Memo

Metro
600 NE Grand Ave.
Portland, OR 97232-2736

Date: April 6, 2017

To: Metro Council

From: Ted Reid, Principal Regional Planner
Roger Alfred, Senior Assistant Attorney

Subject: Urban and rural reserves – Metro Planning and Development staff response to letter from Mr. Peter Watts

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This memorandum provides the Metro staff response to a letter submitted by Peter Watts of the Jordan Ramis law firm on March 23, 2017 regarding the sufficiency of the amount of land designated as Urban Reserve in the Metro region. Because the evidentiary record closed on March 23, 2017, this memorandum does not include any new evidence, but only staff comments regarding the arguments and exhibits submitted by Mr. Watts.

First, Mr. Watts contends that it is "unreasonable" for Metro staff to rely on the 2014 UGR for purposes of forecasting the 40 to 50 year need for urban reserves in the Metro region because the 2014 UGR analysis is overly influenced by the recession and "does not represent the current market reality." As previously described in the Metro staff memorandum dated March 23, 2017, the applicable state rule regarding forecasting the amount of land needed for urban reserves directs Metro to base its analysis on the most recent UGR, and does not require Metro to undertake a new buildable lands analysis under ORS 197.296 in order to project future need for residential and employment land between now and 2065. The 2014 UGR was adopted by Metro Council ordinance in 2015 and acknowledged by LCDC; therefore, its conclusions are not subject to challenge in this proceeding.

In support of his arguments, Mr. Watts first points to census data from 2014 to 2016 regarding housing permits issued in the Portland-Vancouver-Hillsboro Metropolitan Statistical Area (MSA) to argue that the percentage of single family homes constructed in the last three years exceeds Metro's projection in the 2014 UGR that 36% of new housing units would be single family. Mr. Watts also cites a 2016 Housing Market Analysis prepared by the Department of Housing and Urban Development (HUD), and argues that the HUD analysis predicts that 58% of future demand will be for single family homes, which is 22% more than predicted in the UGR.

The primary error in these arguments is that both the census report and the HUD forecast are based on data and estimates for the entire seven-county MSA, which includes Columbia County, Yamhill County, Skamania County, and Clark County. Meanwhile, the housing mix described in the 2014 UGR is limited to the area defined by the Metro UGB, and does not consider the entire seven-county region. It is not surprising that there will be higher demand for, and development of, single family homes in less densely urbanized locations such as Canby,

Vancouver, Newberg, St. Helens and Stevenson than within the Metro UGB. Comparing the census data and HUD seven-county forecast to the 2014 UGR is not comparing apples to apples.

Further, the cited figures from the seven-county HUD forecast are based exclusively on housing tenure (sales vs. rentals) as opposed to the UGR, which translates tenure into actual housing type (single family vs. multifamily). Therefore, the comparatively higher number of "single family homes" that are predicted by HUD includes condominiums, which are considered multifamily dwellings rather than single family for purposes of the UGR.

The remainder of the letter from Mr. Watts includes paragraphs (a) through (g) raising additional issues with the 2014 UGR projections. Each of those paragraphs is addressed below.

a. Mr. Watts incorrectly asserts that the staff analysis regarding future urban reserve acreage is somehow related to estimated growth in Skamania County. That county is part of the federally defined seven-county MSA for which detailed census data are available and are relied upon by Metro as the starting point for its forecasts of population and job growth in the Metro area. However, the seven-county forecasts are then pared down through the application of a market-based land and transportation computer model that is used to determine what percentage of the new jobs and households expected in the seven-county MSA are likely to locate within the Metro UGB. This "capture rate" was approximately 72% in the 2014 UGR. Neither the UGR nor the February 22, 2017 urban reserve assessment by Metro staff include any projections regarding what particular amount of growth will occur in Skamania or any of the other counties that are not part of the Metro area. To the extent Mr. Watts is challenging the capture rate for the Metro area as applied in the 2014 UGR, that decision has been adopted and acknowledged and Metro may properly rely upon it.

b. Mr. Watts challenges the application of a four percent vacancy rate in the February 22, 2017 urban reserve assessment. In that analysis, Metro staff applied the same four percent vacancy rate that was applied in the 2014 UGR. Mr. Watts asserts that "no county in the seven county region achieved even a 5% vacancy rate, let alone a 4% vacancy rate per the 2000 and 2010 census," but provides no evidence to support that assertion. However, Mr. Watts did submit evidence to the contrary in the HUD report addressed above, which states on page one that the owner-occupied vacancy rate in the seven-county housing market area is one percent and the rental housing vacancy rate is 2.9%. Thus, based on the evidence provided by Mr. Watts, the 4% rate assumed by Metro staff might be considered too high. However, no particular vacancy rate is required for purposes of the urban reserve assessment and Metro may properly rely on the same vacancy rate estimate that was applied in the 2014 UGR.

c. Mr. Watts asserts that Metro staff's assumption in the urban reserve assessment that 45% of gross urban reserve acreage will be net developable acres is too high, pointing to net developable areas in South Hillsboro, North Bethany, South Cooper Mountain and the Stafford Basin. Regarding South Hillsboro, the page cited by Mr. Watts in the South Hillsboro Community Plan provides a figure for net developable acres of 649 but does not

provide the gross acreage for the entire plan area. However, page three of the Community Plan describes the plan area as containing approximately 1,400 acres, which equates to 46% net developable acres. Similarly, Mr. Watts describes North Bethany as having 237 net developable acres out of 691 gross acres, but the page he cites in the Washington County materials that he submitted as an exhibit does not reflect those figures. Rather, those materials consistently refer to 326 net developable acres. Assuming that the 691 gross acre figure is correct, 326 acres out of 691 equates to 47% net developable acres. Mr. Watts also cites South Cooper Mountain where the net-to-gross acreage was 237/544, which equates to 43.6% buildable land, or only 1.4% less than the 45% assumed by Metro staff in the urban reserve assessment.

The reliance by Mr. Watts on the concept plan materials he submitted regarding the Stafford Basin is similarly puzzling. His letter states that only 1,000 out of 4,700 acres were deemed buildable; however page 5 of the plan document states the following: "The Basin covers roughly 4,300 acres of land, of which just over 2,000 are considered buildable after accounting for existing homes, natural areas and steep slopes." Based on this statement, net buildable acreage in the Stafford Basin would be 46.5% of the gross acreage. To be fair, we know that the three urban reserve areas at issue (4A, 4B and 4C) actually do contain approximately 4,700 acres. Assuming that the Stafford Basin concept plan materials are correct regarding the basin containing 2,000 acres of net buildable land (which is questionable since it appears to have considered only a 4,300 acre plan area rather than a 4,700 acre area), that would equate to 42.5% net buildable land.

These four examples, which all fall within about two percentage points of 45% (two of the examples are higher), validate Metro staff's decision to apply an assumption that 45% of urban reserve land will be buildable.

d. Mr. Watts points to existing urban reserve areas that are located east and south of the former City of Damascus and contends that those areas "are no longer viable as urban reserves" because water and sewer services cannot be easily provided and they are unlikely to be annexed by Gresham or Happy Valley. When these urban reserve areas were designated in 2010, they were adjacent to the UGB and the City of Damascus. While the disincorporation of that city might make it more challenging for these areas to be urbanized in the future, they remain designated as urban reserves and Metro cannot disregard their existence for purposes of undertaking the analysis required under OAR 660-027-0040(2). Further, even if Mr. Watts is correct that the City of Gresham is currently not interested in annexing into Clackamas County, there is no reason to believe that the city's current political position will never change over the course of a 50-year planning horizon.

e. Mr. Watts asserts that the Metro staff assumption of 10 dwelling units per acre in the February 22, 2017 urban reserve assessment is too high, citing a prior agreement regarding future density in the Stafford area; however, no such agreement has been submitted as evidentiary support for this statement. Assuming that portions of Stafford urban reserves are brought into the UGB at some point in the future, future development and density in

those areas will be based on concept plans prepared by a city with plans to annex the area, in conjunction with Metro and Clackamas County. The same is true for the Advance Road urban reserve area adjacent to the City of Wilsonville.

f. Mr. Watts asserts that the Metro staff assumption of 10 dwelling units per acre in the urban reserve assessment is unlikely, and actual density in future urban areas will be lower. As examples, Mr. Watts cites a recent UGB expansion in the City of Lafayette with a density of six units per acre, as well as suburban locations and smaller cities in Clark County, Washington. It is entirely possible, and not at all surprising, that development is occurring at lower densities outside of the Metro UGB in Washington. Metro has no jurisdiction over those decisions. In the Metro region, cities and counties are subject to DLCD's Metropolitan Housing Rule, which requires higher densities. In fact, that rule requires an overall density of 10 units per acre in Multnomah County, Portland, Gresham, Beaverton, Hillsboro, Lake Oswego and Tigard. The Metro Council has the authority to place conditions of approval, including expectations for housing numbers and densities, on UGB expansions. For instance, the 2011 Metro Council ordinance expanding the UGB into South Hillsboro and South Cooper Mountain included conditions resulting in densities in the range of 10 to 15 units per net developable acre, as referenced in Metro staff's February 22, 2017 assessment.

   Mr. Watts asserts that Metro is ascribing 28 percent of future growth to the four counties outside of the Metro UGB and asserts that those counties (Yamhill, Skamania, Columbia and Clark counties) cannot be expected to take on that much growth. We believe that Mr. Watts is referencing the 28 percent of total seven-county growth that is not "captured" in the Metro UGB per the 2014 UGR's analysis (72 percent is the forecast Metro UGB capture rate). The premise of this argument is incorrect because the 72 percent capture rate applies to projected growth inside the Metro UGB, not inside the boundaries of the three counties included in the Metro UGB. There are many other cities located within Washington, Clackamas and Multnomah counties where future growth will occur that are not within the Metro UGB. It is incorrect to say that all growth not captured within the Metro UGB will occur in the other four counties; therefore, that number would actually be much smaller than 28 percent. In any event, the capture rate forecast is based on the best available information and results from Metro's land use model – Metro's job is to predict how much growth will occur within the Metro UGB, not to forecast growth in Yamhill, Skamania, Columbia and Clark counties.

g. Mr. Watts states that the population growth estimates for the region are too low, pointing to estimates released in 2015 from the U.S. Census Bureau. The Metro staff estimates are based on the population forecast in the 2014 UGR that was adopted by the Metro Council and acknowledged by LCDC. The population forecast in the 2014 UGR is derived from the most recent U.S. Census data available at the time, in the 2010 census. As described above, the urban reserve rules do not require Metro to undertake a new UGR analysis under ORS 197.296 and corresponding population forecast for purposes of estimating the current sufficiency of urban reserves. Rather, Metro is correctly relying on the projections set forth in the adopted and acknowledged 2014 UGR.