

SAVE HELVETIA

Exceptions to Metro Ordinance No. 11-1255 and
Washington County Ordinance No. 740

August 18, 2011



Washington County and Metro's Decision Errs by Misconstruing the Following Standards:

- “Foundation Lands” are the “most important land for the viability and vitality of the agricultural industry” and protection must “balance” against “livable community” and “natural resource” objectives.
- ORS 197.298, ORS 215.243 and Goals 3 and 14 protects farmlands as the lowest priority for inclusion within the UGB.
- *McMinnville* case holds the City erred by converting farmland for urban uses based on the higher cost of providing services to conflicted lands elevating Goal 14 requirements above the priority scheme in ORS 197.298.
- ORS 195.137-.145 or OAR 660-027 do not authorize converting Foundation Lands when other conflicted lands are available, even if: (1) the cost of providing services to conflicted lands are greater; or (2) the conflicted lands are being saved as extra lands for future urbanization.

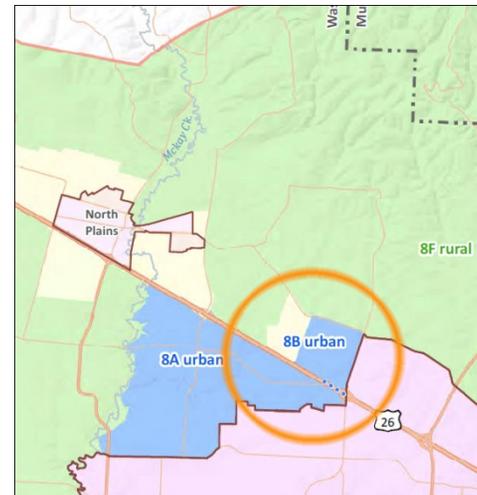
No Uniform “Balancing” Throughout the Entire Metro Region

For the “balancing” of objectives to have meaning, the factors must be applied uniformly among counties. Inconsistencies between Wash. Co. and the other counties when applying the factors abound, without explanation:

- US-26 serves as a hard boundary separating urban from rural reserves in Clackamas County but not in Washington County.



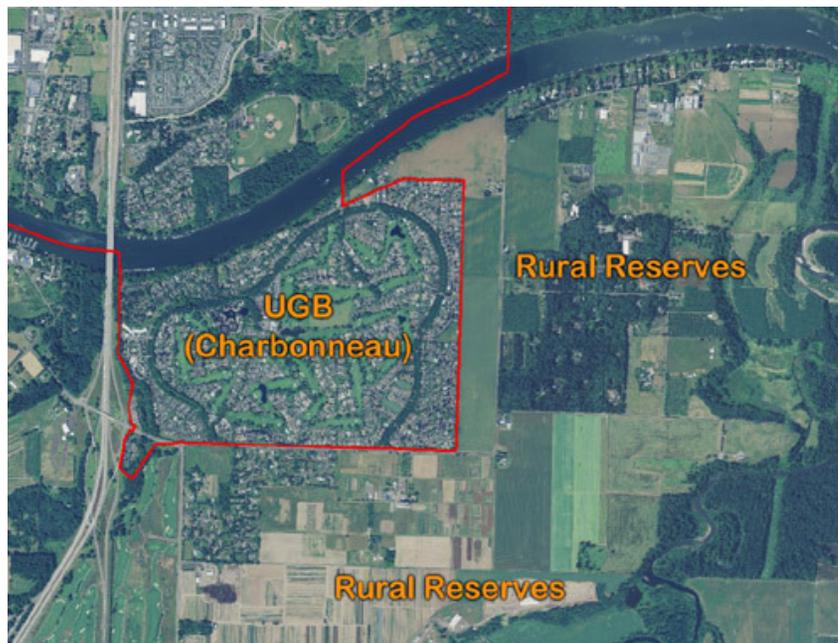
Clackamas County



Washington County

Inconsistent Approaches Between Counties cont.:

- Potential threat of urbanization played a key role in the protecting of lands for rural reserve in Multnomah and Clackamas County whereas threat of urbanization was a reason to designate urban reserves in Washington County.



Clackamas County



Washington County

Inconsistent Approaches Between Counties cont.:

- Multnomah and Clackamas County relied on ODA's Report to determine which lands contained "suitable soils" for rural protection. Whereas, Washington County used irrigation rights and parcelization patterns to skew the "suitable soils" analysis.

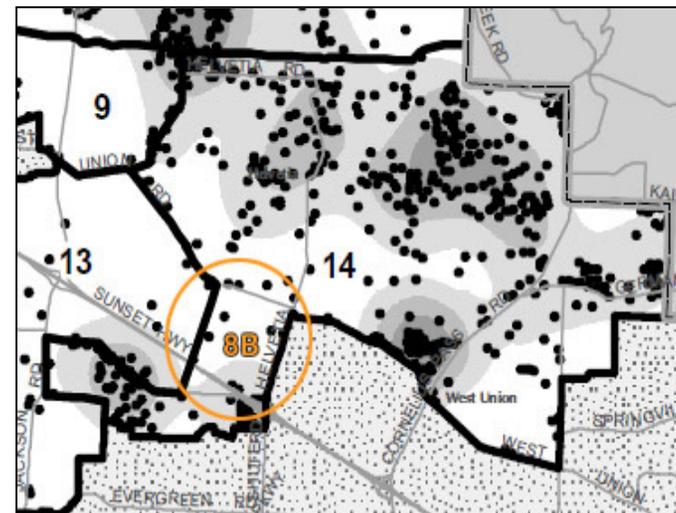
Irrigation rights

*Based on J. Herbert Huddleston, an OSU Extension Service Soil Specialist (Agricultural Productivity ratings for Soils of the Willamette Valley, 1982).

Staff mapped the Productivity rating for soils in three sets: 1) Dryland values, 2) Irrigated values where water is used, and 3) Irrigated values for all land in TVID. Areas were divided into higher productivity (HP) and lower productivity (LP). Higher productivity is composed of soils that are irrigated or in TVID and lower productivity is composed of soils that are not irrigated or in TVID.

Source: WaCo record p. 3017

Parcelization

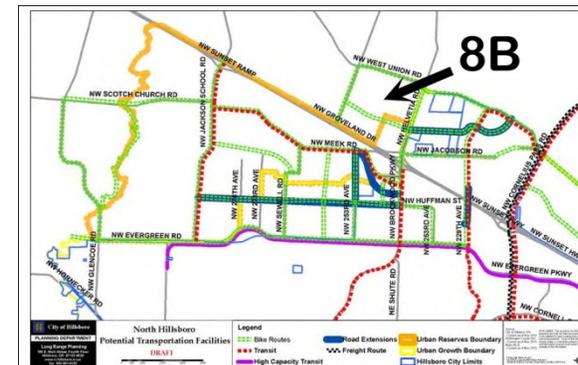
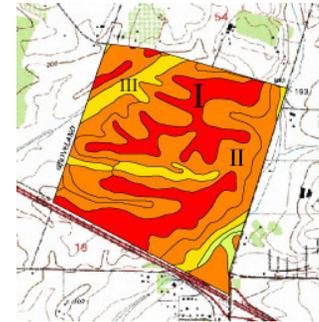


Area 8B considered within the 7,000 acres of Sub-Area 14 (dots indicate dwelling density)

Reserves Factors as mere “Considerations”

Adequate findings and substantial evidence requires reasoning that explain *how* the factors were weighed given the livability objectives identified. Metro findings lack a substantial reason where they:

- Fail to explain how Area 8B, as part of the largest remaining block of Class 1 soils in the County, qualifies for urban reserves designation.
- Rely on application of the urban reserve factors to a 7,890 acre Pre-Qualification Concept Plan to justify extending services and utilities to Area 8B, as urban reserve, that is only 440 acres.



Insufficient Reasons Analysis cont.

Metro findings lack a substantial reason where they:

- Fail to explain why the other nine sites identified as appropriate for large-lot industrial are not more suitable given the soil quality and Foundation Lands status of Area 8B.
 - Fail to explain why detailed large lot industrial can control land need determinations and yet factors requiring mitigation of impacts, i.e. buffering, can be vague, need not already be in place, nor guaranteed to occur.
 - Rely on high dwelling density, slightly smaller parcel size and water availability, other than when necessary, for evaluating “long-term agricultural sustainability” when OAR 660-027-0060 does not mention these characteristics as a basis for excluding lands as rural reserves.

Summary

- Obligation to protect farmland must be read in context with other laws to give farmland the lowest priority for urban designation.
- Reserve factors were not applied uniformly and no explanation of inconsistencies.
- Urban and rural factors must be analyzed and explained within the framework of the objectives; mere “consideration” of factors cannot trump the findings obligation.

Remand Areas 8B and 8-SBR for re-designation as Rural Reserves.