56.)

The planning literature is replete with other references that cite the one-quarter mile standard, including:

The old transit industry standard – that transit users will walk a quarter mile, or five minutes at three miles per hour, to a bus stop – is better than we might have guessed... Of course, young people may be willing to walk a little farther than older people, and users of premium transit (rail rapid, for example) may walk a little farther than regular bus users. But a quarter mile walking distance is a good rule of thumb for transit planning. (Pedestrian- and Transit-Friendly Design: A Primer for Smart Growth, Reid Ewing, p. 5.)

Smart Growth emphasizes accessibility meaning that the activities people use frequently are located close together. For this reason, the basic unit of planning is the local community, neighborhood or "village," that is, a mixed-use, walkable area, one-half to one mile in diameter, with commonly-used public services (shops, schools, parks, etc.) clustered into a central commercial area. (Victoria Transport Policy Institute, Online TDM Encyclopedia, Updated December 13, 2003, [www.vtpi.org/tdm/tdm38.htm](http://www.vtpi.org/tdm/tdm38.htm).)

The Transportation Planning Rule (OAR 660, Division 12) requires that local jurisdictions consider land uses, densities, and design standards that can help to meet local transportation needs. Communities may require development at higher densities, especially within one quarter mile of transit lines or destinations such as shopping or employment centers. (Tools of the Trade, ODOT/DLCD TGM Program, ECO Northwest, Pacific Rim Resources, and J. Richard Forester, 1995, p. 1.25.)

In addition to these publications, DLCD's letter to the city dated August 4, 2003 cited the one-quarter mile standard. To the extent the city questioned this standard, the city had the opportunity to request a citation substantiating DLCD's statement prior to adoption of the MGMUP.

(b) The city has adopted a policy that defines the appropriate locations for high-density residential development (Policy 71.13, p. D-10). This policy effectively limits high-density housing to areas within a 1,000-foot wide corridor centered on existing or planned public transit routes.

The city's exception creates the appearance that the result of DLCD's staff recommendation would be a requirement to designate more than 70 percent of the UGB for high-density housing. This is not staff's expectation. The thrust of our analysis and conclusion is that the city's use of a 500-foot distance from transit routes as a sieve to determine which parcels are suitable for high-density housing is inconsistent with the standards of the profession in terms of planning for transit supportive uses. The city has effectively declared in both policy (Policy 71.13, p. D-10) and through the analysis (pp. 5-22 – 5-24) that parcels lying more than 500 feet from a transit corridor are, on their face, not appropriate for high-density housing. The city has not adequately considered whether there are parcels between 500 feet and 1,320 feet from a transit corridor that may be suitable for high-density housing simply because these parcels lie more than 500 feet from the transit corridor.

As noted above, the standard in the planning profession is to plan for transit-supportive land uses, including high-density housing, within one-quarter mile of transit stops and corridors. The record does not indicate why it is reasonable for the city to exclude high-density housing from being located more than 500 feet from a transit corridor. The fact that these areas may encompass more than half of the UGB or the NACs is not an adequate justification. This is not to suggest that all parcels that lie within one-quarter mile of a transit corridor should be or must be designated for high-density housing. Certainly, the city can apply other criteria to determine the appropriate designation for parcels. For example, Policy 71.13 includes six additional factors that will be used to determine the appropriate location for high-density housing. We do not take issue with the application of these other factors. Our point is that limiting high-density housing to only those parcels within 500 feet of a planned transit route is too restrictive.

(c) The TPR requires the following: "To support transit in urban areas containing a population greater than 25,000, where the area is already served by a public transit system or where a determination has been made that a public transit system is feasible, local governments shall adopt land use and subdivision regulations as provided in (a) – (g) below... (g) Along existing or planned transit routes, designation of types and densities of land uses adequate to support transit" (OAR 660-012-0045(4)).

As noted in the staff report, Attachment A (p. 15), the department is highly supportive of the city's overall approach in terms of integrating transit into the comprehensive plan and planning for transit-supportive uses overall. Incorporating the proximity of parcels to transit corridors as a factor in determining their most suitable use is an excellent step in the right direction. The city's approach is fundamentally sound overall. However, the city's policy is too restrictive since it precludes high-density housing from being located more than 500 feet from a transit corridor.

The department also believes it is appropriate to plan for transit-supportive uses even though the city's transit system has not yet instituted fixed-route service. One of the objectives of the TPR is to integrate land use and transportation planning, and it would not be prudent to wait for fixed-route service to be implemented before planning for transit-supportive uses along those corridors. Planning for transit-supportive uses now will enable fixed-route service to be successful in the future.

(d) Many local governments have adopted plans for transit-supportive land uses, including high-density residential development, near major transit stops and along transit corridors. The department is currently working with several cities on planning for transit-supportive land uses along transit corridors and at major transit stops. These include Salem and Bend, both of which are preparing transportation system plans (TSPs) as periodic review tasks.

The city is correct that the publication "Planning for Residential Growth" does not specifically refer to planning for transit-oriented development as a specific tool or strategy for completing a buildable lands and housing needs analysis. This publication lists various measures, such as applying appropriate plan and zone designations, removing ineffective regulations, and requirements for certain housing types and densities to be planned and built, that can be implemented by local governments in order to meet housing needs and make efficient use of land inside the UGB. Many of these techniques are consistent with the principles of planning for transit-oriented development. In addition, the ODOT/DLCD TGM Program publication "Tools of the Trade" was prepared to "help local governments manage growth more effectively in their communities." This publication specifically refers to transportation efficient land use strategies, including planning for "higher densities, especially within one quarter mile of transit lines or destinations such as shopping or employment centers," (p. 1.25).

In addition, this issue was specifically raised in the department's August 4, 2003 letter to the city, as well as in prior meeting with city representatives. Certainly, the city and the city's consultants were aware that planning for high-density residential development within one-quarter mile of transit routes was a strategy commonly used by local governments to meet housing needs, effectively manage growth, and respond to the requirements of the TPR, and that DLCDC expected this strategy to be implemented by the city.

(e) The description in the MGMUP of the methodology used to identify the parcels shown in Figure 3 and identified in Table 9 is fairly brief. The map identifies only two parcels as "partially vacant," and the map legend does not include a category for "redevelopable" parcels. In addition, it is still not clear to us whether the city considered parcels currently zoned for commercial or industrial uses in this analysis. For example, the city's exception states "(a)ll other residential land within these density corridors is 'developed' and currently occupied with existing apartments and neighborhoods." The city's exception does not clearly indicate the status of commercial or industrial parcels, the analysis and map does not describe the existence of any "redevelopable" parcels, and the record does not include a clear description of the methodology used.

(f) We are supportive of the city's policies (for example, Policy 71.09) that allow or encourage medium-density housing within one-quarter mile of transit corridors. However, as noted above, we believe the city's Policy 71.13 is too restrictive since it defines parcels located more than 500 feet from a transit corridor as inappropriate for high-density housing. We agree with the city that medium-density development is also an appropriate use within one-quarter mile of transit corridors. However, planning for medium-density development within one-quarter mile of transit corridors does not mean it is acceptable to prohibit high-density development beyond 500 feet from a transit corridor.

(g) As noted above, the department does not intend for the city to designate all parcels located within one-quarter mile of a transit route for high-density housing. The city can apply other factors, in addition to proximity to transit service, when determining the appropriate land use designation for specific parcels. The department does not take issue with the other criteria listed in Policy 71.13 to determine the appropriate land use designation for specific parcels. The department's only issue in this regard is that parcels located more than 500 feet but less than 1,320 feet from a transit route should not be considered inappropriate for potential designation for high-density residential development.

(h) The city's implementation efforts appear to be consistent with the plan. However, the city misunderstands the department's position regarding this policy. Our position is that the city's policy inappropriately precludes additional parcels (other than the four identified by the city) from being considered as potentially suitable for high-density housing because these parcels lie more than 500 feet from a planned transit route. Had the city examined the potential for parcels within one-quarter mile to be designated for high-density residential development, it is likely the city would have identified additional parcels.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 11. Neighborhood Activity Center (NAC) density.** This exception relates to recommendation 3(d) on page 9 of the March 30, 2004 staff report and 1000 Friends' Objection 8B on pages 13 through 19 of the same report, Attachment A. The city makes two major points in this exception, as follows:

(a) **Density is consistent with housing need and is a target, not an absolute.** The city states that the overall residential density target of 7.5 dwelling units per acre within the NACs was chosen to reflect the identified housing need. The MGMUP identifies this density as a target rather than an absolute. Therefore, approved residential density may well exceed 7.5 dwelling units per acre.

(b) **Other NAC policies create opportunities for higher densities.** The city states that DLCD is focusing too much on this one policy, and that other NAC policies create the opportunities for higher residential densities.

**DLCD response:** The department does not agree with this exception.

(a) As noted in the staff report, Attachment A (p. 18), the department supports the establishment of an overall *minimum* target of 7.5 dwelling units per net acre, as this target meets both the identified housing need and is consistent with the minimum densities necessary to support feeder bus service. However, the MGMUP policies clearly state that the "overall residential density" for each of the NACs is "targeted at 7.5 dwelling units per acre" (Policy 188.10, for example). The city asserts that approved residential densities may well exceed 7.5 dwelling units per acre. We do not doubt the city's sincerity or desire to encourage developments that exceed the 7.5 dwelling unit target. However, our concern is that a literal reading and interpretation of the MGMUP



policies could potentially preclude the city from approving a NAC Concept Plan that exceeds the target. For example, if a property owner proposes a Concept Plan that achieves 10 dwelling units per net acre, we believe that an opponent to that project could successfully argue that the city cannot approve the proposed Concept Plan because it exceeds the city's target.

The city's exception states "approved residential density may well exceed 7.5 dwelling units per acre." DLCD and the city appear to be in agreement in terms of the overall policy objective—namely, that overall densities higher than 7.5 dwelling units per acre should be allowed. Where we disagree is whether the plan is clear on this point. DLCD believes the city's policies are ambiguous on this point and could be construed more than one way. As noted above, this could create a hardship for a developer when someone asks the city to interpret its policies literally. The department's recommendation is for the city to clarify this issue by amending the NAC policies to clearly indicate the target of 7.5 dwelling units per net acre is a minimum but that higher overall densities will be allowed.

(b) We understand there are other policies guiding housing opportunities in the NACs, and that these policies support the inclusion of higher density housing types of certain sizes and minimum densities. At issue is not whether housing types exceeding 7.5 dwelling units per net acre can be authorized in certain portions of an NAC, but whether the overall residential density of the NAC as a whole is expected to equal or could exceed the targeted overall density of 7.5 dwelling units per acre, and whether the city's policies are clear on this point. For example, certain NAC policies, such as Policies 188.10, 188.18, 188.26, and 188.34, clearly state that the "overall residential density of this neighborhood is targeted at 7.5 dwelling units per acre." Our interpretation of this "target" is that while higher density housing types are allowed within NACs, that the "overall residential density" target can be construed as both a floor and a ceiling. In other words, we believe that a reasonable interpretation of these policies is that higher density housing would have to be offset by lower density housing, so that the "target" of 7.5 dwelling units per net acre is achieved but not exceeded. The staff recommendation is for the city to clarify these policies on this point.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 12. Revision of density definitions.** This exception relates to recommendation 3(e) on page 9 of the March 30, 2004 staff report and 1000 Friends' Objection 8B on pages 13 through 19 of the same report, Attachment A. The city's exception states that DLCD misinterpreted the city's use of the term "net density," and that use of the definition used by the city would yield lot sizes commensurate with medium- and high-density housing products found in McMinnville.

**DLCD response:** The department does not agree with this exception.

The city used different definitions of the term "net acre" when preparing the land needs and housing analysis and in policies 71.09 and 71.11 regarding medium- and high-density residential development. These different definitions were used to help clarify information for appointed and

electd officials. After reviewing this information with the city, DLCDC has determined that the methodology used by DLCDC in our staff report, Attachment A (p. 18) is the more commonly accepted use of the term "net residential acre," and that the term as used by the city is the more commonly accepted use of the term "gross residential acre."

Nevertheless, using the city's methodology and definition for "medium-density residential development" from four to eight dwelling units per net acre yields lot sizes ranging from approximately 8,400 square feet to 4,200 square feet. (This differs from the references in the city's exception of lot sizes ranging from 8,100 square feet to 1,000 square feet due to errors on the city's part.) The issue, then, is whether lots ranging from 8,400 to 4,200 square feet are consistent with the medium-density housing products defined in Policy 71.09 (small lot single-family detached, single-family attached, duplexes, triplexes, and townhouses), and whether housing products typically located on lots that are up to but less than 4,200 square feet are consistent with high-density housing products as those are defined in Policy 71.11 (townhouses, condominiums, and apartments).

The department reaches the same conclusion we reached in our March 30, 2004 staff report, Attachment A (pp. 18-19): The city's plan is internally inconsistent with regard to definitions of low-, medium-, and high-density development.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 13. Illustrative plans.** This exception relates to recommendation 3(f) on page 9 of the March 30, 2004 staff report and 1000 Friends' Objection 8C on pages 19 through 21 of the same report, Attachment A. The city's exception states that these plans are illustrative only, are not legally binding, and that more detailed master planning is required prior to development approval.

**DLCDC response:** The department does not agree with this exception.

DLCDC understands the issues raised in the exception, and explained these facts in the staff report, Attachment A (pp. 19-20). The only problem DLCDC has found with the illustrative plans is that they are not consistent with the adopted policies. The city has not disputed this finding. The city appears to believe these inconsistencies are immaterial since the illustrative plans are not legally binding. The department believes it is necessary for the plan to be internally consistent. Logically, an illustrative plan must be consistent with the city's policies and standards, so that it shows an example of a plan that can be approved.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 14. Traffic impacts of proposed rezonings.** This exception relates to recommendation 3(g) on page 9 of the March 30, 2004 staff report and 1000 Friends' Objection 11 on pages 23 through 25 of the same report, Attachment A. The city states that the requested

traffic analysis is not necessary because many of the parcels are already developed, some parcels have limited access, and that some parcels are approximately one acre in size, and the city does not believe the TPR was intended to require such analysis for parcels of this size, location, or planned residential intensity.

**DLCD response:** The department does not agree with this exception.

The city's exception does not clearly explain how the department erred in our review of the MGMUP and related objection. The city appears to be asserting that traffic impacts of the rezonings will be minor or insignificant for a variety of reasons, and asserts that the TPR does not apply to these types of rezonings.

The department has no opinion as to whether the proposed rezonings will or will not have a significant impacts on transportation facilities. The city has not provided the factual basis upon which such a conclusion can be reached. The TPR requires an analysis and adopted findings based on fact. Limitations on the development potential of the property and the resulting traffic generation can be used to develop these findings. The TPR does not exempt amendments to functional plans, acknowledged comprehensive plans, and land use regulations from this requirement based on size, location, or planned intensity.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 15. Amend typographical error.** This exception relates to recommendation 3(h) on page 9 of the March 30, 2004 staff report and 1000 Friends' Objection 12 on pages 25 through 28 of the same report, Attachment A. The city agrees with the need to correct the typographical error and asserts that this error is not a reason to remand the city's submittal.

**DLCD response:** The department does not agree with this exception.

Allowing the error to stand creates the potential for the city to allow strip commercial development in this vicinity. This would be inconsistent with the city's own plan, as alleged in the objection by 1000 Friends of Oregon. Therefore, it is necessary to remand this error for the city to correct.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 16. Accessory dwelling unit.** This exception relates to recommendation 3(i) on page 9 of the March 30, 2004 staff report and 1000 Friends' Objection 13B on pages 31 and 32 of the same report, Attachment A. The city did not amend its ordinance to make clear that an accessory dwelling does not count towards the allowed density in each particular zone, but the record is clear that the city intends to interpret its zoning ordinance that way.

**DLCD response:** The department does not agree with this exception.

This is an oversight that the city states it can and will correct. The city needs to make this correction to provide clear and objective standards under Goal 10 and to provide implementing measures which are adequate to carry out the plan under Goal 2.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 17. Amend C-1 zone.** This exception relates to recommendation 3(j) and 3(k) on page 9 of the March 30, 2004 staff report and 1000 Friends' Objection 13B(2) and (3) on pages 32 and 33 of the same report, Attachment A. The city asserts that amending development standards in the C-1 zone is unnecessary because the C-1 zone has not been used in many years.

**DLCD response:** The department does not agree with this exception.

The fact that the C-1 zone may not apply to any existing properties and has not been used in many years does not prevent the city from applying this zoning to parcels in the future. Therefore, the city needs to amend the zone to be consistent with other policies or, as suggested by the city, remove this designation from the zoning ordinance.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 18. Amend R-4 and R-5 zones.** This exception relates to recommendation 3(l) and 3(m) on page 10 of the March 30, 2004 staff report, 1000 Friends' Objection 13B(7) on page 34 and CDLC Objection 3 on pages 46 through 48 of the same report, Attachment A. The city states that, for the standard for design features on exterior elevations, it used language from the City of Corvallis' ordinance that has been recently acknowledged. The city agrees that the standard for buffering multifamily housing in the R-4 zone is not clear and objective.

**DLCD response:** The department does not agree with this exception.

The department regrets that it did not identify the standard in the City of Corvallis' ordinance as discretionary. However, to allow the standard to stand in the City of McMinnville's ordinance would be to compound this error. It appears that the city is willing to either amend the two standards or delete them from their ordinance.

**Conclusion:** The department has not changed its recommendation in response to this exception.

**Exception 19. NAC related policy and ordinance amendments.** This exception relates to recommendation 3(n) on page 10 of the March 30, 2004 staff report, 1000 Friends' Objection 11 on pages 23 through 25 and CDLC Objection 4 on pages 48 and 49 of the same report, Attachment A. The city states that it is not prevented by Goal 2 or Goal 10 from applying the

“Activity Center” plan designation to residential lands and from requiring a planned development application at the time of annexation and rezoning.

**DLCD response:** The department does not agree with this exception.

The commission’s housing rule, OAR 660-008-0020, requires cities to assign residential plan designations to all buildable lands that are “specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.” The assignment of specific residential plan designations can be deferred if, “[t]he plan includes a time-specific strategy for resolution of identified public facilities uncertainties and a policy commitment to assign specific residential plan designations when identified public facilities uncertainties are resolved.”

Further, OAR 660-008-0025 allows cities to defer rezoning of land within a UGB to maximum planned residential density only if (1) a rezoning process exists which will be used to provide for needed housing and (2) the rezoning process is clear and objective.

The city has not met the requirement to assign specific residential plan designations or to adopt a policy to do so in the future. The city has adopted an “Activity Center” plan designation which does not assign residential plan designations at all. Based on the Commission’s rule, it is the city’s responsibility, if not now then at some specific time in the future, to tell each affected property owner what type and density of housing will be allowed. The city cannot shift this responsibility to property owners by requiring a planned development application at the time of annexation or the rezoning of property.

Also, the Commission’s rule, cited above prohibits the city from requiring a planned development application with a rezoning application because the standards for a planned development are not clear and objective.

**Conclusion:** The department has not changed its recommendation in response to this exception.

## **VI. COMMISSION OPTIONS**

(See the department’s March 30, 2004 report.)

## **VII. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS**

### **A. Procedural Issues.**

Before accepting testimony, the Commission needs to decide whether to allow oral argument and whether to accept the three items of new information as requested by the department above.

**Motion 1:** . . . move that the Commission accept oral argument, pursuant to OAR 660-025-0160(6).

**Alternative Motion:** . . . move that the Commission hear this matter based on the written record, pursuant to OAR 660-025-0160(6).

**Motion 2:** . . . move that the Commission accept the excerpts from publications by the City of Boulder, Tri-Met and Peter Calthorp, referenced in the department's staff report, into the record of this hearing as new information, pursuant to OAR 660-025-0160(6).

**Alternative Motion:** . . . move that the Commission not accept the new information as requested by the department, pursuant to OAR 660-025-0160(6).

**B. Substantive Issues.**

Based on the analysis and findings contained in Attachment A, the department recommends the Commission take the following actions.

1. Remand Task 1 and the UGB amendments for reconsideration of the land need for residential, commercial and office uses and to complete the following tasks:

a) Amend the population forecast, based on a constant population for the county unincorporated area, or provide substantial evidence to demonstrate that county unincorporated population can be expected to decline in the next twenty years.

b) ~~Amend the Housing Needs Analysis employ the year 2000 household size of 2.66 persons per household or justify why this factor should be reduced to 2.54.~~

c) Amend the Housing Needs Analysis to accommodate a portion of the housing need on redeveloped land in the R-2 zone, based on available information on development which has actually occurred.

d) Amend the Housing Needs Analysis to project the type and density of government assisted housing *and farmworker housing* that will be needed, including multifamily; reevaluate the planned ratio of single family to multiple family units; and ensure that sufficient land is planned in each residential zone to accommodate the need.

e) Amend the Economic Opportunities Analysis and land need for commercial and office use to substantially increase the planned efficiency in the use of land and to plan for types of development that is pedestrian-friendly and transit oriented development.

f) Reduce the planned need for buildable land for community parks to account for information on the portion of these parks that has actually occurred within the 100-year floodplain *and the potential for sharing park facilities with the School District and Linfield College.*

g) Delete the unbuildable floodplain portions of the Three Mile Lane and Norton Lane areas or justify the need for these lands or urban uses under Goal 14, factors 1 and 2.

2. Remand the UGB amendments for reconsideration of which lands are to be included, including the following tasks:

a) If the revised land need, based on 1) above, results in a decrease in the twenty-year land need, remove a corresponding amount of land from the UGB, starting with resource land according to the priorities in ORS 197.298.

~~b) If any resource land remains in the UGB after completing 2(a) above, add the Westside Road exception area to the UGB and delete an amount of resource land which is equal to the added buildable landed capacity.~~

c) Using maps provided by the US Natural Resource Conservation Service and the Oregon Department of Agriculture, identify areas with class 3 and 4 agricultural soils and either (1) include them in the UGB instead of areas with class 1 and 2 soils, if any, or (2) explain why they should not be included based on the standards in ORS 197.298(3). *Areas with class III and IV soils east of the airport are excluded from this requirement.*

3. Remand the plan to ~~amend plan~~ and *related* implementing regulations, *including the rezonings in Table 73* to make them internally consistent, consistent with the findings used to justify the UGB amendment, and to comply with applicable goal requirements, including the following tasks:

a) Amend Policy 71.13 to indicate high-density housing is a suitable use: (1) within a one-half mile corridor centered on existing or planned public transit routes and modify the transit corridor enhancement analysis and conclusions and (2) within one-quarter mile from neighborhood and general commercial shopping centers or designated activity center.

b) Develop a program that will achieve the 10 dwelling units per acre within transit corridors by identifying additional vacant, underdeveloped, and redevelopable parcels that may be suitable for medium- and high-density housing within this half-mile corridor.

c) Rezone those parcels identified as suitable for medium- and high-density housing in order to implement the plan.

d) Amend the NAC policies to clarify the target of 7.5 dwelling units per net acre is a minimum but that higher overall densities will be allowed.

e) Revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the city.

f) Amend the illustrative plans for the Northwest, Grandhaven and Three Mile Lane NACs in order to make these illustrative plans internally consistent with the plan policies.

- g) Conduct an analysis to determine the traffic impacts of the rezonings in Table 73 and include findings to address OAR 660-012-060 or complete such an analysis in a transportation systems plan.
- h) Amend Ordinance 4796 to remedy a typographical error and to rezone and apply development restrictions to Parcel 13.
- i) Amend all residential zones to clearly state the minimum lot size for a lot with an accessory dwelling unit.
- j) Amend the C-1 zone to eliminate or substantially increase the 0.25 commercial floor area ratio limitation.
- k) Amend the C-1 zone to substantially reduce or eliminate the required 30-foot front yard setback
- l) Amend the R-5 zone to provide clear and objective standards for required design features on exterior elevations of buildings.
- m) Amend the R-4 zone to provide clear and objective standards for buffering multiple family from adjacent single family housing.
- n) Adopt a policy to (1) complete the "concept planning" process for Neighborhood Activity Centers over the twenty-year planning period and (2) require the concept plans to demonstrate that the increased traffic resulting from the proposed uses can be accommodated. Amend the NAC Planned Development Ordinance to (1) delete the requirement in Section 5.C to apply the PD process to zone changes and land divisions and (2) add a requirement to include a traffic analysis, which may be satisfied through the adoption of a TSP.
- o) Amend Policy 71.01 to indicate that densities higher than six units per acre are allowed within one-quarter mile of transit routes.*
- p) Amend the Illustrative Plans so that the NAC Support Areas consist of high- and medium- density designations. Alternately, amend Policy 188.00(4) to be consistent with the Illustrative Plans.*
- q) Amend Policy 188.03 to more clearly be a guideline and to not limit high-density housing from being a maximum distance of 1/8 mile (660') from the edge of a Focus Area.*

**Motion:** . . . move that the Commission remand Task 1 and the UGB amendment submittal to the city for reconsideration of: (1) the twenty-year land need, (2) the exception and resource lands added to the UGB, and (3) consistency of policies and implementing regulations and goal compliance, based on completion of tasks set forth in the department's report and responses to objections.



**Alternative Motion 1:** . . . move that the Commission remand Task 1 and the UGB amendment submittal to the city for reconsideration of:

(1) the twenty-year land need, (2) the exception and resource lands added to the UGB, and (3) consistency of policies and implementing regulations and goal compliance [**delete any of the preceding three items the Commission wants to approve**], based on completion of tasks set forth in the department's report and responses to objections;

except for subtasks [**list which tasks recommended by the department that are not required**];

and in addition to address the following issue(s) raised in the objection(s) [**list each issue and the objector who raised it**].

**Alternative Motion 2:** . . . move that the Commission approve Task 1 and the UGB amendment submittal, based on the city's findings and oral argument; the Commission rejects all of the objections.

**Supplementary Motion:** . . . move that the Commission approve the inclusion into the UGB of the Riverside South, Redmond Hill Road, and Fox Ridge Road exception areas because they contribute towards meeting a demonstrated need for buildable land, no objections to these areas have been submitted, and this partial approval is not inconsistent with any remand.

### **Attachments**

- A. CASA letter of August 4, 2003
- B. Guide to Objections and Exceptions

I:\lcdc\books04\Apr22-23Salem\Item 7c exceptions response.doc



EXHIBIT: K  
LAND CONSERVATION &  
DEVELOPMENT COMMISSION  
DATE: 9/10/04  
PAGES: 11  
SUBMITTED BY: DLCD staff



# Oregon

Theodore R. Kulongoski, Governor

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March 30, 2004

TO: Land Conservation and Development Commission

FROM: Jim Hinman, Urban Specialist and Eric Jacobson, Transportation Specialist  
via Rob Hallyburton, Community Services Manager

SUBJECT: **Agenda Item 7c, April 21-23, 2004, LCDC Meeting**

## **REFERRAL OF THE CITY OF McMinnville's PERIODIC REVIEW TASK 1 AND UGB AMENDMENT**

### **I. AGENDA ITEM SUMMARY**

#### **A. Type of Action and Commission Role**

The city has amended its urban growth boundary (UGB) to add 394 acres of "exception" lands and 1,144 acres of resource lands to accommodate a projected population growth of 15,545 people in the next twenty years. The city has employed an innovative approach to plan these areas as pedestrian-friendly, transit-oriented "Neighborhood Activity Centers."

This item is before the Commission as a referral from the department of two tasks. Task 1 on the city's periodic review work program is an "Inventory of Commercial Lands." A UGB amendment greater than 50 acres for a city with a population greater than 2,500 is reviewed as a periodic review work task. The department did not act to either approve or remand these tasks because, based on the objections received, an appeal to the Commission was likely. This referral will streamline the process.

The Commission's role is to address the issues raised by the objectors and department staff and either (1) approve the work tasks, or (2) remand one or both of the work tasks to the city.

#### **B. Staff Contact Information**

If you have questions about this agenda item, please contact Kevin Cronin, DLCD Regional Representative at (503) 731-4065 extension 25, Jim Hinman, Urban Planning Specialist, at (503) 373-0050, extension 245, or Eric Jacobson, Transportation Planning Specialist, at (503) 373-0050 extension 265. Mr. Hinman and Mr. Jacobson prepared this report.

## **II. SUMMARY OF RECOMMENDED ACTION**

The department recommends that the Commission:

- partially approve the city's submittal for the amendment of the UGB to include several exception areas; and
- remand portions of the Task 1 and UGB submittals for reconsideration of (1) the twenty-year land need, (2) the decision of which exception and resource lands to be added to the UGB, and (3) internal consistency of plan policies and implementing regulations and compliance with several specific requirements of the Statewide Planning Goals.

## **III. BACKGROUND**

### **A. History of Action**

This is the first time that this UGB amendment has been before the Commission. Task 1 "Inventory of Commercial Lands" was approved as part of the city's periodic review work program on August 26, 1994. The city adopted a housing needs analysis as a post-acknowledgment plan amendment. At the department's request, the Commission approved an appeal of the housing needs analysis to the Land Use Board of Appeals on June 15, 2001. LUBA remanded the housing needs analysis, primarily because the city had applied some, but not all, applicable statutory requirements to its determination of need. The city revised the housing needs analysis in response to that remand.

### **B. Major Legal and Policy Issues**

1. Whether the city correctly estimated the need for land to be added to the UGB:
  - residential land;
  - commercial land; and
  - park land.
2. Whether the city correctly applied the priorities in Oregon Revised Statute (ORS) 197.298 for including land within the UGB:
  - the city did not include several exception areas, but instead included resource lands;
  - the city did not include some nearby lands with lower agricultural capability, but instead included lands with higher capability.
3. Whether the city's plan and implementing regulations, as amended, are internally consistent and in compliance with all applicable requirements of the Statewide Planning Goals.

#### IV. REVIEW CRITERIA AND PROCEDURES

##### A. Decision-making Criteria

The criteria applicable to the amendment of an urban growth boundary (UGB) are:

**Statewide Planning Goal 14 “To provide for an orderly and efficient transition from rural to urban land use.”** This goal requires cities to have an urban growth boundary (UGB) to separate urbanizable land from rural land. Amendment of a UGB is based on consideration of the following seven factors:

- (1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;
- (2) Need for housing, employment opportunities, and livability;
- (3) Orderly and economic provision for public facilities and services;
- (4) Maximum efficiency of land uses within and on the fringe of the existing urban area;
- (5) Environmental, energy, economic and social consequences;
- (6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,
- (7) Compatibility of the proposed urban uses with nearby agricultural activities.

Factors (1) and (2) above are the “need” factors, which are used to determine whether there is sufficient land in a UGB to provide a twenty-year supply of land. The need for housing is further defined in Statewide Planning Goal 10, “Housing,” Oregon Administrative Rule (OAR) Chapter 660, Division 8, “Interpretation of Goal 10 Housing,” and ORS 197.296 through 197.314 “Needed Housing In Urban Growth Areas.” The need for employment opportunities is further defined in Statewide Planning Goal 9 “Economic Development” and OAR 660, Division 9, “Industrial and Commercial Development.” The need for “livability” has not been clearly defined but would at least include the need for parks and open space. Further, interpreted more broadly, “livability” could include the need to have a sufficient number of ratepayers or tax payers to support necessary public services.

Factors (3) through (7) above are the “locational” factors, and are used to determine which lands would best meet the identified needs and should be included in the UGB. These factors encompass a wide range of issues such as: which lands can be most efficiently provided with urban services; which lands are most suitable for urban uses due to topography and other development constraints; natural resources which should be protected; energy, economic and social impacts, both positive and negative; and protection of prime farmland.

Specific requirements for farmland protection are set forth in statute, ORS 197.298. This statute establishes priorities for adding various types of land to a UGB. All lands of a higher priority must be brought into a UGB or shown to be unsuitable before lands of lower priority can be used. The priorities, in order, are:

1. Lands designated as an urban reserve;
2. “Nonresource” lands or “exception” lands which have rural residential or other development;
3. “Marginal lands” designated pursuant to ORS 197.247;
4. Lower quality farmlands; and

5. Higher quality farmlands.

To amend a UGB, a local government must follow the Goal 2 Exceptions process, as set forth in OAR 660-004-0010(1)(C)(b). This requirement sometimes leads to some confusion. To follow the exceptions process does not mean that a UGB amendment requires an exception to a Statewide Planning Goal; for example, bringing farmland into a UGB does not require an exception to Goal 3. Also, some of the standards to address for an exception may be seen as duplicative of the Goal 14 factors. The exceptions standards are:

- (i) Reasons justify why the state policy embodied in the applicable goals should not apply (this factor can be satisfied by compliance with the seven factors of Goal 14);
- (ii) Areas which do not require a new exception cannot reasonably accommodate the use;
- (iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The first standard (reasons) requires nothing beyond the seven factors of Goal 14. The second (areas not requiring a new exception) has two interpretations although these are not mutually exclusive. A UGB amendment must be justified by showing that the need cannot be accommodated within the existing UGB (this is similar to Goal 14, factors 1 and 2). In addition, this standard can be applied to the priorities in ORS 197.298 to argue that an exception area should not be brought into a UGB because it cannot reasonably accommodate the use. The third requires a comparison of lands outside the UGB to determine which are most suitable for urbanization, similar to the "location" factors (3) through (7) of Goal 14. The last exception standard requires a finding that the uses inside and outside of the new UGB would be compatible; for farm uses, this standard encompasses Goal 14, factor 7.

Other applicable statutes, goals and rules are addressed in response to the objections in Attachment A. The most prominent of these are Goal 9, Economic Development; Goal 10, Housing; and Goal 12, Transportation and their implementing rules.

**B. Procedural Requirements**

OAR 660-025-0160(5) provides that no oral argument is allowed unless the Commission, by its own motion, allows it. If the Commission chooses to allow oral argument, only the department, the objectors, and the City of McMinnville may testify. Also, the Commission hears referrals and appeals based on the written record unless the Commission requests new evidence or information at its discretion and allows the parties an opportunity to review and respond to the new evidence or information.

OAR 660-025-0160(7) provides that, in response to an appeal, the Commission shall issue an order that does *one or more* of the following:

- (a) Approves the work task;

- (b) Remands the work task to the local government, including a date for re-submittal;
- (c) Requires specific plan or land use regulation revisions to be completed by a specific date;
- (d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b); or
- (e) Modifies the schedule for the approved work program in order to accommodate additional work on a remanded work task.

### **C. The Written Record For This Proceeding**

Task 1 submittal: City Ordinance No. 4795, adopting the "McMinnville Economic Opportunities Analysis."

UGB task submittal:

1. City Ordinance No. 4796
2. County Ordinance No. 730
3. McMinnville Growth Management and Urbanization Plan (MGMUP), May 2003
4. McMinnville Growth Management and Urbanization Plan: Findings, October 2003
5. McMinnville Growth Management and Urbanization Plan: Appendices, May 2003
6. McMinnville Residential Land Needs Analysis (RNA), ECONorthwest, May 2001

Objections:

1. 1000 Friends of Oregon, Friends of Yamhill County and Larry Rucker
2. Community Development Law Center (CDLC)
3. Mr. Mark Davis

This DLCD staff report with responses to objections

Any valid exceptions to the department's report and response from the department

## **V. ANALYSIS**

### **A. Objections**

All of the issues raised by the department during the local hearings process were also raised by one or more of the three objectors. Therefore, the department has responded to the objections in Attachment A and has not provided a separate review of the city's submittal. In order for an objection to be valid, it must have been received by the department within 21 days of the notice of decision sent by the city, clearly identify the deficiency in the task, and suggest a remedy. Department staff found the objections valid.

### **B. Exception Areas Added to the UGB**

Of the four exception areas added to the UGB, only Lawson Lane is within a Neighborhood Activity Center (NAC). Land within an NAC cannot be annexed or developed until a "concept plan" for the NAC is approved. Therefore, the actual development of the Lawson Lane exception area is linked to the Commission's decision on the "Three Mile Lane" NAC, most of which is resource land. Without the balance of land planned in this NAC, the Lawson Lane area would be

a small, isolated area on the far side of the state highway from the balance of the city and may not be suitable for urbanization.

The three remaining exception areas, Riverside South, Redmond Hill Road, and Fox Ridge Road, can be considered separately from the balance of the city's UGB decision, they are not in NACs, they would accommodate only a fraction of the forecast land need (about 217 buildable acres), and there are no specific objections to these areas.

## VI. COMMISSION OPTIONS

The Commission has four options for a decision on a periodic review work task:

- approve the work task;
- partially approve the work task and remand the remainder of the task;
- remand the work task; or
- approve the work task with specific amendments required.

In addition, if the Commission determines that the UGB amendment is justified but the amended plan now fails to comply with all applicable goals, the Commission can require the city to complete additional planning work on remand. At the request of the city, such work could be incorporated into the city's periodic review work program so that, if appropriate, they could be completed and approved sequentially.

The following "decision tree" is recommended to consider the objections in Attachment "A" and reach a decision on the major issues presented. While some objections mention a wide variety of topics, they are separated below according to what the department understands to be the primary issue raised. The objectors should take the opportunity in an exception to point out, if needed, any objections they believe the department has missed or mis-categorized below.

1. Whether to decide this referral on the written record or accept oral argument from the parties, pursuant to OAR 660-025-0160(6).
2. Whether to accept portions of the following publications into the record as new information, pursuant to OAR 660-025-0160(6). This information is attached to this staff report and was made available to the parties prior to the Commission's hearing.
  - *Understanding Density and Floor Area Ratio*, City of Boulder, Colorado. This study is discussed in the department's response to 1000 Friends' Objection 4.
  - *Planning & Design for Transit*, Tri-Met. This study is discussed in the department's response to 1000 Friends' Objection 8B.
  - *The Next American Metropolis*, Peter Calthorp. This study is discussed in the department's response to 1000 Friends' Objection 8B.
3. Whether the city overestimated the need for land to be added to the UGB
  - residential land
    - 1000 Friends objections 1, 2, 3, 7, 9 and 10
    - CLDC objections 1 and 2



- commercial land
    - 1000 Friends objections 4, 5 and 7
  - park land
    - 1000 Friends objection 6
    - Mark Davis objection
4. Whether the city correctly applied the priorities in ORS 197.298, Goal 14 factors 3 through 7, and the exceptions process to determine which lands to include in the UGB
- the city did not include several exception areas and instead included resource lands
    - 1000 Friends objection 14
  - the city did not include some class 3 and 4 agricultural lands and instead included class 2 lands
    - 1000 Friends objection 14
5. Whether the plan's policies are internally consistent, whether the implementing regulations are adequate to carry out the plan, and whether the city's plan, as amended, meets all applicable requirements of the Statewide Planning Goals.
- 1000 Friends objections 8, 11, 12 and 13
  - CDLC objections 3 and 4
6. Whether the inclusion of the three specific exception areas within the UGB complies with the applicable Goals and the priorities in ORS 197.298 and can be approved, separate from the Commission's decision on the balance of the UGB.

## VII. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS

### A. Procedural Issues.

Before accepting testimony, the Commission needs to decide whether to allow oral argument and whether to accept the three items of new information as requested by the department above.

**Motion 1:** . . . move that the Commission accept oral argument, pursuant to OAR 660-025-0160(6).

**Alternative Motion:** . . . move that the Commission hear this matter based on the written record, pursuant to OAR 660-025-0160(6).

**Motion 2:** . . . move that the Commission accept the excerpts from publications by the City of Boulder, Tri-Met and Peter Calthorp, referenced in the department's staff report, into the record of this hearing as new information, pursuant to OAR 660-025-0160(6).

**Alternative Motion:** . . . move that the Commission not accept the new information as requested by the department, pursuant to OAR 660-025-0160(6).

**B. Substantive Issues.**

Based on the analysis and findings contained in Attachment "A", the department recommends the Commission take the following actions.

1. Remand Task 1 and the UGB amendments for reconsideration of the land need for residential, commercial and office uses and to complete the following tasks:

a) Amend the population forecast, based on a constant population for the county unincorporated area, or provide substantial evidence to demonstrate that county unincorporated population can be expected to decline in the next twenty years.

b) Amend the Housing Needs Analysis employ the year 2000 household size of 2.66 persons per household or justify why this factor should be reduced to 2.54.

c) Amend the Housing Needs Analysis to accommodate a portion of the housing need on redeveloped land in the R-2 zone, based on available information on development which has actually occurred.

d) Amend the Housing Needs Analysis to project the type and density of government assisted housing that will be needed, including multifamily; reevaluate the planned ratio of single family to multiple family units; and insure that sufficient land is planned in each residential zone to accommodate the need.

e) Amend the Economic Opportunities Analysis and land need for commercial and office use to substantially increase the planned efficiency in the use of land and to plan for types of development that is pedestrian-friendly and transit oriented development.

f) Reduce the planned need for buildable land for community parks to account for information on the portion of these parks that has actually occurred within the 100-year floodplain.

g) Delete the unbuildable floodplain portions of the Three Mile Lane and Norton Lane areas or justify the need for these lands or urban uses under Goal 14, factors 1 and 2.

2. Remand the UGB amendments for reconsideration of which lands are to be included, including the following tasks:

a) If the revised land need, based on 1) above, results in a decrease in the twenty-year land need, remove a corresponding amount of land from the UGB, starting with resource land according to the priorities in ORS 197.298.

b) If any resource land remains in the UGB after completing 2(a) above, add the Westside Road exception area to the UGB and delete an amount of resource land which is equal to the added buildable landed capacity.

c) Using maps provided by the US Natural Resource Conservation Service and the Oregon Department of Agriculture, identify areas with class 3 and 4 agricultural soils and either (1)

include them in the UGB instead of areas with class 1 and 2 soils, if any, or (2) explain why they should not be included based on the standards in ORS 197.298(3).

3. Remand the plan to amend plan and implementing regulations to make them internally consistent, consistent with the findings used to justify the UGB amendment, and to comply with applicable goal requirements, including the following tasks:

- a) Amend Policy 71.13 to indicate high-density housing is a suitable use: (1) within a one-half mile corridor centered on existing or planned public transit routes and modify the transit corridor enhancement analysis and conclusions and (2) within one-quarter mile from neighborhood and general commercial shopping centers or designated activity center.
- b) ~~Develop a program that will achieve the 10 dwelling units per acre within transit corridors by identifying additional vacant, underdeveloped, and redevelopable parcels that may be suitable for medium- and high-density housing within this half-mile corridor.~~
- c) Rezone those parcels identified as suitable for medium- and high-density housing in order to implement the plan.
- d) Amend the NAC policies to clarify the target of 7.5 dwelling units per net acre is a minimum but that higher overall densities will be allowed.
- e) Revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the city.
- f) Amend the illustrative plans for the Northwest, Grandhaven and Three Mile Lane NACs in order to make these illustrative plans internally consistent with the plan policies.
- g) Conduct an analysis to determine the traffic impacts of the rezonings in Table 73 and include findings to address OAR 660-012-060 or complete such an analysis in a transportation systems plan.
- h) Amend Ordinance 4796 to remedy a typographical error and to rezone and apply development restrictions to Parcel 13.
- i) Amend all residential zones to clearly state the minimum lot size for a lot with an accessory dwelling unit.
- j) Amend the C-1 zone to eliminate or substantially increase the 0.25 commercial floor area ratio limitation.
- k) Amend the C-1 zone to substantially reduce or eliminate the required 30-foot front yard setback

l) Amend the R-5 zone to provide clear and objective standards for required design features on exterior elevations of buildings.

m) Amend the R-4 zone to provide clear and objective standards for buffering multiple family from adjacent single family housing.

n) Adopt a policy to (1) complete the "concept planning" process for Neighborhood Activity Centers over the twenty-year planning period and (2) require the concept plans to demonstrate that the increased traffic resulting from the proposed uses can be accommodated. Amend the NAC Planned Development Ordinance to (1) delete the requirement in Section 5.C to apply the PD process to zone changes and land divisions and (2) add a requirement to include a traffic analysis, which may be satisfied through the adoption of a TSP.

**Motion:** . . . move that the Commission remand Task 1 and the UGB amendment submittal to the city for reconsideration of: (1) the twenty-year land need, (2) the exception and resource lands added to the UGB, and (3) consistency of policies and implementing regulations and goal compliance, based on completion of tasks set forth in the department's report and responses to objections.

**Alternative Motion 1:** . . . move that the Commission remand Task 1 and the UGB amendment submittal to the city for reconsideration of:

(1) the twenty-year land need, (2) the exception and resource lands added to the UGB, and (3) consistency of policies and implementing regulations and goal compliance [~~delete any of the preceding three items the Commission wants to approve~~], based on completion of tasks set forth in the department's report and responses to objections;

except for subtasks [**list which tasks recommended by the department that are not required**];

and in addition to address the following issue(s) raised in the objection(s) [**list each issue and the objector who raised it**].

**Alternative Motion 2:** . . . move that the Commission approve Task 1 and the UGB amendment submittal, based on the city's findings and oral argument; the Commission rejects all of the objections.

**Supplementary Motion:** . . . move that the Commission approve the inclusion into the UGB of the Riverside South, Redmond Hill Road, and Fox Ridge Road exception areas because they contribute towards meeting a demonstrated need for buildable land, no objections to these areas have been submitted, and this partial approval is not inconsistent with any remand.

**Attachments**

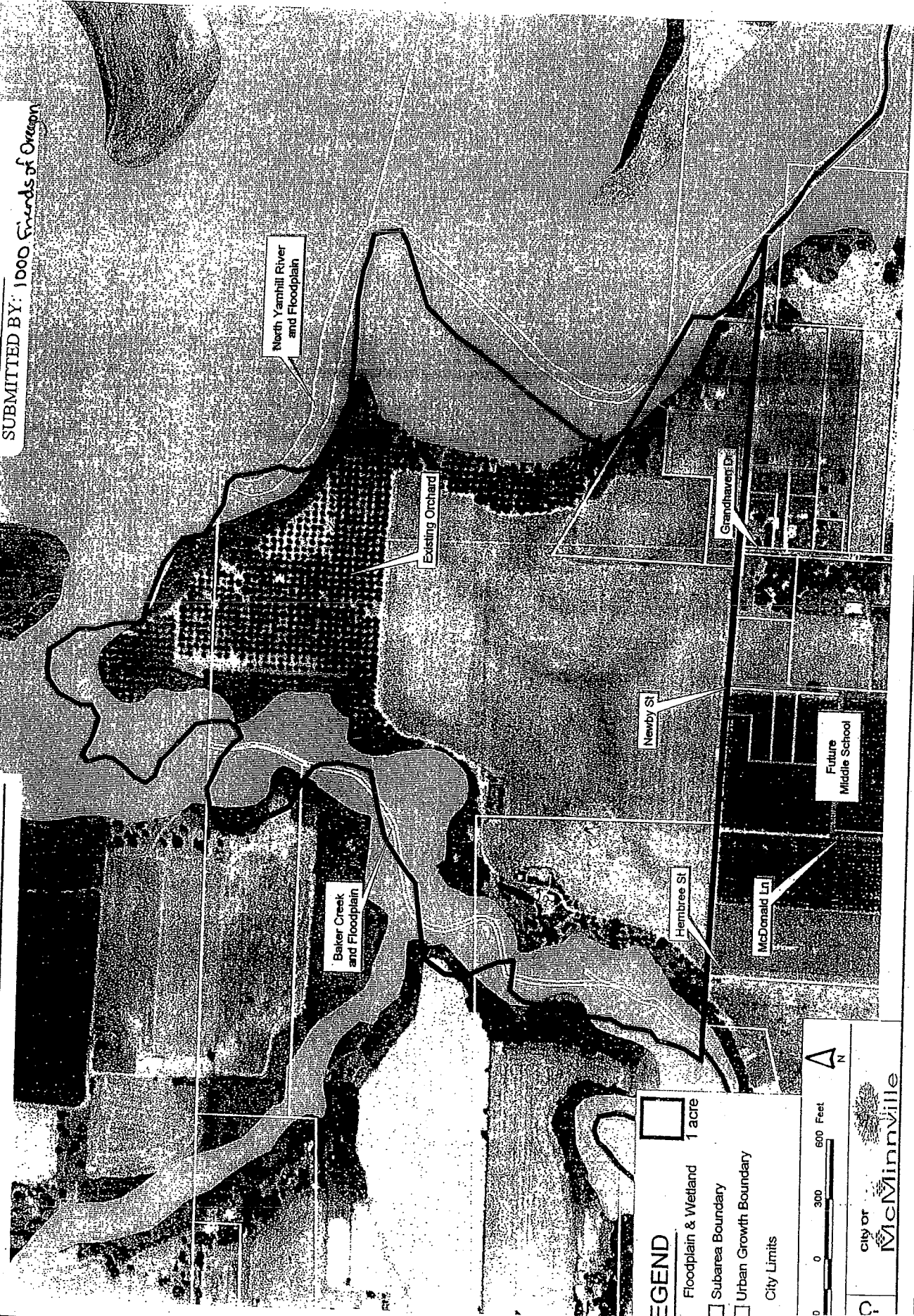
- A. Responses to Objections
- B. Applicable statutes and rules
- C. Decision making timeline
- D. 1000 Friends objection
- E. Community Development Law Center objection
- F. Mark Davis objection
- G. Boulder, Colorado study of commercial developments
- H. Tri-Met, Planning and Design for Transit
- I. Peter Calthorp, The Next American Metropolis
- J. Copies of city's submittal of Task 1 and the UGB amendment (under separate cover).
- K. Statement of the record
- L. Exceptions
- M. Responses to Exceptions

j:\pr\alargecity\McMinnville\T1 & UGB report







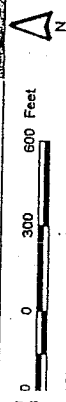
# GRANDHAVEN - FIG. 106

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 SUBMITTED BY: 1000 Friends of Oregon

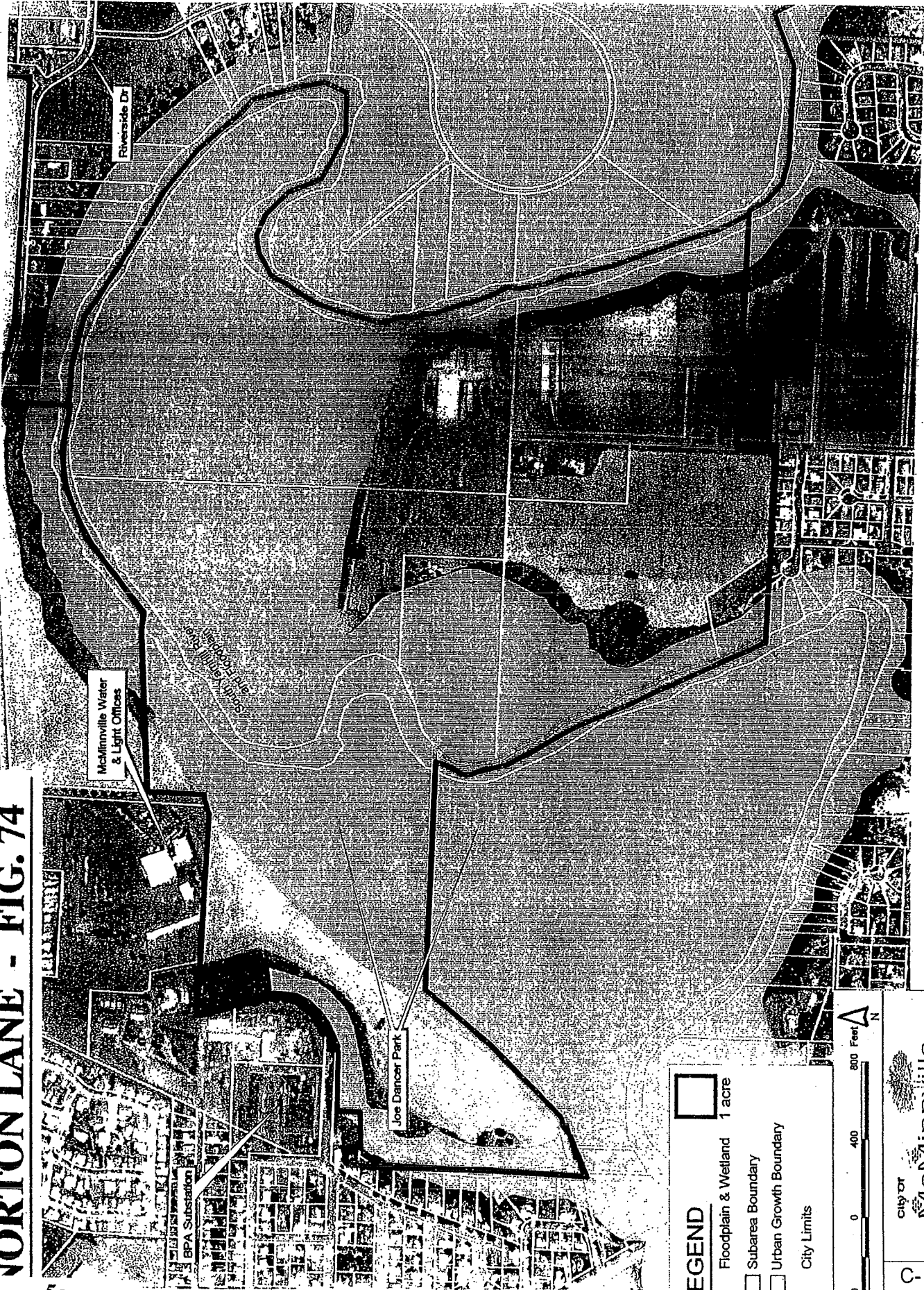


**LEGEND**





-  Floodplain & Wetland 1 acre
-  Subarea Boundary
-  Urban Growth Boundary
-  City Limits

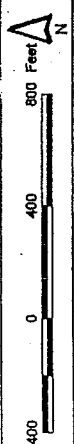


# NORTON LANE - FIG. 74



**LEGEND**

-  Floodplain & Wetland 1 acre
-  Subarea Boundary
-  Urban Growth Boundary
-  City Limits

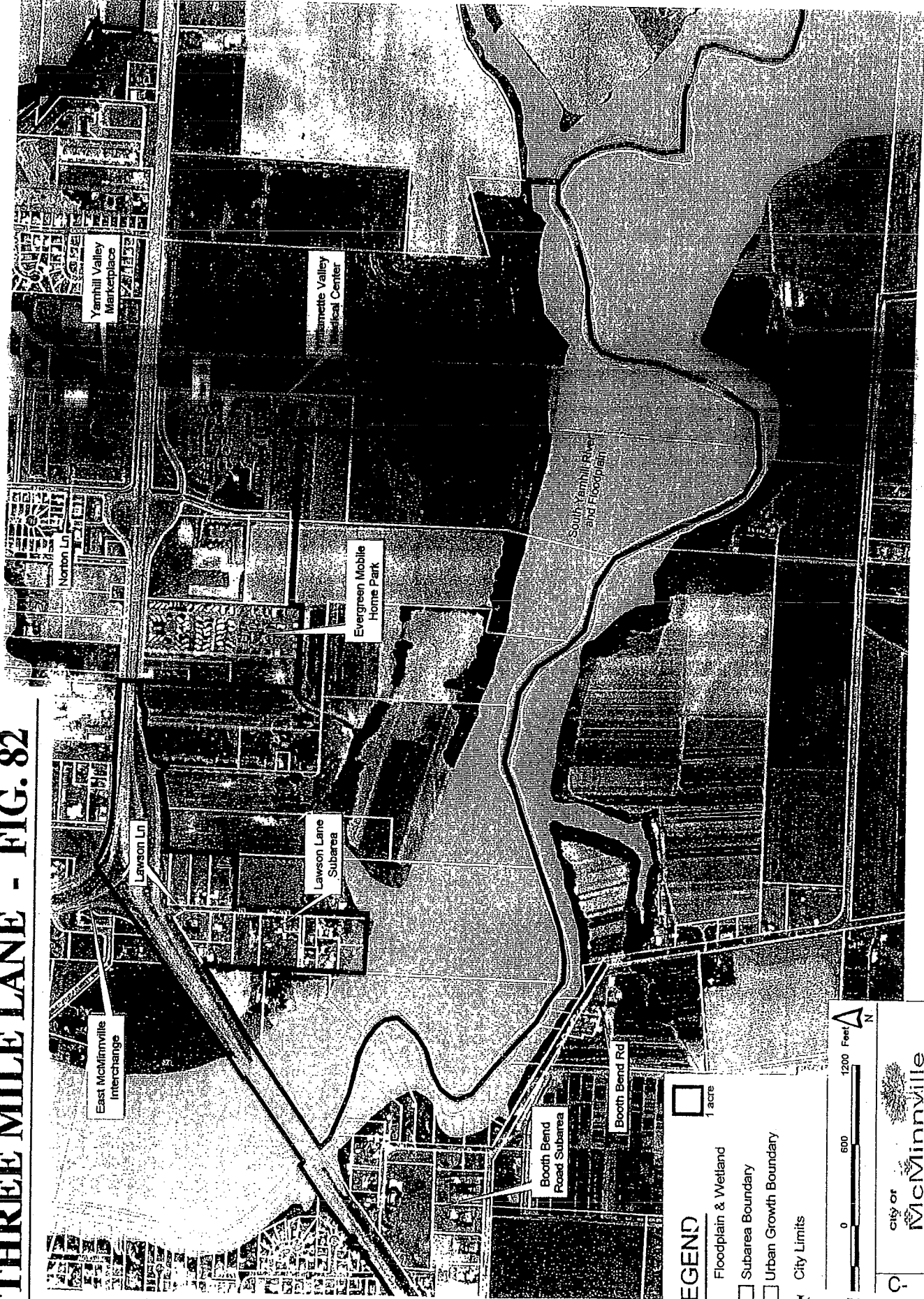


city of  
**McMinnville**




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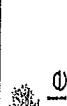
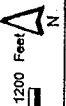
# THREE MILE LANE - FIG. 82



## LEGEND

-  Floodplain & Wetland
-  Subarea Boundary
-  Urban Growth Boundary

City Limits



city of  
**McMinnville**



**Table 68. Need forecast of housing, land need (gross acres), and needed density by zoning and housing type, 2003-2023**

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Housing type	Zoning					Total
	R-1	R-2	R-3	R-4	R-5	
<b>Number of Dwelling Units</b>						
Single-family	721	1,985	540	360	-	3,607
Detached (R-1)	601	-	-	-	-	601
Detached (Other)	-	1,504	300	-	-	1,804
Manufactured in subdivisions	120	481	-	-	-	601
Manufactured in parks	-	-	240	360	-	601
Multi-family	-	-	301	1,023	1,083	2,407
Row/townhouse	-	-	301	421	-	722
Apartment	-	-	-	602	1,083	1,685
<b>Total</b>	<b>721</b>	<b>1,985</b>	<b>841</b>	<b>1,383</b>	<b>1,083</b>	<b>6,014</b>
<b>Land Need (Gross Acres)</b>						
Single-family						
Detached (R-1)	180	-	-	-	-	180
Detached (Other)	-	368	74	-	-	441
Manufactured in subdivisions	24	97	-	-	-	122
Manufactured in parks	-	-	41	62	-	103
Multi-family						
Row/townhouse	-	-	40	56	-	96
Apartment	-	-	-	40	72	112
<b>Total</b>	<b>204</b>	<b>465</b>	<b>155</b>	<b>158</b>	<b>72</b>	<b>1,053</b>
<b>Implied Density (DU/Gross Acre)</b>	<b>3.5</b>	<b>4.3</b>	<b>5.4</b>	<b>8.8</b>	<b>15.0</b>	<b>5.7</b>

Source: ECONorthwest

Figure 2 shows a comparison of housing demand and housing need for the period between 2003 and 2023. The figure shows some notable differences between demand (the baseline forecast) by housing type and need by housing type. The overall mix between single-family and multiple-family shifts from 66% single-family (baseline) to 60% single-family (need). The need forecast shows a significantly lower need for single-family detached housing (decreasing from 45% to 35%) and a higher percentage for all other housing types.

Section 2...  
 Section 3...  
 Section 4...  
 relatively high...

Total residential...  
 This section...  
 addition to...

50 Total residential...  
 land needed for...

4

5

- McMinnville's average annual population increase for the 100-year period between 1900 and 2000 is 2.9%.
- The 2000 population estimate indicated McMinnville would account for 30% of the County's population. Data from the 2000 Census prove this forecast was already low by the year 2000; the 2000 Census indicated a population of 26,499 persons which accounted for 31.2% of total County population; a figure 1,346 lower than was previously estimated.
- The OEA year 2000 population estimate for Yamhill County was 83,826, a figure 1,166 lower than the 2000 Census data indicates.
- McMinnville's coordinated population forecast assumes a 2.2% average annual growth rate. Using the 2000 Census population of 26,499 and the 2020 coordinated forecast yields an average annual growth rate of 1.9% during the 20-year period. Using the PSU 2002 population estimate of 28,200 and the 2020 coordinated forecast yields an average annual growth rate of 1.78%.

**Table 2. Population projection from Residential Lands Study, 2000-2020, Yamhill County and McMinnville**

Year	Yamhill County	McMinnville	Ratio of McMinnville to County
1990	65,551	17,894	27.3%
1999	83,100	24,420	29.4%
Percent Change AAGR	26.8%	36.5%	
	2.7%	3.5%	
2000	83,826	25,153	30.0%
2020	119,589	38,720	32.4%
Percent Change AAGR	42.7%	53.9%	
	3.6%	4.4%	

Source: McMinnville Residential Land Needs Analysis  
 AAGR = Average Annual Growth Rate

The data above clearly demonstrate that the 2020 coordinated forecast is:

- Lower than observed population growth rates;
- Has underestimated growth significantly in the first five years of a 20-year forecast period; and
- Will result in McMinnville planning for significantly less growth than is likely to occur.

McMinnville's population forecast was updated using the 2002 PSU population estimate of 28,200 as the base and applying a 2.2% average annual growth rate (the same growth rate accepted by Yamhill County and DLCD in the

- The number of female heads of household, and people living alone will increase. Couples without children also will see an increase (Baby boomers now reaching their 50's and that have, or are about to, move into the "empty nest" stage of life).
- Household income will be higher.
- The overall average age will be higher.
- The percentage of Hispanic residents will increase slightly.

As regard housing and other land needs for these future residents, the following general characteristics are assumed, based on these same trends and development history analysis:

- Due to growth and demographic trends, the percentage of the City's total population in group quarters will decrease slightly. The City, however, will add 400 new group quarters units.
- Increases in persons per household due to the city's growing Hispanic population will be offset by increases in female, heads of household, and an aging population such that it will remain flat from its year 1990 figure of 2.54.
- An additional 6,014 new dwelling units will need to be constructed to provide housing for the anticipated growth.
- Residential density will average 7.2 dwelling units per net acre, a 22 percent increase from the average density experienced in the city's most recent decade of growth.
- To meet Park Master Plan standards, an additional 314 acres of neighborhood, community, and greenspace/greenway park land will be needed.
- There will need to be an additional 96 acres of land for public schools arranged in a manner that minimizes the need for bussing.
- An additional 197 acres of land will be needed to accommodate other religious, public and semi-public uses.
- The McMinnville economy will tend to mirror the State and National economies and, as such, will experience slow to moderate growth during the planning period.
- Residents will want to live closer to where they work and play.
- Multi-family living space will increase.
- There will be a movement toward higher density housing in mixed use patterns as an alternate to—or to complement—existing suburban development patterns.
- An additional 110 acres of land will be needed to accommodate commercial uses.

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Table 4-8. Summary of residential development by zoning district, McMinnville UGB, September 1, 1988 - July 30, 2000.

Housing Type	Gross Acres	Percent of Total	Right-of-Way	Right-of-Way %	Net Acres <sup>b</sup>	Units	Percent of Total	Gross Density	Net Density
<b>R-1</b>	197.2	27.8%	51.5	26.1%	145.7	531	16.0%	2.7	3.8
Single Family Detached	191.3	27.0%	49.9	26.1%	141.3	495	14.9%	2.6	3.5
Single Family Attached	5.3	0.7%	1.4	26.1%	3.9	34	1.0%	6.4	8.7
Manufactured Homes on Lots	0.6	0.1%	0.2	26.1%	0.5	2	0.1%	3.1	4.2
<b>R-2</b>	293.9	41.4%	71.3	24.2%	222.6	1,448	43.6%	4.9	6.5
Single Family Detached	231.8	32.7%	59.1	25.5%	172.7	891	26.8%	3.8	5.2
Single Family Attached	32.6	4.6%	8.3	25.5%	24.3	228	6.9%	7.0	9.4
Manufactured Homes on Lots	6.1	0.9%	1.6	25.5%	4.5	12	0.4%	2.0	2.6
Multiple Family	23.4	3.3%	2.3	9.7%	21.1	317	9.5%	13.5	15.0
<b>R-3</b>	150.3	21.2%	19.1	12.7%	131.2	716	21.6%	4.8	5.5
Single Family Detached	18.4	2.6%	3.9	21.2%	14.5	77	2.3%	4.2	5.3
Single Family Attached	11.2	1.6%	2.4	21.2%	8.8	84	2.5%	7.5	9.5
Manufactured Homes on Lots	42.4	6.0%	9.0	21.2%	33.4	187	5.6%	4.4	5.6
Manufactured Homes in Parks <sup>a</sup>	78.3	11.0%	3.8	4.8%	74.5	368	11.1%	4.7	4.9
<b>R-4</b>	67.8	9.6%	9.2	13.6%	58.6	625	18.8%	9.2	10.7
Single Family Detached	13.8	1.9%	3.5	25.4%	10.3	69	2.1%	5.0	6.7
Single Family Attached	8.1	1.1%	2.1	25.4%	6.1	46	1.4%	5.7	7.6
Manufactured Homes in Parks <sup>a</sup>	20.6	2.9%	0.3	1.2%	20.3	105	3.2%	5.1	5.2
Multiple Family	25.3	3.6%	3.4	13.3%	21.9	405	12.2%	16.0	18.5
<b>Total</b>	709.2	100%	151.0	21.3%	558.2	3,320	100.0%	4.7	5.9

Source: City of McMinnville building permit data

<sup>a</sup> The category "Manufactured Homes in Parks" only addresses spaces where Mobile Home setup permits have been issued

<sup>b</sup> Net acres is gross buildable area less right-of-way and unbuildable land

Table 4-9. Percent of permits issued by type and zone, McMinnville, 1988-2000

Housing type	R-1	R-2	R-3	R-4	Total
<b>Single-family</b>					
Single-family detached	15%	27%	2%	2%	46%
Single-family attached	1%	7%	3%	1%	12%
Manufactured	0%	0%	17%	3%	20%
Total single-family	16%	34%	22%	7%	78%
<b>Multiple Family</b>					
Multiple Family	0%	10%	0%	12%	22%
Total multiple family	0%	10%	0%	12%	22%
<b>Total</b>	15%	40%	23%	22%	100%

Source: City of McMinnville building permit data; analysis by ECONorthwest



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3,320 units approved during this period, 46 percent were single family, 12 percent were common wall or duplex, 22 percent were multi-family and 20 percent were manufactured homes.

**Table 4-3. Actual housing mix, McMinnville UGB, September 1, 1988 - July 30, 2000**

Housing Type	Number of Permits Issued	Percent of Permits Issued
Single-family detached	1,532	46.1%
Single-family attached		
Common wall	178	5.4%
Duplex	214	6.4%
Manufactured		
On lots	201	6.1%
In Parks	473	14.2%
Multiple family	722	21.7%
<b>Total</b>	<b>3,320</b>	<b>100.0%</b>

Source: City of McMinnville building permit data

## DENSITY

Table 4-4 summarizes approved lot densities by housing type from September 1988 through June 2000. During this period, 3,320 building permits were issued for residential development. This development consumed 709 gross vacant acres. About 151 acres (21.3% of gross acres) were committed to right-of-way, netting about 558 acres. New housing in McMinnville developed at an average net density of 5.9 dwelling units per net buildable acre between 1988 and 2000.

<sup>16</sup> "This is a 1-unit structure which has one or more walls extending from ground to roof separating it from adjoining structures. In row houses (sometimes called townhouses), double houses, or houses attached to nonresidential structures, each house is a separate, attached structure if the dividing or common wall goes from ground to roof."

The City's definition includes only double houses. This presents difficulties in making assumptions about densities for single-family attached housing types. While technically defined as single-family units, single-family attached units generally have densities and characteristics that are more consistent with multiple family housing types. In McMinnville's system, single-family attached units are most similar to duplexes. Duplexes typically have densities ranging from 6-8 dwelling units per gross residential acre; we allocate these to the row/townhouse category in land need simulations.



**Table 3. Need forecast of housing, land need (gross acres), and needed density by zoning and housing type, 2003-2023**

Housing type	Zoning					Total
	R-1	R-2	R-3	R-4	R-5	
<b>Number of Dwelling Units</b>						
Single-family	721	1,985	540	360	-	3,607
Detached (R-1)	601	-	-	-	-	601
Detached (Other)	-	1,504	300	-	-	1,804
Manufactured in subdivisions	120	481	-	-	-	601
Manufactured in parks	-	-	240	360	-	601
Multi-family	-	-	301	1,023	1,083	2,407
Row/townhouse	-	-	301	421	-	722
Apartment	-	-	-	602	1,083	1,685
<b>Total</b>	<b>721</b>	<b>1,985</b>	<b>841</b>	<b>1,383</b>	<b>1,083</b>	<b>6,014</b>
<b>Land Need (Gross Acres)</b>						
Single-family						
Detached (R-1)	180	-	-	-	-	180
Detached (Other)	-	368	74	-	-	441
Manufactured in subdivisions	24	97	-	-	-	122
Manufactured in parks	-	-	41	62	-	103
Multi-family						
Row/townhouse	-	-	40	56	-	96
Apartment	-	-	-	40	72	112
<b>Total</b>	<b>204</b>	<b>465</b>	<b>155</b>	<b>158</b>	<b>72</b>	<b>1,053</b>
<b>Implied Density (DU/Gross Acre)</b>	<b>3.5</b>	<b>4.3</b>	<b>5.4</b>	<b>8.8</b>	<b>15.0</b>	<b>5.7</b>

Source: ECONorthwest

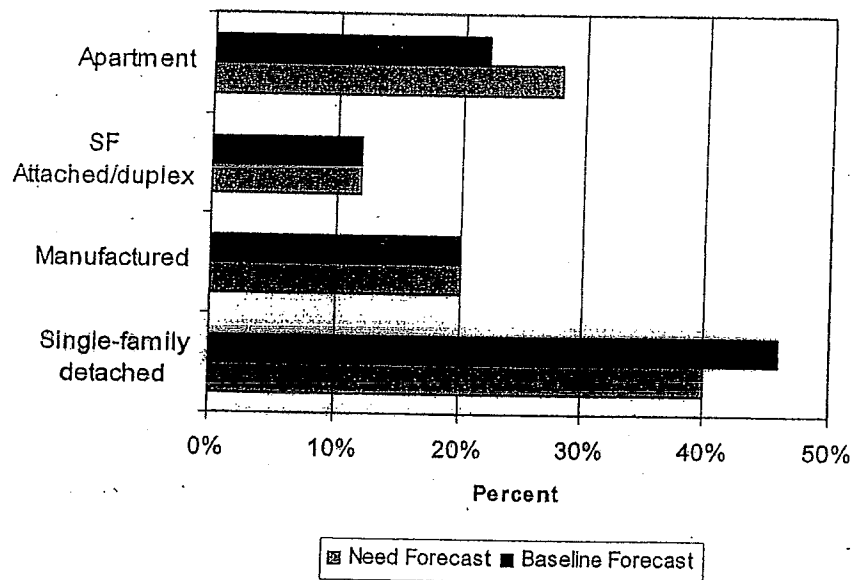
Land supply and its characteristics, are an important factor in this land use plan. The analysis finds that approximately 865 acres of vacant buildable land planned for residential use existed within the present McMinnville urban growth boundary in December 2002 (see Table 4).<sup>4</sup> The City has approximately 441 vacant buildable acres designated for commercial and industrial uses. This acreage is further divided into 102 acres planned for commercial use, and 340 planned for industrial use.

<sup>4</sup> The City proposes to redesignate a number of parcels as part of the land use efficiency measures the City is required to consider by state law. These redesignations have no impact on the overall acreage of land available for development, but will add approximately 16 acres to the inventory of buildable residential land.

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**Figure 1. Comparison of baseline forecast and alternative forecast of new housing units, 2000-2020**



ORS 197.303 includes government-assisted housing as a needed housing type. McMinnville allows government-assisted housing outright in all of its residential zones. Moreover, the City of McMinnville does not have a program to construct or finance government-assisted housing. From a land use perspective, there is little more McMinnville can do to facilitate government-assisted housing development.

The Yamhill County Housing Authority and other agencies develop government-assisted housing throughout Yamhill County. According to assessment records, about 200 government-assisted housing units have been developed in McMinnville by various organizations. According to staff at the Yamhill County Housing Authority, they expect to build approximately 50 government-assisted housing units annually in Yamhill County in the next 20 years, or 1,000 units over the planning period. Approximately 300-400 of the government-assisted units would be located in McMinnville.

The Yamhill County Housing Authority manages the HUD Section 8 rental assistance program in Yamhill County. According to staff, approximately 1,200 households receive Section 8 assistance in Yamhill County. Staff estimates that approximately 400 households receive Section 8 assistance in McMinnville. Housing Authority staff do not anticipate expanding the Section 8 program in the foreseeable future because their allocation of Section 8 vouchers is relatively high on a per household basis compared to other areas.



Table 5-22. Financially attainable housing type by income range

Market Segment by Income	Income range	Number of Households	Percent of Households	Financially Attainable Products	
				Owner-occupied	Renter-occupied
High (120% or more of MFI)	\$64,000 or more	1,295	14%	All housing types; higher prices	All housing types; higher prices
Upper Middle (80%-120% of MFI)	\$43,000 to \$64,000	3,135	34%	All housing types; lower values	All housing types; lower values
Lower Middle (50%-80% of MFI)	\$27,000 to \$43,000	1,634	18%	Manufactured on lots; single-family attached; duplexes	Single-family attached; detached; manufactured on lots; apartments
Low (25%-50% or less of MFI)	\$16,000-\$27,000	1,531	17%	Manufactured in parks	Apartments; manufactured in parks; duplexes
Very Low (Less than 25% of MFI)	Less than \$16,000	1,556	17%	None	Apartments; government assisted housing



Source: Estimates by ECONorthwest

### ALTERNATIVE HOUSING FORECAST BY DENSITY AND TYPE MIX

The preceding discussion provides a general sense of the relationship between income and housing cost. The available data sources, however, do not allow crosstabulation of income, housing cost, and key demographic variables such as age of household head and household size. Thus, we are left with task of determining current housing affordability gaps using an incomplete base of data. The Census provides such a database, however, the most recent Census data are from 1990 making this data source unacceptable for the purpose of determining housing affordability.

The 1990 Census provides some insight into the relationship between housing type and tenure. Table 5-23 shows the relationship between tenure and housing type for McMinnville in 1990. The results are not surprising: some people rent single-family housing types; few households owned duplexes or multiple-family housing types.

Analyzed by housing type, 76% of owners lived in single-family units and 18% lived in mobile or manufactured units. In other words, very few owners lived in multiple family units. About 27% of renters lived in single-family units, while about 10% lived in manufactured units, and 45% lived in apartments.

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**Table 7. Total employment growth by land use type in McMinnville UGB, 2003–2023**

Land use category	2003	2023	Growth	
			2003-2023	Percent
Commercial	3,302	5,540	2,239	30%
Office	5,873	7,978	2,105	28%
Industrial	4,600	6,870	2,269	31%
Public	966	1,773	807	11%
<b>Total</b>	<b>14,741</b>	<b>22,161</b>	<b>7,420</b>	<b>100%</b>

Source: ECONorthwest.

The land need estimates that follow are based on the same set of assumptions described in Chapter 6 of the *McMinnville Economic Opportunities Analysis*.

Table 8 shows the amount of new land and built space needed for each land use type in McMinnville over the 2003–2023 period. The Council finds that McMinnville will need approximately 367 gross acres to accommodate employment for the 2003-2023 planning period. The Council also finds that an additional 122 acres of commercial and industrial land is needed for public and semi-public uses in addition to those needed for employment shown in Table 8.<sup>6</sup>

**Table 8. McMinnville vacant land and new built space needed for employment by land use type, 2003–2023**

Type	Acres of land		Sq. Ft. of building space	
Commercial	88.9	24%	684,398	24%
Office	83.6	23%	643,984	23%
Industrial	173.8	47%	1,242,836	44%
Public	20.4	6%	285,578	10%
<b>Total</b>	<b>366.7</b>	<b>100%</b>	<b>2,856,796</b>	<b>100%</b>

Source: ECONorthwest.

OAR 660-009-0025 (2) requires cities to designate sufficient land in each site category to accommodate, at a minimum, the projected land needs for each category during the 20-year planning period.

Table 9 shows a comparison of land demand and supply for the McMinnville UGB for the period 2003–2023. The Council finds that McMinnville has an overall deficit of buildable non-residential land of about 47 acres.<sup>7</sup> When analyzed by plan designation, however, the results indicate the City has a commercial land deficit of about 117 acres, and an industrial surplus of 70 acres.

<sup>6</sup> McMinnville estimates land needed for public and semi-public uses (not including parks) at 197.2 total acres. Not all of this land need will occur on commercial and industrial lands. ECO estimates that public and semi-public uses will require 75.2 residential acres. Thus, 197.2 – 75.2 = 122.0 non-residential acres).

<sup>7</sup> This deficit assumes that the City would redesignate some industrial lands for commercial uses. The City's proposed industrial land retention policy would not typically allow such redesignations to occur. The City proposes to



be accommodated in existing buildings. We assume rates between 7% and 10% depending on the land use category.

- **Vacancy rate.** Some employment growth can be accommodated in vacant buildings on non-residential land; for example, a new business can open in a vacant store. Interviews with local realtors suggest that vacancy rates in McMinnville, as elsewhere, are cyclical. For example, while vacancy rates for commercial and industrial structures in McMinnville have been relatively low (less than 5%) in recent years, vacancy rates during a good portion of the 1980s were over 10%. Local realtors suggested that 5% is a good assumption for long-term commercial and industrial vacancy rates in McMinnville.
- **Employees per acre.** This variable is defined as the number of employees per acre on non-residential land that is developed to accommodate employment growth. There are few empirical studies of the number of employees per acre, and these studies report a wide range of results. Ultimately the employees/acre assumptions reflect a judgment about average densities and typically reflect a desire for increased density of development. Employees/acre ratios used in a recent analysis of land demand for the City of Salem were 22 for commercial and office, 11 for industrial, and 35 for government.<sup>25</sup> The Lane Council of Governments assumed an aggregate employee per acre ratio of about 25 for the 1992 *Eugene-Springfield Metropolitan Area Industrial Lands Study*.

For this study we assume the same employee per acre ratios as the Salem study: 22 for commercial and office, 11 for industrial, and 35 for public.

- **Floor area per employee.** The few studies that exist report a wide range of results for the amount of built space (square footage) per employee. This assumption reflects a judgment about average densities and typically reflects a desire for increased density of development. Square feet per employee assumptions used in a recent analysis of land demand for the City of Salem were 350 for commercial and office, 650 for industrial, and 400 for government.

For this study, we use the same floor area per employee assumptions as the Salem study: 350 sq. ft. for commercial and office, 650 sq. ft. for industrial, and 400 sq. ft. for public.

- **Implied Floor Area Ratio (FAR).** This is a measure of the floor area ratio (FAR) calculated by the assumptions of employees per acre and built space per employee. This measure is included to indicate the

<sup>25</sup> Salem Futures Buildable Lands Analysis, Mid-Willamette Valley Council of Governments, October 2000.

Therefore the average density in the R-2, 3 and 4 zones has fallen while the average density of all zones has increased.

**Objection 3 Conclusion:** The department recommends the Commission affirm the city's Buildable Lands Analysis as it relates to projected housing density.

**Objection 4. Floor area ratios.** Extremely low floor area ratios are assumed for employment needs, resulting in an excess of 192 acres.

1000 Friends bases its argument on the direction in Goal 14, Factor 4 to "maximize efficiency" and the exceptions standards in ORS 197.732(1)(c)(B) and Goal 2, Part II(c)(2) that the use cannot reasonably be accommodated on lands not requiring an exception. If the city planned for more employees per acre or more building floor space per acre, the need to add more buildable land to the UGB would be reduced. 1000 Friends argues that the planned floor area ratio of .18 for retail and office commercial uses is unreasonably low and does not have a factual basis: (1) "A floor area ratio of .5 is a minimum for pedestrian-friendly, transit supportive, compact neighborhood commercial development" and (2) "office buildings . . . typically have an FAR of .5, were instead projected to need land based on an FAR .177, or nearly triple the amount of land."

**DLCD response:** The department agrees with this objection.

McMinnville based the commercial land need projection on employees per acre and floor area per employee data from the Salem Futures Buildable Lands Analysis (October 2000). From these factors, the city calculated an "implied floor area ratio . . . to indicate the reasonableness of the assumptions for land and built space per employee." (McMinnville Economic Opportunities Analysis, pages 6-3 through 6-7.)

	Commercial	Office	Industrial	Public
Employees per Acre	22	22	11	35
Floor Area per Employee	350	350	650	400
Floor Area Ratio	0.18	0.18	0.16	0.32

Source: ECONorthwest

The Salem Futures Buildable Lands Analysis has never been submitted for acknowledgment. Therefore, this study is not a precedent that would require the Commission to accept the factors above. Conversely, approval of these factors for use by McMinnville would be a precedent to signal the Commission's willingness to approve them for Salem as well. The city also cites an aggregate employee per acre ratio of 25 for the Eugene-Springfield area (Ibid, page 6-4). The factors from the Salem study resulted in an average employee per acre ratio of 20 (Ibid, Tables 6-3 and 6-4). As 1000 Friends points out, even a "big box" commercial development such as a Wal-Mart store can exceed a floor area ratio of 0.18. A recent study prepared for the City of Boulder,

Table 6-2 summarizes the assumptions used to develop non-residential land demand estimates.

**Table 6-2. Assumptions for non-residential land demand**

Assumption	Land Use Type			
	Commercial	Office	Industrial	Public
% of total emp growth that requires no non-res built space or land	5%	5%	5%	1%
% of emp growth on existing developed land	5%	5%	7%	7%
Vacancy rate	5%	5%	5%	5%
Emp/ acre	22.0	22.0	11.0	35.0
Sq. ft. floor area/ emp	350	350	650	400
Implied Floor Area Ratio (FAR)	0.18	0.18	0.16	0.32
Redeveloped Land				
% emp growth on redev. land	5%	5%	5%	5%
Relative density increase (emp/acre, area/emp)	50%	50%	50%	50%

Source: ECONorthwest.

Table 6-3 shows the results of applying the relevant assumptions (summarized in Table 6-2) to allocate the projected employment growth to 2020. McMinnville will have approximately 6,141 employees to accommodate in new building space, with approximately equal shares (about 30% each) for commercial, office, and industrial uses. The assumptions lead to the result that about 18% of future employment growth (1,120 jobs) will be accommodated through expansions or redevelopment on existing lands, and by home based employment. This assumption is slightly lower than the 21% Metro uses for the redevelopment and infill in its buildable lands studies. Approximately 364 new jobs will be accommodated on redeveloped land.

**Table 6-3. Allocation of employment growth in McMinnville, 1999-2020**

Land Use Type	Total emp growth	Requires no non-res built		On redev. land	Requires vacant non-res land
		space or land	On existing developed land		
Commercial	2,179	109	109	109	1,852
Office	2,092	105	105	105	1,777
Industrial	2,212	111	155	111	1,835
Public	778	8	54	39	677
<b>Total</b>	<b>7,261</b>	<b>333</b>	<b>423</b>	<b>364</b>	<b>6,141</b>

Source: ECONorthwest.

Table 6-4 shows the amount of new land and built space needed for each land use type in McMinnville over the 1999-2020 period. The amount of land needed (in acres) is calculated by dividing employment growth that will require new space (the last column of Table 6-3) by the employees/acre assumption in Table 6-2 (middle row) for each land use

type, with an adjustment for vacancy. Square feet of building space needed is calculated by multiplying employment growth that will require new building space by the square feet per employee assumption in Table 6-2 for each land use type, with an adjustment for vacancy.

**Table 6-4. McMinnville vacant land and new built space need by land use type, 1999-2020**

Land Use Type	Acres vacant non-res of land		Sq. Ft. of new building space	
Commercial	88.6	24%	682,316	24%
Office	85.0	23%	654,684	23%
Industrial	175.6	48%	1,255,526	44%
Public	20.4	6%	285,053	10%
<b>Total</b>	<b>369.6</b>	<b>100%</b>	<b>2,877,579</b>	<b>100%</b>

Source: ECONorthwest.

Table 6-4 shows that about 370 acres of *new development* and 2.88 million square feet of building space are needed to accommodate the 5,966 new employees forecasted for the next 20 years to be accommodated in buildings that will be constructed on vacant land. Industrial uses are projected to need the most building space, almost 1.26 million square feet. About 1,120 new employees will be accommodated on existing developed or redeveloped land.

#### OTHER PUBLIC/SEMI-PUBLIC LAND NEED

McMinnville presently has no public land plan designation. Thus, public and semi-public (churches, fraternal organizations, etc.) uses commonly locate on residential land. Other public and semi-public land uses in McMinnville include the airport, private schools, religious uses, government, semi-public services, and infrastructure. With the exception of the McMinnville Airport, all of these uses will require additional non-residential land as McMinnville grows.<sup>26</sup>

Table 6-5 shows acres in public use for the land uses listed above. McMinnville has about 1,099 net acres (acres in tax lots) in public and semi-public uses. About 576 of those acres are in the McMinnville Airport. The percentage of each use located on land designated for non-residential uses is shown in the final column and ranges from 0% for other private schools to 100% for the airport.

\* The McMinnville Airport has no long-range expansion plans and is located entirely on land designated for industrial use.

vacant, partially vacant, or undevelopable is considered developed. Potentially redevelopable land is a subset of developed land.

- *Potentially redevelopable residential land* - Land on which development has already occurred but on which, due to present or expected market forces, there exists the potential that existing development will be converted to more intensive uses during the planning period. The potential placement of additional dwelling units on a residential parcel already improved with a residence may only occur on land zoned R-3 or R-4 as per McMinnville zoning ordinance. For purposes of this study, all R-3 and R-4 zoned tax lots with improvement-to-land value ratios of less than 1:1 that are not classified as vacant, undevelopable, partially vacant, or under-utilized are considered potentially redevelopable.

The inventory includes all lands designated for residential uses within the McMinnville UGB. Public and semi-public lands are considered unavailable for residential development (they are however considered available for either public or semi-public use if classified as vacant, partially vacant, or redevelopable). For purposes of this study, constrained land is land that is in areas with slopes of 25% or greater, land that is within the 100-year floodplain, and land that is identified as a wetland on the National Wetland Inventory map.

Table 3-1 shows all residential land by classification for June 2000 for the entire McMinnville UGB, and for the two subareas that compose it: the area within the city limits; and, the urban fringe (defined for this study as the area between the city limits and the UGB).

The data indicate that within the existing UGB, McMinnville has 3,743 acres in 6,942 tax lots designated for residential uses. Of this total, 2,797 acres are classified as either developed or as developed portions of tax lots, or exhibit physical or environmental constraints (see Appendix A), or are committed to other uses and therefore unavailable for future residential use. This provides about 935 gross vacant buildable acres available for future residential development. Of this total, about 805 acres are classified as vacant, and 130 acres are classified as partially vacant.

About 3,214 acres are within the city limit, while only 530 acres are located within the area between the city limit and UGB. The majority of vacant and partially-vacant land (641 gross vacant buildable acres) is within the city limit. An additional 293 gross vacant and partially-vacant acres are in the area between the city limit and UGB. All of the potentially redevelopable land (12 acres) is within the city limit.

