

## **Findings of Fact and Conclusions of Law**

Ordinance No. 18-1427 accepts the recommendation of Metro's Chief Operating Officer (COO) to expand the Urban Growth Boundary (UGB) to add approximately 2,181 acres of land in four locations in order to provide an adequate supply of land for housing in the Metro region over the next 20 years. These findings of fact and conclusions of law explain how the Metro Council decision complies with state and regional land use laws and policies.

Section A of these findings describes some of the history leading to this decision, and summarizes the new approach applied by Metro in the preparation of the 2018 Urban Growth Report (UGR) and the Metro Council's decision to expand the UGB. Section B of these findings describes compliance with requirements in Statewide Planning Goal 2 and regional policies regarding coordination with other local governments in the region. Section C describes compliance with requirements in Statewide Planning Goal 1 and regional policies regarding citizen involvement. Section D describes compliance with state and regional requirements regarding urban growth boundary decisions, including Statewide Planning Goals 14 and 10 and ORS 197.296. Section E provides findings in support of the administrative amendment to the UGB to add 4.8 acres of property on NW Cornelius Pass Road in order to alleviate a public health hazard from a failing septic system. Section F describes compliance with all other Statewide Planning Goals.

### **A. Framework for Decision**

Metro's 2018 growth management decision applies a new approach that has been a decade in the making. The journey began in 2007 when the Oregon Legislature adopted Senate Bill 1011, authorizing Metro and the three counties to designate urban and rural reserves. The designation of urban reserves establishes the maximum footprint for urban growth boundary expansions in the next 50 years, and removes hundreds of thousands of acres of valuable farm and forest land from potential urbanization.

In 2010, the Metro Council adopted a policy of taking an outcomes-based approach to future growth management decisions. This policy is based in part on Metro's experience with prior UGB expansions into areas where there was no existing plan for governance, future development, or financing needed infrastructure; unfortunately, those areas have often failed to develop. The history of Metro UGB expansions over the last 20 years clearly demonstrates that land readiness is more important than land supply for addressing housing needs and job growth. In order to increase the likelihood that development will actually occur in new UGB expansion areas, Metro now requires advance planning for areas that cities want to annex and urbanize. In 2010, Metro adopted amendments to Title 11 of the Urban Growth Management Functional Plan requiring cities to adopt concept plans for urban reserve areas prior to those areas being added to the UGB.

In November 2015 the Metro Council adopted the 2014 UGR, concluding that there was sufficient capacity within the existing UGB to provide a 20-year supply of land for housing and employment growth. As part of that ordinance, the Council directed Metro planning staff to work

with regional partners to explore possible improvements to the growth management process and to produce a new UGR within three years, rather than six.

Responding to that directive, in May 2016 Metro convened an Urban Growth Readiness Task Force comprised of 17 public and private sector representatives to develop recommendations for improving the growth management process. The Task Force met five times between May 2016 and February 2017 and ultimately presented a set of recommendations to the Metro Council for improvements, which were accepted by the Metro Council via Resolution No. 17-4764. Those recommendations included three core concepts: (1) create expectations for cities to propose modest residential UGB expansions into concept planned urban reserves; (2) seek greater flexibility for addressing regional housing needs; and (3) seek greater flexibility when choosing among concept planned urban reserves for UGB expansions.

The Task Force recommended that Metro adopt changes in its decision-making processes to implement the three core concepts by making future growth management decisions based on specific UGB expansion proposals submitted by cities. Metro staff worked with the Metro Technical Advisory Committee (MTAC) to prepare and refine proposed amendments to the Metro Code to implement the directives from the Task Force and the Metro Council. Those code amendments were approved by the Metro Policy Advisory Committee (MPAC) and adopted by the Metro Council via Ordinance No. 17-1408 on December 14, 2017.

This 2018 UGB decision is the first application of Metro's new approach to UGB expansions. Consistent with the directives of the Task Force and the Metro Council, Metro staff created a process where interested cities submitted proposals for UGB expansions. Four cities submitted proposals by the May 31, 2018 deadline. Those proposals were reviewed by Metro staff and by a City Readiness Advisory Group (CRAG) convened by the Metro President, and the four cities made presentations to the Metro Council regarding their proposals during Council work sessions.

Metro staff released the draft UGR on July 3, 2018, providing an analysis of the regional buildable land supply, a 20-year population and employment growth forecast, and an analysis of a number of potential scenarios testing different permutations of growth related assumptions, including the four proposed UGB expansions. The draft UGR concluded that the Metro Council has the latitude to determine whether there is a regional need to expand the UGB in any of the four urban reserve areas as proposed by the cities. There are two components to the UGR: a 40-page narrative summary and the eight appendices attached to it. The actual technical analysis that comprises the UGR is included in the appendices, and the UGR narrative provides a descriptive summary of the information included in the appendices. The UGR and its appendices have been revised and updated since release of the draft in July 2018.

After reviewing the four city proposals and the recommendations of the CRAG, the Metro COO issued her recommendation on September 4, 2018, recommending that all four proposed areas should be added to the UGB, with conditions designed to ensure an adequate supply and mix of housing, particularly "missing middle" housing. The COO recommendations were endorsed by MPAC on September 12, 2018. After taking public testimony regarding the four city proposals and the COO recommendation on September 20, 2017, the Metro Council adopted Resolution

No. 18-4914 on September 27, 2018, which endorsed the COO recommendation and directed Metro staff to proceed with planning and analysis regarding expanding the UGB in all four areas.

## **B. Coordination with Local Governments and State Agencies**

This section addresses the coordination requirements of Statewide Planning Goal 2 and Regional Framework Plan (RFP) Policies 1.11.3, and 1.14. In preparing and adopting the UGR, Metro has coordinated extensively with the cities and counties in the region and relevant state agencies over the last two years. This includes significant coordination in the development of the technical elements of the UGR, discussed further in Section C below, and engagement at MPAC and MTAC as described in this section.

Metro and the four cities proposing UGB expansions have also coordinated with affected school districts. Cities are required under Title 11 of the Urban Growth Management Functional Plan to coordinate with school districts as they complete concept plans for urban reserves. All four cities proposing UGB expansions included representatives of the school districts in their planning efforts. School districts also have representatives on both MTAC and MPAC, providing them with a means to stay informed and comment on the urban growth management decision. Lastly, lands owned by school districts, which are often zoned for residential use, are excluded from the buildable land inventory documented in UGR Appendix 2.

Since 2017, topics related to this growth management decision have been extensively reviewed and discussed by MPAC, which is an advisory committee to the Metro Council consisting of elected officials from cities, counties and special districts throughout the region, as well as citizens and representatives of TriMet and the Department of Land Conservation and Development (DLCD). At its meeting on September 12, 2018, MPAC voted unanimously to recommend that the Metro Council accept the COO recommendations and expand the UGB in the locations proposed by all four cities. As described in more detail below, the UGR has been an agenda item before MTAC in at least 19 of its meetings since 2016, and before MPAC in at least 14 meetings since 2017.

MTAC has discussed aspects of this growth management decision on the following occasions:

<b>MTAC meeting date</b>	<b>Topic</b>
3-2-16	Work program update regarding 2018 growth management decision
6-1-16	Urban Growth Readiness Task Force update
7-6-16	Urban Growth Readiness Task Force update
7-13-16	Initial suggestions for addressing recommendations from the Urban Growth Readiness Task Force
8-3-16	Initial suggestions for addressing recommendations from Urban Growth Readiness Task Force
9-7-16	Urban Growth Readiness Task Force update
10-19-16	Metro Title 14 amendments (expectations for cities proposing residential UGB expansions)

Exhibit F to Ordinance No. 18-1427

12-7-16	Urban Growth Readiness Task Force update
2-1-17	Metro Title 14 amendments (expectations for cities proposing residential UGB expansions)
4-5-17	Work program overview for 2018 growth management decision
4-5-17	Metro Title 14 amendments (expectations for cities proposing residential UGB expansions)
8-2-17	Metro Title 14 amendments (expectations for cities proposing residential UGB expansions)
9-6-17	Recommendation to MPAC: Metro Title 14 amendments (expectations for cities proposing residential UGB expansions)
10-4-17	Goal 14 analysis (locational factor analysis of urban reserves)
2-7-18	Regional population and employment forecast
3-7-18	Buildable land inventory
5-16-18	Goal 14 analysis (locational factor analysis of urban reserves)
6-20-18	UGB expansion proposal presentations by Beaverton, Hillsboro, King City, Wilsonville
7-11-18	Draft UGR; urban reserve alternatives analysis
7-18-18	Summary of CRAG discussions of city expansion proposals

Since 2017, MPAC has devoted many meetings to discussing residential and employment trends and the region's economic outlook, reviewing and commenting on proposed revisions to the Metro Code implementing the Task Force recommendations, reviewing the four city proposals for UGB expansions, reviewing the draft UGR, and generally preparing to make a growth management recommendation to the Metro Council. MPAC meetings related to the urban growth management decision include the following:

<b>MPAC meeting date</b>	<b>Topic</b>
3-8-17	2018 Growth management work program summary
9-27-17	Metro Title 14 amendments (expectations for cities proposing residential UGB expansions)
9-27-17	Housing trends in Portland and Hillsboro
10-11-17	MPAC recommendation: Metro Title 14 amendments (expectations for cities proposing residential UGB expansions)
10-25-17	Housing trends in Wilsonville and Beaverton
1-24-18	Housing trends in Tigard
3-14-18	Update on growth management process
4-11-18	Regional population and employment forecast panel discussion
4-25-18	Employment trends panel discussion
6-13-18	Expansion proposals: Hillsboro and King City
6-27-18	Expansion proposals: Wilsonville and Beaverton
7-11-18	Draft Urban Growth Report
7-25-18	Report from CRAG on strengths and weaknesses of city expansion proposals
9-12-18	Review of COO recommendation on expansion proposals; vote regarding MPAC recommendation

At its meeting on September 12, 2018, MPAC voted unanimously to recommend that the Metro Council accept the COO recommendations and expand the UGB in the locations proposed by all four cities.

### **C. Citizen Involvement**

These findings address Statewide Planning Goal 1 and Regional Framework Plan (RFP) Policy 1.13. Metro began the process of preparing the UGR in 2017 and has worked closely with key stakeholders and residents of the region from the beginning.

The UGR is a reflection of the expert knowledge of many stakeholders from around the region. Throughout the development of the draft UGR, staff engaged outside expertise from the public and private sectors. This work also builds on previous technical engagement activities. From mid-2017 through mid-2018, staff sought review and collaboration on a number of topics:

- The Land Use Technical Advisory Group (LUTAG), a working group of approximately 20 public and private sector experts provided advice on the methods used for estimating the region's buildable land inventory (UGR Appendix 2), with a particular emphasis on how to estimate redevelopment potential. LUTAG also conducted a review of the preliminary buildable land inventory results.
- All cities and counties in the region were given the opportunity to review a preliminary buildable land inventory at the tax lot level. All comments received by Metro were incorporated into the inventory used in the UGR. In response to additional comments received after the release of the draft UGR, minor corrections have been made to the inventory.
- A peer review group of seven public and private sector economists and demographers advised on the assumptions built into the seven-county population and employment range forecast (UGR Appendix 1), the forecast results, sources of uncertainty in the forecast, and possible future improvements to the forecast model.
- A peer review group of eight public and private sector economists and modelers reviewed the MetroScope land use and transportation model's parameters and validation results and made suggestions for possible future improvements. The use of the MetroScope model is described in UGR Appendix 3.
- A partnership of six public and private sector organizations worked with the consulting firm Mackenzie on an update of the Regional Industrial Site Readiness project (UGR Appendix 8). The inventory of large industrial sites that was identified through that work is used to describe the region's supply of such sites in the UGR.
- In June 2018, Metro Council President Hughes convened private and public sector experts in affordable housing, parks planning, residential and mixed-use development, multimodal transportation, and equity. City Readiness Advisory Group (CRAG)

members were asked to identify the strengths and weaknesses of city proposals. Their findings were presented at a Metro Council work session, and at MTAC and MPAC.

In addition to the above-described collaboration with public and private sector stakeholders, the public process involved in adopting the UGR has provided considerable opportunities for citizen involvement and engagement. In addition to the MTAC and MPAC meetings regarding the UGR detailed above, all of which were public meetings, the Metro Council has held eleven public meetings in 2018 alone on topics involving the UGR, including public hearings on September 20, 2018, September 27, 2018, December 6, 2018 and December 13, 2018. A public comment period on city proposals for UGB expansions was held open from June 8 to July 9, 2018. Public comments were summarized in a report that was provided to MPAC and the Metro Council and posted on Metro's website.

#### **D. Urban Growth Management Statutes and Rules**

These findings address Statewide Planning Goals 10 and 14, ORS 197.295 – 197.314, OAR chapter 660 divisions 7 and 24, and RFP Policy 1.9.2.

Metro's obligation to complete an inventory of buildable lands and analysis of housing need for purposes of ensuring a 20-year supply of land inside the UGB arises out of ORS 197.299. That statute directs Metro to undertake the inventory and analysis required under ORS 197.296(3) not later than six years after completion of the previous analysis. As part of the previous growth management decision in 2015, the Metro Council directed the Metro planning department to prepare a new UGR within three years, rather than six.

##### **1. Buildable Land Inventory**

The first step in the process required under ORS 197.296(3)(a) is to undertake an inventory of the supply of buildable residential land inside the UGB. The applicable Goal 14 rules provide that local governments "must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs" for both residential and employment land. OAR 660-024-0050(1). This section of the findings focuses on Metro's analysis of the residential component of the inventory.

For purposes of the inventory required under ORS 197.296(3)(a), buildable land is defined to include vacant and partially vacant land planned or zoned for residential use, land that may be used for mixed residential and employment uses under existing planning or zoning, and land that may be used for residential infill or redevelopment. ORS 197.296(4)(a). The buildable land inventory informs the calculation of the capacity of the UGB to accommodate future growth.

Metro's methodology for calculating the region's buildable land inventory is described in Appendix 2 of the UGR and summarized on pages 34-35 of the UGR narrative. The methodology began by analyzing detailed aerial photos of all land inside the UGB and applying current local plan and zoning designations. The methodology also applied the specific inventory requirements set forth in ORS 197.296(4)(a)-(b). See Appendix 2, page 23. One of the more complicated aspects of creating an inventory of buildable land is determining how to accurately

predict whether land that is already developed might be redeveloped in the next 20 years, as required under ORS 197.296(4)(a)(A). To assist in estimating the developable and redevelopable land in the region, Metro assembled two peer review groups – an expert peer review panel consisting of academics, real estate professionals and MPO modeling and forecasting practitioners, and an independent land use technical advisory group (LUTAG) consisting of representatives from cities, counties, the state, and the Portland Homebuilders Association. During the fall and winter of 2017 and 2018, the two groups reviewed and validated specific methodologies and data for assessing the development and redevelopment potential of land inside the UGB. Those methodologies are described in Appendix 2 of the UGR.

As noted above, predicting whether and when property that is already developed will be redeveloped for multifamily and mixed use purposes is probably the most challenging aspect of the BLI analysis. In a change from the 2014 UGR, Metro staff and the LUTAG applied two different methods to this analysis, which produced a range of possible redevelopment outcomes. The low end of the BLI range for redevelopment purposes is based on a statistical analysis of recently observed development trends. This approach is referred to in the BLI as the “statistical method.” The high end of the range is estimated using the same methods as the 2014 UGR, which relied on a strike price approach (described on page 55 of Appendix 2). This is referred to in the BLI as the “threshold method.”

The buildable land inventory results are shown on the tables at pages 4 and 5 of Appendix 2. After applying the methodologies agreed upon by the technical working group, and taking input from cities and counties on a preliminary draft of the inventory, the analysis concludes that the existing UGB has an inventory of buildable land that can provide 92,300 single family units. Applying the two different methodologies for multifamily redevelopment, the low end of the range (statistical method) identifies a supply of 136,000 multifamily units, while the high end of the range (threshold method) identifies a supply of 271,100 multifamily units.

## **2. Assumptions Regarding Future Growth**

Appendix 3 of the UGR describes application of the MetroScope model to test different potential growth scenarios in the region, including different permutations involving the four proposed UGB expansion areas. MetroScope is an integrated land use and transportation computer model that provides forecasts regarding where future housing and employment are likely to locate in the Metro region. The model estimates housing supply based on simulated market behaviors and produces outputs including housing prices, household location choices by zone, type (single family or multifamily), and tenure (rent or own).

The Metro Council directed staff to examine different growth scenarios to provide the Council with a range of permissible decision options for this 2018 growth management decision. Metro staff utilized MetroScope to analyze those ranges using three key forecast inputs: (1) the possible range of overall regional growth in people and jobs; (2) a range of possible contributions of existing capacity inside the UGB for housing and employment construction; and (3) expanding or not expanding the UGB based on proposals from the four cities.

Metro staff formulated and tested 14 different scenarios using MetroScope by combining different settings for those three key inputs, including:

- Growth: high, medium and low versions of the population and employment forecast in Appendix 1 (with medium representing the most likely outcome and a 95% confidence level that growth will occur within that range).
- Existing capacity: high, medium, and low estimates for potential redevelopment from the buildable land inventory results in Appendix 2.
- All or none of the four city-proposed UGB expansions.

The results of the MetroScope modeling indicate that if the Metro Council chooses to plan for “likely” future growth over the next 20 years (*i.e.*, selecting the midpoint of the population forecast range) there will be a corresponding need for greater than historical housing production. Of the fourteen different combinations of growth scenarios tested by MetroScope, the outcomes of four scenarios provided tenable options for the Metro Council to make the necessary assumptions about future growth. The four scenarios are summarized in Appendix 3 at page 17, and described in more detail at pages 20-23.

The MetroScope modeling also includes a “reference scenario,” identified as Scenario Zero, which represents a “no action” scenario that assumes no UGB expansion, medium growth, and redevelopment capacity based on a historical trend over the last nine years. That modeling indicates complete consumption of all existing single family capacity, with a resulting excess demand and sharp price appreciation for single family housing. The findings associated with this scenario conclude that there is a need for increased production in the region of both single family and multifamily housing, but especially for single family. Appendix 3, pages 19-20.

After analyzing the MetroScope data and the viability of those four scenarios, the Metro COO recommended that the Metro Council base its 2018 growth management decision on Scenario 4, which assumes the “likely” (midpoint) population growth projection, a mid-range assumption regarding redevelopment capacity, and expansion of the UGB in all four proposed locations. Regarding housing type projections, the Scenario 4 outcomes show strong demand for single family products based on a low amount of remaining single family capacity, and corresponding increases in single family price.

The Metro Council agreed with the COO recommendation, and used Scenario 4 as the basis for its analysis and conclusions, as summarized on pages 37-38 of the UGR narrative and explained in more detail in the Appendix 5A Housing Needs Analysis.

### **3. Housing Needs Analysis**

The next step in the process required under ORS 197.296(3)(b) is to analyze projected housing need by type and density range in order to determine the number of units and amount of land needed inside the UGB for each needed housing type for the next 20 years. This analysis is guided in part by ORS 197.296(5)(a), which provides that the determination of future housing need must be based on data from the last five years, and that the data must include:



- (A) The number, density and average mix of housing types of urban residential development that have actually occurred;
- (B) Trends in density and average mix of housing types of urban residential development;
- (C) Demographic and population trends;
- (D) Economic trends and cycles; and
- (E) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

The data required by ORS 197.296(5)(a) is provided in Appendix 5 of the UGR, which describes all of the indicator data required by that statute, as well as ORS 197.301 performance measures and housing affordability statistics by race.

In order to identify future housing needs over the next 20 years, Metro prepares a regional population and employment forecast, which is provided in Appendix 1 of the UGR and summarized on pages 28-33 of the UGR narrative. As with the buildable land inventory, Metro convened a peer review group consisting of economists and demographers to help create the 2038 forecast.

The UGR describes the 20-year population and employment forecasts for the region as a range, in terms of probability. The baseline forecast (midpoint on the forecast range) provides the best estimate of what future growth in the region may be. The range is bounded by a low end and a high end, with an estimated 95% probability that actual growth will occur within the range. In order to satisfy its statutory obligation to estimate the number of dwelling units and acres of land that may be necessary to accommodate growth in the next 20 years, the Metro Council has selected the midpoint of the range as the basis for its growth projections.

The population forecast estimates that, assuming the mid-point of the forecast range as recommended by the COO and endorsed by the Metro Council, there will be about 524,000 additional people (equating to about 279,000 new households) and 209,000 additional jobs in the seven-county Metropolitan Statistical Area (MSA) by 2038. UGR narrative at pages 28-30. Applying a five percent vacancy rate to account for an average number of vacancies at any given time equates to a need for 293,000 new dwelling units in the seven-county MSA. Appendix 5A, pages 10-11.

The next step involves estimating what percentage of the total number of forecasted units in the seven-county MSA will locate within the Metro UGB by applying a capture rate. A review of the historic Metro UGB population growth compared to the MSA shows an average capture rate of 61% based on data from 1979 to present. Historical capture rates have been between 54% and 64%, typically correlated with real estate and regional economic business cycles. Appendix 3, page 12. As described in Appendix 3, the MetroScope modeling of future growth scenarios shows a projected increase in the capture rate above historic rates, ranging from 63 to 72 percent. Capturing more household growth inside the Metro UGB is helpful for reducing vehicle miles traveled and carbon emissions if that higher capture rate can be achieved while maintaining a

compact urban form. For purposes of estimating future housing needs in the Metro region, the housing needs analysis describes the capture rate as a range between 64 and 70 percent. Appendix 5A, page 10; UGR narrative, page 37.

Regarding housing type, the housing needs analysis notes that all of the scenario results from the MetroScope modeling indicate demand for both multifamily and single family housing, but show a particular regional need for additional single family. Appendix 5A, page 1. Regarding multifamily need, the analysis also notes that based on the range of available multifamily capacity stated in the BLI forecasts (136,000 to 271,000 units), even at the low point of that range there is a surplus of multifamily capacity in the existing UGB. Appendix 5A, pages 9-10. The Metro Council accepts the COO recommendation to apply a single family rate of 50% for purposes of estimating the split of future housing types, which is consistent with historical trends and with results from the MetroScope scenarios.

The potential unmet need for single family units is correlated to a range of assumptions regarding single family percentages and capture rates in Table 3 of Appendix 5A (page 10). The row headings on that table show a plausible range of future capture rates between 64 and 70 percent, while the columns show a range of single family housing rates between 50 and 70 percent. The selected growth assumptions are then applied to the population forecast and buildable land inventory results to determine the amount of single family units that cannot be provided for within the existing urban growth boundary. Those numbers are shown in Table 4 of Appendix 5A (page 10), which subtracts the 92,300 single family unit capacity inside the existing UGB from the range of needed new single family units (93,800 to 102,600), resulting in a range of unmet need for single family housing of between 1,500 and 10,300 units.

The 2,181 gross acres of UGB expansions for housing are estimated to provide approximately 6,100 single family housing units along with approximately 3,100 multifamily units. The proposed 6,100 single family units falls near the midpoint of the range of need for between 1,500 and 10,300 single family homes in the Metro region. Most of the concept plans submitted by the cities include some amount of multifamily housing in order to ensure that the new areas will provide a variety of housing choices, decrease infrastructure costs per home, and comply with the state Metropolitan Housing Rule.

In the final 2018 UGR, for purposes of a final reconciliation of housing need the Metro Council selects a point at almost exactly the midpoint of the capture rate range. Based on an assumption of a 67.2% future capture rate within the UGB, the unmet need for single family housing is 6,100 units, which directly corresponds with the number of units proposed in the concept plans for the four city UGB expansions.

Prior to expanding the UGB, Goal 14 requires Metro to determine that the identified housing need “cannot reasonably be accommodated on land already inside the UGB.” As described above and in Appendix 5A, Metro’s analysis indicates that there is sufficient capacity inside the UGB for the projected multifamily need over the next 20 years. However, the analysis also identifies a need for additional single family homes that cannot be met on land already inside the UGB. As described above and in Appendix 2, Metro’s buildable land inventory determines that the existing UGB has the capacity to provide 92,300 single family units. That single family capacity

relies heavily on efficient use of land inside the UGB. Approximately 61 percent of the single family capacity already inside the UGB comes from infill. When that capacity is compared to growth projections, and under the needs analysis described above, even assuming the low end of the capture rate range there is an insufficient supply of land inside the UGB to meet the identified single family need. Metro's charter prohibits Metro from requiring any increased density in existing single family neighborhoods, which significantly limits its ability to achieve any further efficiency to address single family housing demand. Metro also notes that the methodology it employs for creating the buildable land inventory accounts for locally adopted measures that would increase local capacity.

Further, while there is not an objective standard for what could "reasonably be accommodated on land already inside the UGB" under Goal 14, the state Metropolitan Housing Rule provides some guidance. All cities and counties in the region have comprehensive plans that have been acknowledged by the DLCD, indicating that they are in compliance with that rule. This compliance indicates that cities and counties in the region have taken reasonable actions to accommodate housing growth on land already inside the UGB.

#### **4. Locational Alternatives Analysis**

Statewide Planning Goal 14 directs local governments, including Metro, to consider four locational factors as part of any decision to expand the UGB:

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

Metro's analysis of the four locational factors is governed by OAR 660-024-0060, which provides that when considering a UGB amendment, "Metro must determine which land to add by evaluating alternative urban growth boundary locations," consistent with the priority of lands specified in ORS 197.298. The highest priority of land available under ORS 197.298 is urban reserve. Because all expansion areas are designated urban reserve, OAR 660-024-0060(1)(b) directs Metro to apply the location factors of Goal 14 to the urban reserve areas to choose which land in that priority to include in the UGB.

Metro's application of the urban reserve factors to all 32 urban reserve areas in the Metro region is set forth in Appendix 7 to the UGR. As described in that analysis, Metro undertook a two-step process by first applying the Goal 14 factors and other locational requirements in OAR 660-024-0060 to all urban reserve areas (Appendix 7). Next, based on the outcome of the initial analysis, Metro applied the separate Metro Code location factors to a smaller set of 25 urban reserve areas that were determined to be the most suitable under the Goal 14 factors. That analysis is included in Appendix 7A.

Seven of the urban reserve areas were determined to be the least suitable for urbanization based on the Goal 14 analysis: Boring, Boring-Highway 26, Damascus, Stafford, Rosemont, Norwood

and Tonquin. The summary rankings for all 32 areas under each factor are shown in the table at the end of Appendix 7 (Attachment 4). These seven areas all share significant infrastructure hurdles that would need to be addressed prior to services such as sanitary sewer and water being available. For instance, the closest sanitary sewer services to the Damascus or the Boring urban reserves is well over a mile away and sanitary sewer service for Stafford and Rosemont needs to flow through the Borland urban reserve area, requiring the Borland urban reserve area to be urbanized first.

A second group of urban reserves were determined to rate low for more than one public facilities and services type. While the obstacles may not be as significant as in the areas noted above, these areas do face infrastructure difficulties related to large swaths of adjacent undeveloped land inside the UGB, undetermined service providers, current need for improvements to meet existing demand, and high costs for future needed improvements. In addition, a few of these areas are likely to have high environmental consequences due to the number and location of potential stream crossings. This includes Beaver Creek Bluffs, Borland, David Hill, Gresham East, Holcomb, Holly Lane, Maplelane, Roy Rogers East, Roy Rogers West and Sherwood South.

The remaining urban reserve areas rated reasonably well for public facilities and services as well as the other Goal 14 factors. This group includes Advance, Beef Bend South, Bendemeer, Bethany West, Brookwood Parkway, Cooper Mountain, Elligsen Road North, Elligsen Road South, Grahams Ferry, Henrici, I-5 East, Sherwood North, Sherwood West, South and Wilsonville Southwest. Most of these areas rated at medium or high for the four different locational factors.

However, of the six areas that did not have at least one low rating, four of them are very small and would not provide sufficient buildable land to meet the identified housing need (Brookwood Parkway, Grahams Ferry, Sherwood North and Wilsonville Southwest). The fifth, Bethany West, is not adjacent to a city, the preferred provider of urban services in Washington County per the Urbanization Forum agreement between Washington County and the cities within the county, which reduces its likelihood of being urbanized in time to efficiently accommodate the identified land need. The sixth urban reserve area is Advance Road, which is one of the locations included in this expansion.

In undertaking this review of alternative urban reserve areas, the Metro Council is cognizant of the region's history of expanding the UGB into areas that have failed to develop, or have developed very slowly, due to a lack of governance and/or planning for development. Therefore, in its evaluation of the relative merits of the urban reserve areas under the factors in Goal 14 and the Metro Code, the Metro Council is exercising its discretion to place greater weight on the two factors that are impacted by the existence of adjacent cities with adopted concept plans demonstrating that they are willing and able to accommodate the identified need for land to provide single family housing. Those two factors are: (1) efficient accommodation of identified land needs, and (2) orderly and economic provision of public facilities and services.

The 2018 UGR concludes in part that the region needs more housing production to keep up with population growth, particularly single family housing. In order to meet that identified need, the Metro Council is choosing to focus its consideration on urban reserve areas with concept plans,

because those areas are the most likely to produce housing sooner and thereby more efficiently accommodate the identified need for housing. The concept plans also describe city plans for future development and paying for infrastructure, thereby making it more likely these areas can provide public facilities and services in an orderly and economic manner.

The four expansion areas being approved in this ordinance are located in the following urban reserve areas: Advance (Wilsonville), Beef Bend South (King City), Cooper Mountain (Beaverton) and the Witch Hazel Village South portion of the South urban reserve area (Hillsboro). As described in Appendix 7 and 7A, these areas all ranked comparatively high under the Goal 14 factors and the Metro Code factors, and have the benefit of completed concept planning by cities that are eager to annex, urbanize, and govern those areas. The concept plans describe the cities' ability to provide and pay for urban services, expected housing types and number of units, natural resource protection needs and governance issues. Identifying and planning for these issues in advance dramatically increases the likelihood that these urban reserve areas will be able to efficiently accommodate the identified residential land need within a reasonable timeframe, and will provide public facilities and services in an orderly and economic manner. Therefore the Metro Council finds that those four areas will better accommodate the identified land need and more readily provide urban services under those locational factors in both the Metro Code and Goal 14.

Application of the non-redundant locational factors in the Metro Code to the remaining 25 urban reserve areas is provided in Appendix 7A of the UGR. As noted in Table 3 of Appendix 7A, all urban reserve areas received a high ranking for factor 2 regarding protection of farmland for commercial agriculture, since all areas are urban reserves that by definition are appropriate for urbanization. All but one of the urban reserve areas received a low ranking under factor 4 regarding contribution to the purposes of Centers and Corridors, primarily due to the distance between the urban reserve areas and the closest designated Center, lack of direct connections and transit service, and the character of the land uses in between.

Turning to the remaining two factors, only two urban reserve areas (Brookwood Parkway and Holly Lane/Newell Creek) received high rankings for those factors regarding transition between urban and rural lands using natural and built features, and avoidance of regionally significant fish and wildlife habitat. However, those two urban reserve areas have unique features that make them less efficient for accommodating the identified land need. Brookwood Parkway is very small at 53 acres with all but four parcels containing residences or institutional uses, leaving only 24 net buildable acres, which limits its ability to provide land to accommodate the identified residential need.

Holly Lane/Newell Creek Canyon is mostly surrounded by the UGB with only a 1,100 foot rural edge and has a state highway (Hwy 213) running through the middle of it. However, a significant amount of the reserve area is steeply sloped and a considerable portion of the riparian and upland habitat areas are in public ownership, which accounts for one-third of the land in the reserve area. The main amount of buildable land is along one north-south road, South Holly Lane, which contains numerous rural residences and has limited potential connections to land inside the UGB to the east due to steep slopes and significant natural resources. The Metro Council finds that, although this area has high scores regarding two of the Metro Code factors, on balance those

advantages are outweighed by factors 1 and 2 under Goal 14 and the Metro Code – the topography, parcelization, protected areas, and difficulty of providing urban services to the area make it less able to efficiently accommodate the identified need for housing or to provide public facilities and services in an orderly and economic manner.

On balance, considering and weighing the locational factors under both the Metro Code and Goal 14, the Metro Council finds that the four selected urban reserve areas received among the highest rankings when all of the factors are considered together. As described above, the Council is exercising its discretion to provide greater weight to the first and second factors under both Goal 14 and the Metro Code regarding efficient accommodation of identified land needs and orderly and efficient provision of public facilities and services. Under this analysis, and based on the evidence and findings provided in Appendix 7 and Appendix 7A regarding application of the factors to the 35 urban reserve areas, the Metro Council finds that the four selected areas provide the best locations for this UGB expansion.

## **5. Additional Factors for UGB Expansion Proposals**

At the direction of the Urban Growth Readiness Task Force, in 2017 the Metro Council adopted amendments to Metro Code section 3.07.1425 identifying certain other factors to be considered in determining which urban reserve areas being proposed by cities for a UGB expansion will better meet an identified need for housing. Those factors are considered and applied in this section. The Metro Council finds that because the purpose of this new code section is to choose between urban reserve areas being proposed for addition to the UGB by cities, only the four areas being proposed for expansions may be considered. The Council also notes that in adopting these factors, the Council's expressly stated intent was not to create criteria that must be satisfied, but factors to be considered and weighed, in the manner of the Goal 14 locational factors.

The first factor is whether the urban reserve area is adjacent to a city with an acknowledged housing needs analysis that is coordinated with the Metro regional growth forecast. All four cities proposing expansions have acknowledged housing needs analyses that are coordinated with Metro.

The second factor is whether the area has been concept planned consistent with Title 11 of the Urban Growth Management Functional Plan. All four areas have been concept planned.

The third factor is whether the city that prepared the concept plan has demonstrated progress toward the actions described in Metro Code section 3.07.620 in its existing urban areas. That section of Title 6 provides that in order to be eligible for a regional investment in a Center, Corridor, Station Community, or Main Street, a city must adopt a map showing boundaries for those areas and adopt a plan of actions and investments. The Metro Council finds that all four cities proposing expansions have demonstrated progress toward those Title 6 requirements. The cities of Beaverton and Hillsboro have adopted boundaries for their Centers. The City of Wilsonville is currently updating their existing Town Center plan. In 2015, King City prepared a Town Center Plan and Implementation Strategy through a Metro grant.

The fourth factor is whether the city that prepared the concept plan has implemented best practices for preserving and increasing the supply and diversity of affordable housing in its existing urban areas. This factor was considered by the City Readiness Advisory Group (CRAG) in its review of the city proposals, and comments from CRAG were forwarded to the Metro Council via a staff memorandum dated July 11, 2018, followed by a presentation to the Metro Council by CRAG on July 17, 2018. The Metro Council has reviewed those comments, as well as the information presented by the cities in their proposals regarding this factor, and the Council has considered whether each city has implemented best practices regarding affordable housing under this factor. The Metro Council finds that all four cities have taken at least some steps toward encouraging the development of affordable housing in their jurisdictions, as described in the CRAG comments and the cities' proposals. The City of Beaverton in particular has demonstrated a very firm commitment to providing affordable housing. While it cannot be said that all four cities have implemented "best practices," the cities have demonstrated progress toward providing more affordable housing. The Metro Council finds that one purpose of this factor is to encourage cities seeking UGB expansions to make preserving and increasing the supply of affordable housing more of a priority, and that purpose has been met. Also, the conditions of approval attached to the UGB expansions regarding housing mix, removing barriers to accessory dwelling units, and variable system development charges are all being imposed in order to increase the supply of affordable housing in the four cities.

The fifth factor is whether the city that prepared the concept plan has taken actions to advance Metro's six desired outcomes in the Regional Framework Plan. This factor was also considered by CRAG in its review of the city proposals, and comments from CRAG were forwarded to the Metro Council via a staff memorandum dated July 11, 2018, followed by a presentation to the Metro Council by CRAG on July 17, 2018. The Metro Council has reviewed those comments, as well as the information presented by the cities in their proposals regarding this factor, and the Council has considered whether each city has taken actions to advance the six desired outcomes under this factor. The Metro Council finds that all four cities have taken steps and adopted plans and policies that advance Metro's six desired outcomes, as described in the CRAG comments and the city proposals. While it cannot be said that each city has taken steps that directly advance all six of the outcomes, the cities have demonstrated progress toward those outcomes.

## **6. Employment Land Analysis**

In addition to the statutory and rule requirements addressed above regarding provision of a sufficient amount of residential land for needed housing, Goal 14 also requires Metro to ensure there is adequate development capacity inside the UGB to accommodate needs for employment land over the next 20 years. As with residential land, that analysis begins with a buildable land inventory, which "must include suitable vacant and developed land designated for industrial or other employment use." OAR 660-024-0050(1). That rule requires that the inventory must be conducted in accordance with the Goal 9 rule at OAR 660-009-0015, which requires a description of all employment land sites, including site characteristics and development constraints, within each zoning district.

The approach utilized by Metro to comply with the requirements of the Goal 9 rule was developed in consultation with DLCD and is set forth in Appendix 6 of the UGR. Relevant site

characteristics and data points are described in Table 1, and those characteristics are reviewed and applied to particular areas and employment land types as shown on the maps and tables in the rest of Appendix 6.

The methodology utilized by Metro in making its capacity calculations for vacant and redevelopable employment land is described in Appendix 2 of the UGR along with the residential inventory. As with the residential inventory, the methodologies for developing the inventory of employment capacity were developed by a technical working group consisting of representatives from public and private sector organizations.

The results of the employment land inventory are set forth in Appendix 2 of the UGR. The adjusted supply figures are provided in the two tables at pages 7 and 8 of Appendix 2, which show an inventory of between 2,150 and 2,530 acres of land available for commercial employment use and 8,683 acres for industrial use. As described in the UGR narrative at pages 9 to 11, comparing the employment forecast to the buildable land inventory leads to a conclusion that there is no regional need to expand the UGB specifically for employment purposes.

Metro and several public and private sector partners have also updated the region's inventory of large industrial sites (greater than 25 buildable acres per site). That inventory is included as UGR Appendix 8.

## **7. Responses to Issues Raised by Housing Land Advocates**

In a letter to the Metro Council dated December 4, 2018, Housing Land Advocates (HLA) raises various issues regarding housing under federal, state and local law. The first three pages discuss federal caselaw under the Fair Housing Act (FHA), the significance of which is unclear. Metro recognizes that courts have held that the FHA prohibits local zoning that has the effect of discriminating against individuals based on protected characteristics such as race, sex, and disability. However, Metro is not a local government with zoning authority, and Metro does not zone property. HLA does not identify any basis on which Metro would have the type of authority that could result in a violation of the FHA by Metro; nor does HLA identify any basis for its assertion that Metro has the authority to enforce FHA requirements against local governments in the region.

Next, HLA correctly notes that the Metro Code requires cities and counties in the Metro region to include in their comprehensive plans measures designed to maintain and increase affordable housing. All cities and counties in the region are currently in compliance with Metro's functional plan requirements, indicating that requirement is being met. HLA also correctly notes that local governments are required by state law to conduct a housing needs analysis (HNA). All four cities where the UGB is being expanded have HNAs that are acknowledged by DLCD as being in compliance with state law. HLA then asserts that, as part of a UGB expansion, "Metro must use its authority to require cities and counties to change their plans and regulations to comply with the FHA." HLA cites no authority under which Metro is tasked with applying the FHA as part of a UGB expansion, and Metro is aware of no such authority.



It is worth noting that a primary focus of this UGB expansion decision has been on finding ways to provide more affordable housing. The conditions of approval attached to the ordinance approving the expansion areas are set forth in Exhibit C, and they include numerous conditions that are directly aimed at requiring the four cities to encourage the development of more affordable housing, both in the new expansion areas and within existing city limits. The relevant conditions are A.2, A.3, B.1, B.3, B.4, and B.6.

Next, HLA correctly notes that ORS 197.296 requires Metro to analyze the region's housing needs as part of a UGB expansion. That analysis is summarized in Sections D.1-3 above, and is set forth in approximately 170 pages in the 2018 Urban Growth Report Appendices 2, 3, 5, and 5A (Exhibit E to this ordinance). HLA then devotes three pages to describing two LUBA cases that have no relevance to a UGB decision. HLA asserts that the first case (*HLA v. Happy Valley*) says that cities have a legal duty to demonstrate compliance with Metro Code 3.07.120(e). This is a correct statement with regard to a city plan or zoning code amendment, but that code section has no relevance to a UGB expansion. The second case (*Deumling v. Salem*) involves a reasons exception under Goal 2, which has nothing to do with the decision being made by Metro and has no applicability in this situation.

Finally, HLA "questions whether Metro will be able to make adequate Goal 10 findings," asserting that "nowhere in the record is there any evidence concerning a reasoned analysis of Goal 10, Metro's regional buildable land inventories, housing need projections ... or their application to this proposed UGB amendment." To the contrary, Metro has provided an extremely thorough and detailed analysis as required under Goal 10 and state statutes. That analysis, consisting of approximately 170 pages, is set forth in Appendices 2, 3, 5, and 5A to the 2018 Urban Growth Report (Exhibit E to this ordinance). Those Appendices have been available to the public on the Metro website since the Urban Growth Report was released on July 3, 2018. Metro's first draft of these findings, including Sections D.1-3 above addressing Goal 10 and ORS 197.296, have been available to the public since this ordinance was first posted on the Metro website on November 21, 2018. It appears that HLA neglected to review Metro's proposed decision before submitting its letter on December 4, 2018 asserting that there is no evidence in the record that Metro has undertaken any Goal 10 analysis.

#### **E. Findings Regarding 4.8-Acre Administrative Amendment**

In March 2018 Metro staff was approached by the owner of the property at 6491 NW Cornelius Pass Road to explore options for bringing a 4.8-acre parcel of land into the urban growth boundary (UGB) to address a public health hazard caused by a failing septic system. The parcel is located at the corner of NW Cornelius Pass Road and NW West Union Road in unincorporated Washington County and is within an urban reserve area 8F. The location is shown on the map attached as Exhibit B to this ordinance. The property is zoned Rural Commercial District (R-Com) and is occupied by West Union Village Square, which includes a variety of commercial uses including a butcher shop/smokehouse, an insurance agency, an auction house and a hair salon.

## **1. Evaluation of the Problem**

In October 2017 an evaluation of the 41-year old on-site septic tank system was completed in response to recent failings, and submitted to the Oregon Department of Environmental Quality. See Attachment 7 to Metro staff report dated November 21, 2018. The evaluation found deficiencies and concerns regarding the systems continued functionality that support the presence of an imminent public health hazard being posed by continued use of the system, especially during the winter rainy season. Deficiencies and concerns regarding the continued use of the system include:

- The assumed design peak flow is apparently being exceeded by a factor of two or nearly three on a daily basis.
- Waste strength is very high and continued loading of the drainfield with high strength wastes is likely unsustainable.
- Ponding was observed near the bottom of the drainfield during the winter of 2016-17.
- There does not appear to be any suitable area on the property for drainfield replacement. The only area unencumbered by buildings or parking areas is in the north portion of the site that contains several feet of fill. In addition, the original site evaluation records indicate that test pits prepared in that general area were denied.

In June 2018 Environmental Health Program staff from the Washington County Department of Health & Human Services (DHHS) visited the site and noted that the septic system was not functioning properly. Their inspection determined that the system is currently failing, and that untreated or partially treated wastewater is surfacing over a portion of the drainfield, creating a public health hazard as defined in OAR 340-071-0100(117). These concerns are described in a letter from Washington County Senior Environmental Health Specialist Larry Fenster dated July 5, 2018 (Attachment 6 to Metro staff report dated November 21, 2018). As described in that letter, surfacing wastewater also constitutes a violation of the state Onsite Wastewater Treatment System Rules contained in OAR chapter 340 and must be addressed in a timely manner. County staff also confirmed that the only location available for the installation of a replacement drainfield was previously evaluated by the department in 1975 and was found to be unsuitable for the installation of an on-site septic system. The fill that has been placed through the years also makes the area unusable for the placement of a new drainfield.

## **2. Addressing the Septic System Failure**

As noted in the letter from DHHS, OAR 340-071-0160 requires connection to sanitary sewer if the property lies within 300 feet of a sanitary sewer line if it is determined to be legally and physically available and there is no location on site for a replacement drainfield. Metro Code Section 3.09.090 prohibits a city or a district from extending water or sewer service from inside a UGB to territory that lies outside the UGB. There are two City of Hillsboro sanitary sewer mains, approximately 270 feet and 500 feet from the subject property and the city is willing to provide sanitary sewer services to the property. It is the City of Hillsboro's policy that any property that receives services from the city, such as sanitary sewer, must be within the city, which is consistent with Metro code noted above. Thus the property would need to be annexed to the city in order to provide sanitary sewer services, which requires the land be within the UGB.

Title 14 of Metro's Urban Growth Management Functional Plan provides the procedures and requirements for adding land to the UGB. This situation does not fit the normal procedures for adding land to the UGB as there is no specific land use need that is being addressed. Metro staff determined the most efficient and timely way to address the public health hazard was to include this 4.8-acre parcel as an administrative amendment to the UGB as part of the Metro Council's 2018 Growth Management Decision.

Metro and the City of Hillsboro agree that the land may be added to the UGB and sewer service provided that no change of use or intensification of individual uses will occur on the property until after the entire urban reserve area is planned for urbanization and brought into the UGB. Metro proposes adding a condition to the administrative amendment providing that "there shall be no change of use or intensification of individual uses on any portion of the 4.88-acre property until Urban Reserve Area 8F has been brought into the UGB and the City of Hillsboro has adopted comprehensive plan amendments for the surrounding urban reserve land." The City of Hillsboro will include the same language in an annexation agreement that the property owner will sign prior to sanitary sewer services being provided.

### **3. Public Outreach**

At the request of Metro and the City of Hillsboro, the property owner invited 22 nearby rural property owners to an open house meeting on July 10, 2018 to explain the septic system situation and the potential for a UGB expansion to address the issue. Three people attended the meeting and did not raise any concerns. The property owner also presented the information at the Washington County CPO 8 meeting on July 12, 2018. Planning staff from Metro and Washington County attended the meeting and the CPO voted unanimously to support the property being added to the UGB to address the failing septic system.

### **F. Statewide Planning Goals**

Goal 1 (Citizen Involvement): See findings in Section C above.

Goal 2 (Adequate Factual Base): Findings regarding the coordination element of Goal 2 are set forth above in Section B. The Metro Council finds that the UGR and the information it relies upon provide an adequate factual base for these findings and the adoption of the UGR. The Metro Council concludes that adoption of Ordinance No. 18-1427 complies with Goal 2.

Goal 3 (Farmland): Under OAR 660-024-0020(1) Goal 3 is not applicable.

Goal 4 (Forestland): Under OAR 660-024-0020(1) Goal 4 is not applicable.

Goal 5 (Natural Resources): The Metro Council finds that adoption of Ordinance No. 18-1427 does not impact any inventoried Goal 5 resources and is therefore consistent with Goal 5 and its implementing rules.

Goal 6 (Air, Water and Land Quality): The Metro Council finds that the adoption of Ordinance No. 18-1427 does not impact any comprehensive plan designations or land use regulations that relate to protection of air, water and land quality. Ordinance No. 18-1427 does not authorize any particular uses of property with environmental impacts, and therefore does not implicate Goal 6.

Goal 7 (Natural Hazards): The Metro Council finds that adoption of Ordinance No. 18-1427 does not impact any existing local plans, policies, or inventories regarding natural hazards and does not authorize any particular uses of property in natural hazard areas; therefore, this decision does not implicate Goal 7.

Goal 8 (Recreation): The Metro Council finds that adoption of Ordinance No. 18-1427 does not involve recreation planning or destination resort siting; therefore, this decision does not implicate Goal 8.

Goal 9 (Economy): Although Goal 9 does not apply to Metro, the Metro Council concludes that adoption of Ordinance No. 18-1427 does not impact local comprehensive plans, policies or inventories regarding economic development.

Goal 10 (Housing): See findings in Section D above.

Goal 11 (Public Facilities and Services): Metro does not provide public facilities or services and does not adopt public facility plans; Metro is responsible for coordinating public facility planning by cities and counties. The Metro Council finds that adoption of Ordinance No. 18-1427 does not impact the planning for or provision of public facilities and services; therefore, this decision does not implicate Goal 11.

Goal 12 (Transportation): Under OAR 660-024-0020(1) the Goal 12 requirements in the Transportation Planning Rule do not apply to a UGB amendment that does not involve amendment of the local planning designation for the expansion areas allowing development.

Goal 13 (Energy): The Metro Council finds that the adoption of Ordinance No. 18-1427 promotes a compact urban form and the efficient use of energy within the UGB. To the extent Goal 13 applies, the Metro Council concludes that this decision is consistent with Goal 13.

Goal 14 (Urbanization): See findings in Section D above.

Goal 15 (Willamette River Greenway): The Metro Council finds that adoption of Ordinance No. 15-1361 has no impact on the Willamette River Greenway; therefore, this decision does not implicate Goal 15.