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November 28, 2011

Periodic Review Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301

Re: Metro Urban Growth Boundary – Ordinance No 11-1264B

Following are the Objections of 1000 Friends of Oregon, Save Helvetia, Linda Peters, Cherry Amabisca, and Robert Bailey to Metro Ordinance No. 11-1264B, titled:

“For the purpose of expanding the urban growth boundary to provide capacity for housing and employment to the year 2030 and amending the Metro Code to conform.”

Metro adopted this ordinance on October 20, 2011, expanding the Metro urban growth boundary (UGB) by approximately 1987 acres. It was mailed to the Department of Land Conservation and Development (DLCD) on November 8, 2011.

1000 Friends of Oregon participated both orally and in writing on this matter. 1000 Friends submitted written testimony to and testified at the Metro Council on October 6, 2011, and submitted testimony for the hearing on October 20. Testimony representing the organization Save Helvetia was submitted by Robert Bailey on October 6 and 20, 2011. Cherry Amabisca and Robert Bailey submitted written testimony to, and testified orally at, the Metro Council hearings on October 6 and 20, 2011. Linda Peters submitted written testimony to, and testified orally at, the October 20, 2011 Metro Council hearing.

1000 Friends previously submitted objections to Metro’s Ordinance No. 10-1244B, the “capacity ordinance.” That ordinance is titled:

“For the purpose of making the greatest place and providing capacity for housing and employment to the year 2030; amending the Regional Framework Plan and the Metro Code; declaring an emergency.”

As we understand, the Department plans to review the ordinances together, and the Commission will consider them together. Therefore, we incorporate entirely our objections to Ordinance No. 10-1244B. We will refer to or repeat the Objections here as necessary for clarity regarding our collective Objections to Ordinance No. 11-1264B.

Objection One: Residential Capacity of the Existing Urban Growth Boundary

Metro’s conclusion that the existing urban growth boundary (UGB) lacks capacity for 15,400-26,600 dwelling units, and its decision to add land that would provide for at least 15,896 additional dwelling units, lacks substantial evidence and is without a legal basis, in violation of statewide planning Goal 14 and Goal 2.

In this decision, Metro makes additional findings regarding the residential capacity of the existing UGB. That capacity is the subject of Metro’s previous Ordinance No. 10-1244B, which Metro submitted to DLCDD and to which we have made objections. In this objection we respond to the new findings and evidence in Ordinance No 11-1264B.

Goal 14 requires that “Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.” Any “changes to the boundary shall be determined . . .with consideration of the following factors:

- “(1) efficient accommodation of identified land needs;
- (2) Orderly and economic provision of public facilities and services;
- (3) Comparative environmental, energy, economic and social consequences; and
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.”

Goal 2 requires an adequate factual basis for all land use decisions, and coordinated and consistent planning documents.

Metro acknowledges that “the region has plenty of zoned capacity.”¹ However, Metro claims that “much” of this “will not result in ‘real’ capacity during the next 20 years due to market conditions.”² Metro assumes that the existing urban zoning, adopted and acknowledged by each city and county, will not be fully realized within the 20-year UGB time period because individual jurisdictions lack, variously, policies (such as urban renewal), investments (such as in additional transit) and/or “market conditions.”³

However, Metro’s solution to this alleged capacity challenge – adding land to the edge of the UGB that lacks any urban infrastructure or zoning– is without a factual and legal basis. Assuming the policy, financial, and market constraints on developing land inside the UGB are accurate, Metro does not explain how those challenges are more likely to be solved by adding land that lacks *any* urban infrastructure or zoning. In fact, the evidence indicates the opposite. As described below, Metro admits that developing to the zoned capacity inside the UGB is less expensive per dwelling unit than developing on newly added land. Metro also acknowledges that it did not compare accommodating the residential need through infill and redevelopment with developing newly added lands.⁴

Metro has not met its burden under Goal 14 to demonstrate that these new areas are more likely, less expensive, more efficient, and more economical per dwelling unit to develop than inside the UGB – and within the same 20 years. That is, Metro has not met its Goal 14 burden to show that the

¹ Ord. Ex. D, p. 4.

² Id.

³ Id.

⁴ In its July 2011 UGB Alternatives Analysis, Metro states: “This analysis does not compare the results of the UGB amendment factors for the potential expansion areas with the potential for refill or redevelopment of locations that are currently in the UGB.” UGB Ord Rec. 474.

additional residential capacity cannot be met on land already inside the UGB, and that it is more reasonable to assume it will be met on new lands added to the UGB.⁵

Goal 14 factor 2 (which is the same as old Goal 14, factor 3), requires a local government to show that providing public facilities and services to a newly expanded area “will not leave the [local government] unable to provide” services to land already inside the UGB.⁶ Metro claims that the UGB zoned capacity will not be fully met over the 20-year planning period due to funding and policy decisions that must be enacted by local governments. Yet those same local governments must make those same policy and funding decisions – covering a larger scope of services – for the expansion areas. If local governments truly cannot make policy and funding decisions to meet their *existing obligations* under their adopted comprehensive plans and zoning maps, then it is inconceivable how they could make those decisions for new, raw land. Metro has not demonstrated how adding these 1987 acres will not have a detrimental impact on the ability of lands currently inside the UGB to achieve their zoned capacity in the 20-year planning period.

Further, Metro’s entire analysis is premised on the at best, unexamined, and at worst, flawed, assumption that lands inside and outside the UGB both require a full range of infrastructure to develop to full urbanization potential. However, these lands are not an apples to apples comparison.

Following are our detailed objections to Metro’s decision to expand the UGB to provide additional residential capacity.

- In contrast to land that would be added to the UGB, most land already inside the UGB has at least some, if not all, urban infrastructure in place and, by Metro’s own admission, it is already zoned appropriately. No zoning changes – *policy* - are needed to realize urbanization, and far less urban infrastructure (investment) is needed. Land added to the UGB lacks any of this. Even assuming that re-building or upgrades to infrastructure are necessary inside the UGB, the scale and range of infrastructure improvements needed is less. Metro even admits that because the region has “plenty of zoned capacity,” that additional upzoning and re-zoning of land is not necessary to achieve the zoned capacity.⁷ Metro has not demonstrated any policy changes needed inside the UGB that cannot be achieved during the 20-year planning period, or that are more likely to be achieved on lands added to the UGB.
- If “*market conditions*” are a hindrance to realizing the zoned capacity inside the UGB, then they will also hinder realizing urban zoning on lands added to the UGB. If Metro responds by stating that the zoned capacity inside the UGB is higher than what it expects on lands added to the UGB, and therefore the added lands would be more likely to be developed, there is no evidence for that. Lands added to the UGB are expected to be developed to at least 15 dwelling units per net acre in South Hillsboro⁸; there is no evidence this is less dense than any area of projected “unrealized” capacity inside the UGB.

⁵ DLCD, in its letter to Metro of Sept. 23, 2011, also raised this legal concern:

“After reviewing the inventory and data...it is not clear there has been adequate and efficient accommodation of capacity proposed within the UGB. For example:

“1. Areas added to the UGB after 1997 were not considered part of the vacant land supply within the UGB and were determined to have different potential unit densities. Only half the capacity in these new urban areas was deemed to be market feasible by the year 2030.”

⁶ *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372 (1994); *City of LaGrande v. Union County*, 25 Or LUBA at 60.

⁷ Ex. D, p. 4.

⁸ According to Metro staff oral presentations to Metro Council on October 6, 2011 and at following work sessions.

In fact, the only evidence on market conditions supports a conclusion that lands already inside the UGB are far more likely to attract new residents and new housing than lands added to the UGB. Metro UGB expansions since 1979 account for 11% of the UGB in land area (28,000 acres). However, 95% of all permitted new dwelling units have located inside the 1979 UGB. Of the 5% of residential development that has located in the UGB expansion areas, almost all of it has been single family.⁹ Yet region-wide, single family housing is generally decreasing in both building and preference¹⁰ relative to multi-family,¹¹ and average lot sizes have been going down. In fact, from 1998-2008, 32% of all residential development in the region has been in centers and corridors.¹² These trends will accelerate for many reasons, including simple demographics. By 2040, 72% of the households in the Metro region will be without children, up from 68% today.¹³

Metro has not demonstrated with substantial evidence why market conditions are a barrier to realizing zoned capacity inside the UGB, while not a barrier to realizing density on new lands added to the UGB; in fact, the evidence supports the converse.

- Metro has not demonstrated how substantial areas added to the UGB and needing infrastructure will receive the *financial investments* to be “efficient” and “economic,” compared to realizing the capacity inside the UGB, as required by Goal 14.

Metro attempts to address this by alleging that funds are available for infrastructure on new lands that are not available to lands inside the UGB.¹⁴ A closer examination of this shows a lack of evidence and flawed assumptions:

- Most of Metro’s financial analysis is flawed because it fails to reconcile it with one salient Metro finding:

“However, when all public facility costs, including regional costs ... are added up, urban redevelopments are less expensive per EDU [dwelling unit] than are developments in urbanizing areas.”¹⁵

Thus, no matter the source or timing of funding, it is cheaper to accommodate the residential need inside the UGB than by adding new lands to the UGB.

- Metro states that “traditional sources of financing infrastructure have diminished significantly.”¹⁶ As Metro acknowledges, that impacts all lands – inside or newly added. However, Metro neglects to clarify the differing investment levels needed for infrastructure inside versus outside the UGB. Since land inside UGB already has some, if not all, urban infrastructure in place, even if some needs upgrading, it reasonable to assume infrastructure to serve lands inside the UGB would need less funding from the traditional but diminished sources of financing.

⁹ Metro 2009-2030 Urban Growth Report, pp. 103-04.

¹⁰ See, for e.g., *ULI Emerging Trends in Real Estate 2011*.

¹¹ Metro 2009-2030 Urban Growth Report, Fig 37, p. 107, <http://library.oregonmetro.gov/files/ugr.pdf>

¹² Metro 2009-2030 Urban Growth Report, p. 105.

¹³ Prof. Arthur C. Nelson, *Metropolitan Portland Mega Trend 2005-2040*, presentation to Metro Council October 8, 2008.

¹⁴ Ex. D, p. 4.

¹⁵ Ex. D, p. 7.

¹⁶ Ex. D, p. 4.

- Metro states that some sources of money “available to urbanize large tracts of undeveloped land are not available for re-development of existing urban areas.”¹⁷ However, Metro’s argument is not a distinction between new lands added to a UGB and lands already inside a UGB; rather, it is a distinction between developing large tracts of land and small tracts of land, wherever located. As Metro’s capacity ordinance demonstrates, there are large swaths of *undeveloped* land already inside the UGB. In what should be a cautionary tale for adding even more land, most of these large and mostly undeveloped areas have been added to the UGB in the last 10 years – North Bethany, Springwater, Pleasant Valley, and Damascus. Based on the actual development experience on the large tracts of land added to the UGB, there is no evidence of funding sources that have made these areas more likely to develop than smaller parcels of land inside long inside the UGB. In fact, given that 95% of new housing has located inside the 1979 UGB, the evidence supports a finding that funding has gone almost exclusively to develop residential lands in already urbanized areas.
- The funding sources described as available to new tracts of land are also available to existing areas: property taxes, transportation development taxes, community service districts, etc....¹⁸ Those are all public funding sources that are not limited to large, new areas of land, and in fact, Metro admits this.¹⁹ Therefore, again, funding source is not a basis on which to add lands to the UGB, rather than assuming that lands inside the UGB will develop to their *already zoned* capacity.
- Metro seems to rely heavily on the claim that developers will “invest up-front capital to fund large needed infrastructure improvements” in lands newly added to the UGB, to be re-paid by future system development charge (SDC) credits or fees, while they might be less likely to do so in existing urbanized areas.²⁰ Metro acknowledges that “both existing and new urban areas are able to access traditional funding sources like urban renewal and system development charges.”²¹ Therefore, the ultimate source of paying for infrastructure between new and existing areas does not vary, and thus is not a basis to distinguish between areas inside and outside the UGB. However, Metro distinguishes the two areas because “[d]evelopers... will receive a significant return on their investment” on lands added to the UGB.²² There is no legal basis for making a UGB decision on the scale of profit to be obtained by individual developers; especially for a long-term, 20-year planning period. And no evidence supports that this is even true. As described above, Metro has documented that despite adding almost 20,000 acres to the UGB in large tracts in recent years, 95% of all new residential development has not located in these places, but instead has located on lands within the 1979 UGB. If it were true that “private capital ... also preferred financing development in new areas (i.e., more traditional single family housing or low density employment areas) compared to more compact urban development,”²³ then the Metro area would have experienced very different development patterns than it has, and North Bethany, Damascus, and other places added to the UGB in the last 10 years would be booming. They are not.

¹⁷ Id.

¹⁸ Ex. D, p. 5.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

²³ Ex. D, p. 6.

Apparently, there is more demand for and more profit to be made in developing urbanized areas.²⁴

- Even assuming that “private capital has also preferred financing development in new areas (i.e., more traditional single family housing or low density employment areas) compared to more compact urban development,” that is not the development pattern or density that Metro requires for these areas it proposes adding to the UGB, so this is, again, irrelevant.²⁵
- Metro uses areas like South Hillsboro (proposed to be added by this decision), North Bethany (added a decade ago but largely undeveloped yet), and South Waterfront as examples of where infrastructure can be phased as the areas develop, while existing urbanized areas tend to require that infrastructure be in place already. This analysis misses, again, that the infrastructure in existing urban areas is *already* in place, at least in many areas. Even with any upgrades or re-building, there is no evidence that the scale and types of infrastructure needed to realize the zoned capacity of existing urban areas is comparable to the full urbanization needed to develop areas added to the UGB.
- The “examination of federal, state and local funding sources” on pages 5-6 of the findings²⁶ is not focused on distinctions between funding for new areas added to the UGB versus existing urban lands, and thus, does not appear to be relevant.
- Metro’s findings state that:

“[S]ome funding mechanisms commonly used for ‘refill’ (infill and redevelopment in already-developed areas) are less readily available than in the past. ‘Refill’ is more difficult to build and more difficult to finance.”²⁷

The record cited actually says the opposite:²⁸

“Smaller/phased projects, for example 20-50 units in one to three buildings as opposed to 200 units in one building, may be easier to finance. Re-use projects that add three to five residential units in the top floor of an updated building may be the scale the market could support. The current financial preference for smaller projects holds

²⁴ Metro’s findings are even equivocal on this point. Metro argues that while these “traditional funding sources” are available to both new and existing urban areas, the “impetus for developers to invest in significant infrastructure improvements...*can* be more common in new areas.” Ex. D, p. 5. This would be flawed as a conclusory statement lacking any evidence, except that it does not even reach far enough to draw a definitive conclusion (“can”).

²⁵ Metro states that while “the paradigm is beginning to shift as a result of many successful urban developments across the region, this perception remains” - the perception being that financing higher density and infill is more risky. Ex. D. p. 6. The law is not about perceptions. And the UGB is not for just today. The UGB is for a 20-year period and Goal 14 requires that it be sized, located, and developed to meet the housing needs of residents over that time period. It is meant to implement the Metro Region 2040 plan, which calls for meeting those zoned densities. Finally, the cited record is not really on point. It is focused on development in centers and corridors, while the unmet zoning capacity is region wide, and not all is in centers and corridors.

²⁶ Ex. D.

²⁷ Ex. D, p. 7. Even if true, the relevance of this statement is unclear. The UGB is for a 20-year time period, and should not be evaluated based on the transitory vicissitudes of current financing schemes. The recent 1990s housing boom demonstrates how quickly what is viewed as financially risky changes. Also, the statement, as shown by the record cite, is about centers and corridors only, not about realizing zoned density region-wide.

²⁸ Cap Ord Rec 3705.

implications for centers and corridors and requires a rethinking of construction types.”

* * *

“[T]here will likely be a pronounced shift in demand toward infill development in the coming years....

** *

“The set of factors described above point strongly to the fact that demand will be for development inside the current metropolitan area foot print....”

Metro’s analysis²⁹ of why new lands added to the UGB will develop to urban levels within 20 years while lands already inside the UGB will not apparently boils down to one thing: the new land is initially cheaper so developers will upfront the infrastructure financing. If that were a legitimate criterion for expanding a UGB, then the reality and effectiveness of UGBs would quickly be lost. It is also not supported by evidence. As Metro concludes:

“However, when all public facility costs, including regional costs ... are added up, urban redevelopments are less expensive per EDU [dwelling unit] than are developments in urbanizing areas.”³⁰

That supports only one finding: a decision to reinforce the existing zoned density and support Metro’s Region 2040 Growth Concept by not expanding the UGB is consistent with Goal 14. Expanding the UGB is not.

Recommendation: Reverse Metro’s decision to expand the UGB for additional residential capacity, or remand to Metro with directions to do so based on a reassessment of the UGB’s residential capacity.

Objection 2

Metro’s expansion of the UGB by 330 acres for additional “large lots” for industrial use lacks substantial evidence and violates statewide planning Goals 2, 9, and 14 and related statutes and rules.

The Metro ordinance designates 330 acres of farm land for UGB expansion for “large lot” employment use. We incorporate by reference our objections to Metro’s capacity ordinance. Because Metro’s findings for the UGB decision expand on the large lot capacity issue, we make this additional objection.

Metro states its large lot need analysis is based on “only employers that have historically preferred to locate on large parcels.” Metro explains that it “assum[ed] that large lot users would constitute the same proportionate share of any future employment.”³¹ Metro’s analysis is flawed for at least four reasons.

²⁹ Ex. D, pp. 4-8.

³⁰ Ex. D, p. 7.

³¹ Ex. D, p. 9.

First, it is not based on a projection of a future need for large lots. Therefore, the decision lacks substantial evidence for a need for large lots over the 20-year planning period. Metro attempts to bolster its reliance on past trends by stating that “Inquiries from companies seeking large lots and advice of experts corroborates the analysis.”³² Nothing in the record material cited provides an evidentiary basis for a future need for large lots for industrial users. The record cites include a proposed use that wanted to locate in Hillsboro but Metro found did *not* qualify as an industrial use;³³ and a list of “Hillsboro Industrial Siting Prospects Years 2007-09.”³⁴ The relevance of this is unexplained. It is not clear what a list of “prospects” is – businesses Hillsboro reached out to, or ones that contacted Hillsboro. And if some or all contacted Hillsboro, neither the record nor findings explain what that means. Mere tire-kicking is not a projection of need. Even so, the list shows that 50% of the “prospects” can locate on parcels of *26 acres or less*.³⁵ That does not support 330 acres for large lots in 50 and 100 acre parcels.

Second, even looking only at past trends, the proposed 330 acre expansion for large lots is not consistent with the historical absorption of large lots. The historical absorption shows no need for additional large lots for industrial uses, beyond those already available inside the current UGB. In addition to the reasons stated in our objections to the capacity ordinance, the findings for Ordinance No. 11-1264B are flawed as follows:

- Past use of large lots does not justify 330 acres of large lots for the 20-year planning period. Currently, only 60 existing employers in the Metro region are located on parcels over 25 acres in size, of which only 51 are arguably “industrial.”³⁶ Those 51 are warehouse and distribution, flex, and general industrial. Because Metro found that the flex large lot users are “holding land for future business expansion opportunities,” they can also be removed from the large lot industrial users that would arguably need new land.³⁷ That leaves 37 existing employers, which comprise 2.7% of the region’s existing employment.³⁸ The average parcel size used by these employers is 48.8-53.2 acres, on 2.7-3.0 tax lots per parcel.³⁹ Therefore, the average *tax lot* used by the region’s large parcel industrial users is only 16-17.8 acres. Metro conditioned the 330 acres on providing two 50-acre sites and one 100-acre site, the remaining acreage is not addressed but even after subtracting for roads, a substantial amount is left. The historical evidence on which Metro relies shows the 330 acres will accommodate more large lot users than Metro projects, meaning that not all 330 acres are needed over the 20-year planning period., and that the existing supply is more than adequate.
- Metro’s past experience demonstrates that even when it has added land to the UGB for large lot industrial use; those users have not located on those sites. Metro data shows that from

³² Ex. D., p. 9.

³³ Ex. D, p. 9, cite to UGB Ord Rec 361.

³⁴ Ex. D, p. 9; UGB Ord Rec 1674.

³⁵ Other record cites similarly do not address the issue. The Business Oregon memo referred to does not, in fact, address “growth of employment by size of business.” Ex. D, p. 9, UGB Ord Rec 1486. Rather, it is a description of “recruitment opportunities.”

³⁶ Urban Growth Report, Appendix 4, Table 3, p. A4-6: *Summary statistics for existing large lot users*. The other 9 are institutional (6) and office (3). The institutional uses are entirely medical facilities. As noted in the UGR, these uses locate near where people live, and it is reasonable to assume that in the future, they will locate in smaller building formats that do not require large lots. UGR, Appendix 4, p. A4-12.

³⁷ *Id.*, p. A4-7.

³⁸ *Id.*, p. A4-6.

³⁹ *Id.*, p. A4-6, Table 3.

2002-2009, 53 large lots *with a Title 4 designation* were added to the UGB.⁴⁰ Of those, **one** has been developed – Genentech in Hillsboro.

- Metro inventoried as “large lot” only *tax lots* of 25 acres or larger.⁴¹ As described above, the average large lot industrial user has located on 2.7-3.0 tax lots, of 16-17.8 acres each, and has simply aggregated those lots. Therefore, Metro’s examination of suitable tax lots and parcels was too narrow, in that it did not look at smaller tax lots and it did not look at aggregated tax lots. We see no basis for concluding that there is not a sufficient supply of appropriately sized parcels to provide large lots at the same level they were used in the past.

Third, even using Metro’s too-narrow assessment, Metro underestimates the large lot inventory in the existing UGB. The evidence shows that contrary to Metro’s conclusions, more than enough land exists within the current UGB, in appropriately sized parcels, to absorb the projected the large lot industrial need over the 20-year planning period.

- Metro’s UGR shows the UGB has 13 large lots (both in the 50-100 acre and 100+ acre categories) assuming no lot assembly, and 19 with lot assembly.⁴² This inventory is *very* conservative, as it does not include tax lots or parcels in the 25-50 acre range, and for the additional reasons described in our UGR Objections.
- Another Metro study shows a substantial supply of sites greater than 25 acres inside the UGB. A Regional Industrial Lands Inventory is being conducted by Metro, the Port of Portland, Portland Business Alliance, Business Oregon, Metro, and NAIOP, using as its consultant Group McKenzie. It looks at sites greater than 25 acres within the Metro UGB and urban reserves. The preliminary findings show the region has at least 57 parcels over 25 acres that are already zoned industrial, almost all of which are inside the current UGB. At least 15 sites are located inside the current UGB and have been classified as “Tier 1,” meaning they are ready to develop in 6 months or less. Seven of those 15 are over 50 acres. That’s more large lot sites ready to go than were used *in total* from 1960-2006 by outside employers.

As Metro has explained, large lot industrial users do not necessarily employ large numbers of people. But even assuming that all large employers use large lots, the proposed 330 acres cannot be justified.

- In 2006, the region had 56 large, private sector employers.⁴³ Of these, two-thirds (37, or 66%) originated in the Portland region. Most of these started small and grew, slowly, over time. From 1960-2006, a total of **5** large employers in the manufacturing or warehouse/distribution sectors located from outside of Oregon into the region, and are still here. That is an average of 1 large employer per decade locating here from elsewhere. Even if one includes retail/wholesale, utilities, hospitals, and aviation, only 9 large employers have located in the Metro region since 1960, or fewer than 2 per decade. **And, even in the booming 1990s, only 2 large employers located in the Metro region from outside of Oregon.**⁴⁴ The evidence does not support the conclusion that there is a demand for any large lots that cannot be met by the existing land supply inside the UGB.

⁴⁰Metro, “Development on large lots added to the UGB (2002-2009),” presented to Metro Council and MPAC Employment Subcommittee, attached here.

⁴¹ See 2010 UGR, p. 86, fn. 22, for tax lot assembly, and pp. 58-60 for definition of “large lot” as 25 acres.

⁴² Metro 2010 UGR; Appendix 4.

⁴³ All information is from Metro’s *2009 – 2030 Urban Growth Report*. The UGR’s “definition of a large employer recognizes these differences by varying employment minimums for each building type.” *2009 – 2030 Urban Growth Report*; Appendix 4, A4-2.

⁴⁴ *Id.*, Table 2.

Fourth, Metro might be improperly accounting for large industrial users that are sited on larger parcels than they are currently using. The staff report accompanying the ordinance repeats assertions made in the Urban Growth Report, that many large parcel users hold land for future business expansion opportunities. The staff report states: “Existing sites with significant acres of vacant land may give the initial impression that large-lot need is overestimated. However, firms seeking large sites often construct their facilities in phases. Recent examples of this phased approach can be found in the Metro region, including facility expansions completed or planned by large industrial firms such as Genentech, SolarWorld, and Intel. This legitimate business practice is factored into the UGR’s calculation of need for large lots.”⁴⁵

- This may well be, but we cannot find any explanation of how this was “factored into” the UGR, or any evidence of the number or type of firms for which this is true, or the rate at which they locate and/or expand here, or their land absorption over any time period.
- If the excess acreage assumed for expansion is taken out of Metro’s buildable lands inventory, then the employment that would locate on that land must also be assigned to that land. It is not clear to us that this has been done, resulting in possible double-counting of employee land need. In fact, the facility expansions cited by Metro are evidence that additional employees *do* locate on at least some of these vacant acres and so must be counted. If Metro has either assigned future employees to these lands or included the lands in the vacant lands inventory, then it has illegally provided land for beyond the 20-year planning period for which it has made its employment and population projection.

Metro’s expansion of the UGB by 330 acres for additional “large lots” for industrial use lacks substantial evidence and violates statewide planning Goals 2, 9, and 14 and related statutes and rules. Evidence of a need for additional large lots is lacking, and the evidence demonstrates a more than adequate supply of large lots inside the existing UGB for the 20-year planning period.

Recommendation: Reverse Metro’s decision to expand the UGB for additional large lot capacity, or remand to Metro with directions to do so.

Objection 3

Metro failed to properly apply ORS 197.298 and statewide planning Goal 14 (Urbanization) in selecting areas for addition to the urban growth boundary, because it relied on the existence of a final urban reserve decision.

Assuming there is a need for additional land in the UGB, Metro is required to evaluate alternative expansion areas using the priority statute, ORS 197.298. The first priority, or first choice, for UGB expansion areas is urban reserves, if any exist. ORS 197.298(1)(a).

Metro conducted its alternatives analysis assuming that valid urban reserves exist for Metro. However, that is unclear. While LCDC has made an oral decision approving Metro’s proposed urban and rural reserves, it has not yet issued a written decision, and thus there is not a final, appealable LCDC decision. Should that reserves decision be issued prior to the Commission deciding this UGB decision, the reserves decision might be under appeal, which means the reserves decision will not be final.

⁴⁵ Metro staff report to Ordinance No. 11-1264, October 14, 2011, p. 2, n. 3.

Therefore, it is not clear that Metro may rely on urban reserves as the first priority in evaluating alternative areas for a UGB expansion.

Recommendation: Remand with direction to Metro to evaluate alternative UGB expansion areas assuming that urban reserves do not exist.

Objection 4

Metro failed to properly apply ORS 197.298 and statewide planning Goal 14 (Urbanization) in selecting areas for addition to the urban growth boundary, because Metro did not consider all first priority lands.

Assuming that valid urban reserves exist on which Metro can rely to expand the UGB, Metro did not properly apply the priority statute, ORS 197.298, and *1000 Friends v. LCDC and the City of McMinnville*, 244 Or App 239, 259 P3d 1021 (2001). ORS 197.298(1) requires Metro to consider *all* 28,256 acres of urban reserves in determining where to expand the UGB. The *McMinnville* decision provides the steps Metro must go through in selecting which of those 28,256 acres should be included in this UGB expansion. However, it appears that Metro improperly narrowed the 28,256 acres of first priority lands to 9800 acres, and then evaluated that smaller area for expansion.

DLCD also raised this concern to Metro:⁴⁶

“The ‘highest priority of land available’ for Metro to consider is urban reserves. The study areas do not, however, incorporate all available urban reserve land. The findings will need to...apply Goal 14 location factors to the entirety of urban reserves.

While the *McMinnville* decision was based on the “old” Goal 14, because the objective of the Goal 14 revision was not to change the goal’s requirements substantively, but rather to streamline its application, it is reasonable to assume that *McMinnville* applies to this UGB decision.

Under *McMinnville*, the selection of which land to include in the UGB must be based on application of certain (new) Goal 14 location factors to all first priority lands:

- (3) Comparative environmental, energy, economic and social consequences; and
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.”⁴⁷

Only after evaluating all first priority lands under these factors, and if there is still a need to narrow the first priority lands, do the Goal 14 factors with counterparts in ORS 197.298(3) come into application – new Goal 14 factors (1) and (2).

⁴⁶ DLCD Sept. 23, 2011 letter to Metro, p. 4.

⁴⁷ The new Goal 14 factors (1) and (2) are the same as old Goal 14 factors (3) and (4), which the *McMinnville* court determined are to be applied at a later stage, if the UGB evaluation reaches that stage, which it did not in this case because Metro’s entire evaluation was within the first priority level of urban reserves. The new Goal 14 factors (3) and (4) are essentially the same as old Goal 14 factors (5) and (7), which the *McMinnville* court stated are to be applied to determine whether higher-priority lands are “adequate” to meet the identified land need. *McMinnville*, 244 Or App at 264-265.

Metro appears to have not gone through the step-by-step process articulated in *McMinnville*. Rather than apply new Goal 14 to all the urban reserves, Metro pre-narrowed the set of lands to be evaluated by “us[ing] past studies...and findings from the urban and rural reserves process to eliminate some areas from further consideration.” These studies and how they were used are unspecified. Metro also asked which “cities and counties...[were] interest[ed] in providing capacity for the needs identified, to provide governance and to provide infrastructure.”⁴⁸ That narrowed the set to 8300 acres of urban reserves. Metro then brought the area to be evaluated up to 9800 acres, based on “invit[ing] local governments to propose other urban reserves to be more closely evaluated.”⁴⁹

It appears Metro then applied a more rigorous analysis to the 9800 acres, though it is unclear whether it applied the step analysis required by *McMinnville* to those 9800 acres.

Metro’s narrowing the set of urban reserves to analyze from 28,256 to 9800 is not based on legal criteria, but rather based on vaguely defined criteria (past studies and findings from the reserves process) and whether a city volunteered its reserves. ORS 197.298 and Goal 14 are based on objective criteria and not on the willingness of any particular local government at a snapshot in time to raise or lower its hand. Because Metro did not apply Goal 14 to the entirety of the urban reserves, the decision must be remanded.

Recommendation: Remand the decision for Metro to apply Goal 14 and ORS 197.298 to the full set of urban reserves in evaluating lands for expansion of the UGB.

Objection 5

Metro did not evaluate the South Hillsboro area for all UGB expansion needs, contrary to Goal 14, ORS 197.298, and Metro’s Code.

Metro concluded it needed additional capacity beyond the current UGB to meet a shortfall of about 15,896 additional dwelling units and 330 acres for large lot industrial use. However, in evaluating the South Hillsboro area (SHA), Metro considered it only for residential development; Metro did not evaluate South Hillsboro for Metro’s alleged large lot need. Metro cannot so narrowly describe a land need that it artificially focuses the Goal 14 alternatives analysis. Here, Metro did not define away SHA, it simply did not even evaluate it for its ability to provide large lot land. This is legal error, resulting in the expansion of the UGB onto more acres of Class 1 and 2 soils and Foundation farm land, than would have been the outcome under a proper application of Goal 14 and ORS 197.298.

The South Hillsboro Area proposed in this expansion consists of 1063 gross acres. Most of this area has the same characteristics that Metro is looking for in large lot sites. Metro describes the entire SHA as “flat,” with “no significant improvements,” and “unconstrained.” No other area lies as close to a proposed High Capacity Transit line.⁵⁰ The SHA area has “high suitability for sewer, water and transportation services.”⁵¹

The SHA includes a flat, 463 acre parcel in one ownership, with no significant improvements, located adjacent to the TV Highway, which is the High Capacity Transit corridor, and a railroad line. It is

⁴⁸ Ex. D, p. 10.

⁴⁹ Id.

⁵⁰ Ex. D, p. 11.

⁵¹ Ex. D, p. 12.

bordered on two sides by the current UGB.⁵² The parcel is near the Intel Aloha facility. Another parcel of 189 acres, in one ownership and flat, lies adjacent to the first.⁵³

These are all the characteristics that Metro is looking for in large lots, yet Metro did not evaluate SHA for large lot industrial use, nor did it evaluate any other area for that matter. It considered only the North Hillsboro Area (NHA).

Whether evaluating lands for UGB expansion in reliance on urban reserves or not, the full Goal 14 factors must be applied in evaluating alternative sites, and they were not here. That is reversible error.

What analysis Metro did do shows that under the Goal 14 factors, reserving a portion of the SHA site for large lot industrial use is a better choice than the NHA. The NHA has higher quality soils and was designated as Foundation farmland by the Oregon Department of Agriculture. The SHA has a slightly lesser quality mix of soils, but the northern portion of it was designated as “Conflicted” agricultural lands due to its proximity to the UGB and urbanization. The SHA site is less parcelized (one ownership) than the NHA (eight ownerships). The SHA parcel is located closer to more urbanized areas with residential development and therefore locating employment on at least some of the SHA would put it closer to where people already live. In contrast, as acknowledged by Metro, designating the NHA for employment will require more north-south commuting through Washington County to get workers from where they live to the North Hillsboro industrial sites.

If Metro had designated a similar amount of the SHA for large lot industrial use as the NHA (about 330 acres), it would still leave about 600 acres for residential development. And those residents would be closer to potential industry employment in the SHA than if that same employment was in NHA. The resulting urbanization pattern better meets new Goal 14 factors (1), (2), and (3). As Metro acknowledges,⁵⁴ if the SHA is developed as currently proposed (primarily residential) it will not improve and may well worsen the Aloha Town Center’s low jobs/housing ratio.⁵⁵ Thus, primarily residential development of the SHA also does not meet Metro Code 3.07.1425 (C), Factor 6 (Contribution to the Purposes of Centers and Corridors). In contrast, providing for the region’s alleged large lot industrial need on the portion of the SHA closest to existing urbanization and a high capacity transit corridor might improve the Aloha Town Center’s low jobs/housing ratio. At a minimum, since this is a Metro factor, it should have been evaluated.

As importantly, whatever remaining residential development that could not be accommodated in the SHA could be accommodated on alternative areas – whether looking at all 28,256 acres of urban reserves, the narrower 9800 acres of reserves, or all areas around the UGB – that do not require urbanization of Foundation, Class 1 and 2 soils, thus avoiding urbanization of the NHA altogether. And, as Metro acknowledges, accommodating the large lot need on the SHA meets new Goal 14, factor 4, and Metro Code 3.07.1425 (C), Factor 7 (Protection of Farmland Most Important to the Continuation of Commercial Agriculture in the region) better than does the NHA. The South Hillsboro area is better buffered from agricultural lands than the NHA because it has the UGB on two

⁵² *Id.*

⁵³ *Id.*, fn. 13. Metro acknowledges that the SHA is near existing employment sites. Ex. D, p. 14.

⁵⁴ Metro’s 2011 *Community Investment Strategy* report finds: “Urbanization of South Hillsboro will not contribute to balancing the jobs to housing ratio, or promoting walkability and a compact urban form desired of centers, as any commercial or residential development in the analysis area will detract from development within the Aloha Town Center due to the relatively close proximity of the two areas.” Ord Rec 601.

⁵⁵ *Id.*, p. 14.

sides and a golf course on a third, and also has a stream corridor and large lot residential development to the south.⁵⁶ In contrast, the North Hillsboro Area “does not rate well under this factor [Factor 7].”

Metro makes one statement to justify why it chose the NHA for large lot designation rather than the SHA. Metro states:

“Metro added the South Hillsboro area to the UGB for housing and mixed-use development because it is, among all the areas studied, the most suitable for compact, mixed-used, pedestrian and bicycle-friendly, transit-supportive development. For these reasons, the Council concludes that South Hillsboro is more important for mixed-use development than for large-lot industrial development.”⁵⁷

This misses the point. No one has advocated that all of the SHA be designated for large lot industrial development, only a portion of it to meet the alleged need of approximately 330 acres. Because the Metro ordinance requires that the SHA be developed more densely than the current South Hillsboro concept plan contemplates, then much if not all of that development can be met on the remaining 2/3 of the SHA – which is also flat, not parcelized, and in few ownerships.

Metro’s consideration of the South Hillsboro Area for only residential use does not meet the requirements of Goal 14, ORS 197.298, and Metro’s UGB amendments factors.

Recommendation: Remand the decision with directions to Metro to evaluate the South Hillsboro area for all UGB expansion needs, consistent with Goal 14, ORS 197.298, and Metro’s Code.

Objection 6

Metro’s findings supporting expanding the UGB into the SHA lack substantial evidence, and therefore do not meet Goal 14, Goal 2, and Metro’s Code.

This UGB expansion must meet the Goal 14 locational factors and similar requirements in Metro Code 3.07.1425. Metro’s findings for some factors are not supported by the underlying record.

Goal 14, Factor 2 and Metro Code 3.07.1425(C)(2): “Orderly and economic provision of public facilities and services.”

Metro’s findings state that “Hillsboro and private landowners have capacity and financial capability to provide the public facilities needed; the city has expressed its willingness to do so. The city anticipates private developers will pay 70 to 80 percent of the cost of infrastructure.”⁵⁸ This conclusion is flawed legally and the record citations do not support it.

- Metro’s admits it did not compare the cost effectiveness of developing alternative UGB expansion areas with the cost of accommodating the same number of housing units and jobs by meeting the zoned capacity inside the UGB, and it did not compare expansion to refill inside the UGB as a whole or even within Hillsboro. Yet, Metro acknowledges that overall, developing inside the UGB is “less expensive per EDU [dwelling unit] than are developments

⁵⁶ Id., p. 13.

⁵⁷ Id., p. 27.

⁵⁸ Ex. D, p. 12.

in urbanizing areas.”⁵⁹ Thus, the decision to expand into the SHA is without evidentiary support and does not meet Goal 14 factor 2 and Metro Code 3.07.1425(C)(2).⁶⁰

- How is this conclusion even remarkable or relevant? If the same housing capacity was developed inside the UGB, public and private sources would pay for it. The split between those has not been examined inside the UGB, nor is the split alleged for the SHA a requirement of this decision or even committed to by the private or public sectors here through an enforceable agreement.
- Metro’s findings state that the “city, in conjunction with developers and landowners in the area, has developed a community plan and an infrastructure financing strategy.” The record cited is not a funding strategy, and again, the SHCP is not what Metro adopted as a condition of this decision in any event.⁶¹ The record at cited pages 598-604 does not discuss who will pay for the infrastructure, only how much it will cost. The record beginning at cited page 1641 is not on the subject of cost. Other parts of the record discuss possible funding sources and how they might apply. For example, the record states that SDCs could be increased by 50-100% for transportation and by 25-50% for parks. This is not a commitment to increase SDCs by these levels; these are just calculations. Moreover, passing infrastructure costs off to eventual homebuyers in the form of SDCs is not the same as the “private developers will pay for 70-80% of the cost of infrastructure.” Finally, the record discusses using Transportation Development Tax (TDT) credits for some portion of the transportation funding gap; however, that is in part another form of public, not private, funding.
- The record at cited pages 1767-71 discusses costs, but does not support a finding that the city and private landowners will pick up 70-80% of those, for the following reasons:
 - The analysis is based upon the 2008 South Hillsboro Community Plan (SHCP) and has not been readjusted to account for the conditions placed on the SHA by Metro, which significantly changed both the geographical scope of the area to be analyzed, the number of dwelling units to be accommodated, and the area in which those units must be developed.⁶²
 - The record does not state that Hillsboro and private developers *will* pay 70-80% of the infrastructure costs. Rather, it states that the SHCP “is proposed to have infrastructure privately funded, with a small percentage *yet to be determined* attributed directly to the public.”⁶³ (Emphasis added.) The percentage is not stated. The findings state that funding agreements are still “being negotiated.”⁶⁴ The UGB decision does not bind who will pay for any funding gaps, thus, Metro cannot rely on it to show conformance with this Factor.

⁵⁹ Id., p. 7.

⁶⁰ As described above, the higher cost of accommodating residential and employment uses in an expanded UGB versus inside the existing UGB also does not meet the Land Need requirement of Goal 14: “Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.”

⁶¹ Ord Rec 1107, 1385, 1767-68. The record contains promises made by representatives of potential SHA developers. That is not an infrastructure financing strategy.

⁶² Ord Rec 1678.

⁶³ Id.

⁶⁴ Ex, D, p. 12. The underlying record cite states the finding gap is “under negotiation.” Ord Rec 1768.

- An examination of the record does not support the finding that the developers will pay 70-80% of the infrastructure costs. The record concludes that the funding gap for the single most costly infrastructure item – transportation – will fall almost 70% *short*. And the funding gap for parks will be almost 40% short.⁶⁵ The total cost of infrastructure is approximately \$213,900,000.⁶⁶ The total unfunded gap is \$111, 209,000 (transportation and parks).⁶⁷ That is a funding gap of *over 50%*.
- The estimated transportation costs are only for arterials and collector roads.⁶⁸ That is not the full transportation network that would be required by SHA, and therefore must be paid for. It also omits one of the most expensive transportation costs that will be necessitated by residential development of the SHA: an improved vehicular crossing (under, over, or at grade) of the Portland and Western Railroad (PNWR) lines that run along the north side of the SHA, between it and the major roadway network in the region – the Tualatin Valley Highway.

Metro’s decision to expand the UGB into the SHA does not meet the requirements of Goal 14, Factor 2 and Metro Code Factor 2.

Metro Code 3.07.1425(C)(5): Equitable and efficient distribution of housing and employment opportunities throughout the region

Metro Code section 3.07.1425(C) (5) requires that Metro evaluate alternative expansion areas to determine which areas better meet housing need for an “[e]quitable and efficient distribution of housing and employment opportunities throughout the region.”

Metro finds this factor is met because “Hillsboro has had a high ratio of jobs to housing for some time.”⁶⁹ This is a regional decision. Neither the statewide Goals or statutes nor the Metro factors are based on an evaluation of housing and jobs in one city in the region. Therefore, Hillsboro’s jobs to housing ratio is legally irrelevant. Factually, it is a statement in a vacuum. Even if a valid concern – which it is not – Metro does not provide evidence to support this conclusory statement; and whatever the ratio is, Metro does not compare it with any other city in the region, or with how UGB expansions in these areas might impact the adjacent city’s jobs/housing ratio.

Finally, this argument is contradicted by Metro’s proposal to add 330 acres of employment land in North Hillsboro. That not only undermines the jobs/housing ratio argument altogether, it also undermines Metro’s claims that putting housing in the SHA will reduce commuting to jobs, since commuting to the north across Hillsboro will increase if the North Hillsboro site is added.

Metro has not provided an explanation of what is meant by an “equitable and efficient distribution of housing and employment opportunities throughout the region.” But a conclusory statement about the jobs and housing ratio of one city in the region is likely not it.

Metro Code 3.07.1425(C)(7) Protection of Farmland Most Important to the Continuation of Commercial Farming in the region

⁶⁵ Ord Rec 1768 (“Park SDC revenues cover 62.5% of the costs and the TDT covers 32.5% of transportation costs.”), Ex. D, p. 12.

⁶⁶ Again, this cost total is for the SHCP, which is not what Metro adopted in terms of acreage, dwelling units, or density.

⁶⁷ Table on Ord Rec p. 1771.

⁶⁸ Ord Rec 1771.

⁶⁹ Ex. D, p. 14.

The Metro findings rely on the Oregon Department of Agriculture conclusion that the northern portion of the SHA is “conflicted” agricultural land. However, the ODA also concluded that the southern portion of the SHA is Foundation farm land, which the findings do not address.⁷⁰

Metro Policy 1.9.12 on Workforce Housing

Metro’s findings state:

“The South Hillsboro Community Plan states that 88 percent of all rental units proposed for the area would be affordable to households earning less than 80 percent of median household income. The plan estimates that 42 percent of owner-occupied units will be affordable to households earning the median income.”⁷¹

Metro concludes that this will “help achieve” Policy 1.9.12 and Regional Framework Plan Outcome 6. That conclusion cannot be drawn from the underlying facts.

- The SHCP encompasses a different geography, density, and number of dwelling units than does Metro’s decision and SHA conditions. Therefore, this SHCP is legally irrelevant. And even if its conclusion were accurate and relevant, Metro’s decision does not bind Hillsboro to these, or any, percentages of affordable housing. Metro cannot conclude that this policy is met.
- The cited record pages do not support the findings. The record states that 85% of the homes in the SHCP will be for those making 125% or more of median family income.⁷² Nothing in the cited pages appears to address affordability of rental units.

Recommendation: Remand Metro’s decision with directions to determine whether the South Hillsboro Area complies with Goal 14 and related statutes and the Metro Code, and if so adopt additional findings, or remove the SHA from the UGB expansion.

Objection 7

Metro’s Findings supporting expanding the UGB to include the North Hillsboro Area for large lot industrial use do not meet the requirements of Goal 14, ORS 197.298, and the Metro Code.

Metro’s decision to expand the UGB in the North Hillsboro Area (NHA) for large lot industrial use does not meet the requirements of Goal 14, ORS 197.298, and the Metro Code, for the following reasons.

- Metro’s alternatives analysis, required by Goal 14, lacks substantial evidence. Metro says it considered other areas around the UGB for large lot industrial use that have some characteristics that make them suitable for large lot, but eliminated them because they “fail to meet the site requirements.” The findings briefly describe that these other areas were eliminated because they are, for example, “more than two miles from an interchange,” and 1.3

⁷⁰ For reasons already explained, we object to Metro relying on the existence of urban and rural reserves in selecting areas for the UGB expansion in the first place.

⁷¹ Ex. D, p. 15.

⁷² Ord Rec 1697: “Pricing for the bulk of newly constructed homes (over 60%) targets households earning about 125% of Median Family Income. Another 25% of newly constructed homes targets households earning about 150% of Median Family Income.” *South Hillsboro Community Plan, 02/22/08 Final Draft*, p. 16.

miles east of the UGB.”⁷³ However, we cannot find in the record where the distance to an interchange is a relevant characteristic for a large lot industry that might locate in the region, much less what that distance is. Further, it seems intuitive that the more relevant criterion would be time, not distance, to the trip end. So, for example, while Boring might be 1.3 miles from the UGB, it might well be faster to get from Boring to the Portland International Airport and the other port facilities than it is from the NHA. Among other things, Boring is at least as close to a Highway 26 interchange, and one that is less congested than those in Washington County.

- Metro’s analysis of Goal 14 and the Metro Code is based on a different geographical area than the North Hillsboro Area, and thus it is not necessarily applicable. This is particularly problematic for Metro’s analysis of Goal 14 Factors 3 and 4 and Metro Code Factors 3, 4, and 9. Metro analyzed a much larger area with different boundaries than the NHA. Metro analyzed:

“[T]he Hillsboro North Analysis Area... is a wedge-shaped area north of Hillsboro, between the current UGB and Highway 26 and is *950 acres* in size. The analysis boundary is defined by the UGB to the south and east, Highway 26 to the north. NW Jackson School Road is the western edge up to Waible Reservoir, after which Storey Creek generally marks the western boundary.”⁷⁴

This is three times larger than the NHA, and has completely different boundaries. Therefore, Metro cannot make findings addressing whether the proposed NHA use is compatible with nearby agriculture; Metro cannot compare the environmental, energy, economic and social consequences of urbanizing the NHA versus another area; and Metro cannot find that there are clear transitions, natural or manmade, between urban and rural uses.

- Metro Code section 3.07.1425(C) (5) requires Metro to evaluate the NHA to determine if it better meets the need for an “[e]quitable and efficient distribution of housing and employment opportunities throughout the region.” Metro’s findings are insufficient to address this. Again, a definition of “equitable and efficient distribution” is missing. However, these findings suggest that it is based simply on taking turns among those cities willing to expand their portion of the UGB⁷⁵ – not on a land use policy-based rationale. Yet Metro acknowledges that land brought into the UGB in Hillsboro in 2002-2005 for large lot industrial use has not developed. That would support *not* bringing in additional land in the UGB, especially in the Hillsboro area.

Finally, Metro states that expanding the NHA, “together with the addition of housing capacity in the South Hillsboro area ... will contribute to equitable and efficient distribution of housing and employment to the west of the region.”⁷⁶ This Metro factor is defined as region-wide, not one sector (west) or city in the region, so this statement does not really address the factor. Moreover, it is inconsistent with Metro’s findings for the SHA – that residential development of the SHA will help balance the current unbalanced jobs/housing ratio in Hillsboro. While we do not believe the focus on one city or part of the region is legal or meaningful, if Metro is going to do so, it cannot have it both ways – claim that SHA is needed to add housing to the balance of Hillsboro, and then add more jobs to Hillsboro in the NHA.

⁷³ Ex. D, p. 24 (emphasis added).

⁷⁴ Ord Rec 679.

⁷⁵ UGB expansions for employment areas have been made east, south, and west. Ex. D, p. 26.

⁷⁶ Ex. D, p. 26.

Recommendation: Remand the decision to Metro with direction to examine whether expansion of the UGB in the North Hillsboro area meets the requirements of Goal 14, ORS 197,298, and Metro Code, and if so, to make additional findings, or remove the area from the UGB expansion.

Thank you for consideration of our Objections.

A handwritten signature in black ink that reads "Mary Kyle McCurdy". The signature is written in a cursive, flowing style.

Mary Kyle McCurdy
Policy Director and Staff Attorney, 1000 Friends of Oregon
On behalf of 1000 Friends of Oregon, Cherry Amabisca, Robert Bailey, and Linda Peters

A handwritten signature in black ink that reads "Carrie A. Richter". The signature is written in a cursive, flowing style.

Carrie A. Richter
Attorney, Garvey Schubert Barer
On behalf of Save Helvetia