

W-10 b.

SUPPLEMENTAL MEMORANDUM



Memo Date: October 23, 2009
Meeting Date: November 4, 2009

TO: Lane County Board of Commissioners
FROM: Stephanie Schulz, Planner, Land Management Division
TITLE: Ordinance No. PA 1265 -- In The Matter Of Adopting Text Amendments To The Junction City Comprehensive Plan Consistent With The Recommendations Of The Junction City Economic Opportunities Analysis (EOA), Adopted As Appendix III To The Junction City Comprehensive Plan; Adopting Map Amendments To The Junction City Urban Growth Boundary (UGB) Including 257 Acres Of Land Re-Designated For Industrial Use And 40 Acres Of Land Re-designated For Public Use, And Aligning The UGB With Existing Right-of-Way On Highway 99 To Be Co-linear For Future Provision Of Key Urban Services; Making Corresponding Changes To the Lane County Rural Comprehensive Plan; And Adopting Savings And Severability Clauses. (Applicant: Junction City) (File No. PA 09-5599) (Staff: Stephanie Schulz)

The Lane County Board is scheduled to conduct a second reading/public hearing for this proposal on November 4, 2009. The Lane County Planning Commission conducted a public hearing to gather testimony on October 6, 2009. On request from the public, the record was held open until October 13, 2009 and the applicant then had until October 16, 2009 to develop the submitted rebuttal. On October 20, 2009, the LCPC conducted deliberations and voted six to one to recommend the Board approve the proposed amendment request from the city of Junction City. The submittals reviewed by the LCPC during deliberations are attached for the Board's consideration.

At the first reading of the Ordinance before the Board, staff indicated there was a scrivener's error in the reported acres on the Agenda Item Title and Memo for the southern portion of the proposed UGB expansion. There are actually 257 acres of land to be redesignated Industrial at the southern edge of the current UGB (not 356). The attached Ordinance contains the correct number and should replace the one from the first reading packet.

ATTACHMENTS

UPDATED Ordinance No. PA 1265

- Exhibit No. 3 -- from Ken and Mary Jamieson
- Exhibit No. 4 -- from Gary Crum
- Exhibit No. 5 -- from Bruce J. Anderson; Eugene Livestock Auction.
- Exhibit No. 6 -- from Indar and Heidi Bahn; Island Fence, Inc.
- Exhibit No. 7 -- from Jeff Haag
- Exhibit No. 8 -- from Bob Borbesek, Aikon, LLC
- Exhibit No. 9 -- from Bill Kloos, attorney for Aikon, LLC
- Exhibit No. 10 -- from Micheal Reeder, attorney for the Westsiders
- Exhibit No. 11 -- from Ed Moore, DLCDC Regional Representative
- Exhibit No. 12 -- Rebuttal from Junction City
- Exhibit No. 13 -- from Ed Moore, DLCDC Regional Representative

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. PA 1265 IN THE MATTER OF ADOPTING TEXT AMENDMENTS TO THE JUNCTION CITY COMPREHENSIVE PLAN CONSISTENT WITH THE RECOMMENDATIONS OF THE JUNCTION CITY ECONOMIC OPPORTUNITIES ANALYSIS (EOA), ADOPTED AS APPENDIX III TO THE JUNCTION CITY COMPREHENSIVE PLAN; ADOPTING MAP AMENDMENTS TO THE JUNCTION CITY URBAN GROWTH BOUNDARY (UGB) INCLUDING 257 ACRES OF LAND RE-DESIGNATED FOR INDUSTRIAL USE AND 40 ACRES OF LAND RE-DESIGNATED FOR PUBLIC USE, AND ALIGNING THE UGB WITH EXISTING RIGHT-OF-WAY ON HIGHWAY 99 TO BE CO-LINEAR FOR FUTURE PROVISION OF KEY URBAN SERVICES; MAKING CORRESPONDING CHANGES TO THE LANE COUNTY RURAL COMPREHENSIVE PLAN; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES. (APPLICANT: JUNCTION CITY)(FILE NO. PA 09-5599)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance Nos. PA 866 and PA 1053, has adopted policies and provisions of the Junction City Comprehensive Plan as an element of the Comprehensive Plan for Lane County; and

WHEREAS, the location and expansion of the Junction City Urban Growth Boundary (UGB) is subject to County approval as its expansion removes area from the Lane County Rural Comprehensive Plan and places it within the Junction City Comprehensive Plan pursuant to ORS 195.025(1); and

WHEREAS, during its customized periodic review process, the City of Junction City adopted amendments to the Junction City Comprehensive Plan that added an Economic Opportunities Analysis (EOA), as Appendix III, amended Chapters 3 (Land Use) and 4 (Economic Development) and expanded the Urban Growth Boundary to incorporate and reflect the EOAs industrial and public use lands recommendations; and

WHEREAS, the City of Junction City has requested Lane County action to co-adopt these amendments to Junction City's Comprehensive Plan and make corresponding changes to the Lane County Rural Comprehensive Plan, in order to achieve city-county coordination of land use planning; and

WHEREAS, the Lane County Planning Commission conducted a public hearing on these proposed amendments on October 6, 2009, and provided a recommendation to the Lane County Commissioners on October 20, 2009; and

WHEREAS, evidence exists in the record indicating that the proposal meets the criteria of Lane Code Chapter 12 and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners had its first reading of this Ordinance on October 21, 2009, held a public hearing on this Ordinance on November 4, 2009, and is now ready to take action.

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

Section 1. The Economic Opportunities Analysis adopted by the City of Junction City in Ordinance No. 1190 and as shown in Exhibit A, Attachment 1 attached and incorporated here by this reference, is hereby co-adopted as Appendix III of the Junction City Comprehensive Plan.

Section 2. Chapters 3 (Land Use) and 4 (Economic Development) adopted by the City of Junction City in Ordinance No. 1190 and as shown in Exhibit A, Attachment 2 attached and incorporated here by this reference, are hereby co-adopted and replace, in their entirety, the previous Chapters 3 and 4 of the Junction City Comprehensive Plan.

Section 3. The Lane County Rural Comprehensive Plan is amended to remove territory from its planning jurisdiction and the amendments to the Junction City Comprehensive Plan adopted by the City of Junction City in Ordinance No. 1191 are co-adopted to modify the Junction City Urban Growth Boundary by adding 257 acres of land re-designated for industrial use, 40 acres of land re-designated for public use and an area encompassed by aligning the UGB with the existing right-of-way on Highway 99 and High Pass Road to be co-linear for future provision of key urban services, as more specifically shown on Exhibits A.1 through A.7 attached and incorporated here by this reference.

Section 4. The prior designations repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

FURTHER, although not part of this Ordinance except as described above, the Board of County Commissioners adopts the Findings attached as Exhibit B in support of this action.

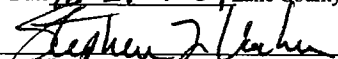
ENACTED this ____ day of _____ 2009.

Chair, Lane County Board of County Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 10-27-2009 Lane County



OFFICE OF LEGAL COUNSEL

10/7/09

ORD. NO. PA 265
P.A. NO. 09-5599
DATE: 10-8-09 EXHIBIT NO. 3

To: The Lane County Planning Commission
Stephanie Schulz, Planner, Land Management Division

Re: Opposition to the PA09-5599- In The Matter of Adopting Text
Amendments to the Junction City Comprehensive Plan.

We along with another family member own three adjoining
properties, zoned rural commercial on the West side of Highway
99.

We have spoken to two realtors and one certified appraiser
and all of them told us if the City takes the 20' deep easement
without allowing us to hook up to the sewer & water lines that
it would devalue our properties and make it difficult to sell
our property and impossible to expand or up grade to business
properties. We have septic tanks & leach lines in the back and
can't build over those lines and we will not be able to expand
in the front over the easement.

The City should have;

- # 1. Included us in the UGB along with the state &
private company Grain Millers.
- # 2. Done their infracture study next.
- # 3. Then made us an offer for the easement.

We believe the two biggest reasons the city does not want
us to be included in the UGB & allow us to hook up to the
sewer & water systems is because it would make our property
more valuable and the easement would cost the city more
money.

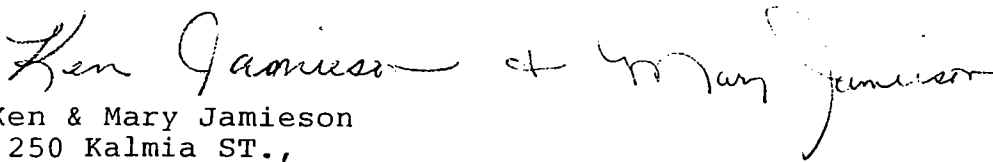
The second reason we believe is if we were allowed to use
the utility systems the city would have to install more
pump stations which they seem unwilling to do. We have
no proof that the pipe lines they are installing are
even adequate enough to include us. At one of the meetings
they discussed buying an expensive pump truck to be used if
there were problems with the sewer pipe!! One of the state
sites is going to have a state laundry , which will be sending
thousands of gallons of soapy water along with sewage down
through the line.

The city was asked to vote under the city manager David Clyne's direction to exclude us completely from the UGB Plan, only after our lawyers presented the phase II plan did they finally agree to even consider us to be included in the UGB, which if you read the attached on ordinance # 2, it holds very little hope that we will ever be allowed in at least not in some of our lifetimes.

All of the property owners are very concerned as to what the cost will be to hook up now and what the difference in cost will be should we be able to hook up in the future after the pipes have been buried underground.

We ask for your help and hope you will see the injustice being done to us and will oppose "The Matter of Adopting The Text Ammendments To The Junction City Comprehensive Plan" as it is written and ask the Junction City to include us now in their proposed U.G.B.

Respectfully Yours,

A handwritten signature in cursive script that reads "Ken Jamieson & Mary Jamieson". The signature is written in dark ink and is positioned to the right of the typed name.

Ken & Mary Jamieson
1250 Kalmia ST.,
Junction City, Ore. 97448
541-998-9208

QUESTIONS

JC bestows justice for some, but not all

BY MARY JAMIESON

As one of approximately 27 residential and 11 business owners located along the west side of Highway 99, I would like to offer a description of the impending disaster that is slowly approaching our properties.

Over the past several months, the City of Junction City has assessed our properties, offered us a minimal amount for an easement plus a one-time amount for the replacement of our lawns, trees and shrubs.

On the east side of Highway 99 is the proposed sites for the state prison, mental hospital and private company named Grain Millers. The city is in the process of including the state and private company into its Urban Growth Boundary so they can hook up to the sewer and water system.

Now to the problem. The city wants to take an easement 20 feet deep that will run the full length of our properties on the west side and run a 24-inch sewer line that may or may not function

properly depending on how many pump stations they leave out and a separate waterline through the highway frontage of our properties. This will devalue our property forever and will make it impossible to expand our business properties or even sell our residential properties. We will not be able to build on the easement and/or septic tanks and leach lines that are on the back side of our properties, allowing us no expansion on either side of the properties.

We asked the city to include us in their Urban Growth Boundary as they are doing across the highway for the east side of Highway 99. This would allow us to hook up to the sewer and water lines they are running through our properties, and by being able to hook up would replace some of the property value lost due to the easement. The city

look to the west side of Highway 99 and observe the devastation to the residential and business properties as the heavy equipment destroys property values, trees, lawns and rips off 20 feet of our properties, and thank God you are not a part of this injustice.

In August, an article was written by Register-Guard reporter Whitney Malkin. She quotes our city

refused our request.

So fellow citizens, as you travel down Highway 99 in the near future,

"We asked the city to include us in their Urban Growth Boundary as they are doing across the highway for the east side of Highway 99.... The city refused our request."

manager, David Clyne, as stating "the city is working hard to address our needs." That is an untrue statement. All Mr. Clyne has done for us is to work diligently to influence the city government to deliberately exclude us from the UGB, and so far he has succeeded.

He is also on record as stating the courts will move rapidly to condemn the properties of those of us who do not want to sign over our property and that construction will start at once. He did not explain, however, how a private company such as Grain Millers whose company will be built for personal gain can be a part of the condemnation process of other private property owners.

Clyne's second statement was that it was hard to communicate directly with us people "because we have raised the volume up so loud that it was impossible to talk to us."

That is also an untrue statement. We have sat quietly through months and hours of meetings and city business while waiting our turn to be heard. We have supportive witnesses to confirm this fact.

We have always been available for any scrap of dialogue for Clyne, but he has never made an effort to contact us individually as a group regarding our request to be included in the UGB and allow us to hook up to the water and sewer systems.

This is the right thing to do, and to do otherwise is wrong.

Mary Jamieson is a resident of Junction City.

(Editor's Note: There is a 500 word limit to letters to the editor. We try to run all letters that we receive. Guest columns can be longer, but writers who want to write a guest column need to get the editor's OK prior to submitting the column.)

City Hall from page 1

invest the money in the city hall fund and is presently receiving less than 2 percent interest.

The Farm Credit building is 3,000 square feet. It is anticipated that it will be big enough to serve

fees or taxes will be necessary for this purchase."

Duncan adds: "We worry about public perception, and we feel that this is a very good use of the public's money. We feel that we have this

Ordinance No. 1

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 3 (LAND USE) AND 4 (ECONOMIC DEVELOPMENT) OF THE JUNCTION CITY COMPREHENSIVE PLAN, AND ADOPTING THE JUNCTION CITY ECONOMIC OPPORTUNITY ANALYSIS (EOA) AS AN APPENDIX TO THE JUNCTION CITY COMPREHENSIVE PLAN.

WHEREAS, On July 17, 2008, the City received a Customized Periodic Review (CPR) grant from the Department of Land Conservation and Development (DLCD) to Complete Phase I of a two-phased work program; and

WHEREAS, The CPR grant requires the completion of an EOA that incorporates recommended Economic Development Strategies and Implementation Measures for the City of Junction City; and

WHEREAS, DLCD recommends that the EOA be adopted as a technical background document to the Comprehensive Plan; and

WHEREAS, On August 7, 2008, the City contracted with ECONorthwest to complete the work tasks in the CPR grant; and

WHEREAS, ECONorthwest completed the initial draft of the Junction City EOA based on a Community Visioning Workshop and with guidance from the Citizen Comprehensive Planning Committee; and

WHEREAS, OAR 660-009-0015 requires cities to review and, as necessary, amend their comprehensive plans to: 1) identify major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area; 2) identify the number of sites by type reasonably expected to be needed to accommodate projected employment growth based on the site characteristics typical of expected uses; 3) include an inventory of vacant and developed lands designated for industrial or other employment use; and 4) estimate the types and amounts of industrial and other employment uses likely to occur in the planning area; and

WHEREAS, the EOA is a technical rather than a policy document that supports amendments to Chapters 3 (Land Use) and 4 (Economic Development) of the Junction City Comprehensive Plan; and

WHEREAS, the EOA serves as the factual and analytical basis for the City's proposed Urban Growth Boundary expansion to meet 20-year employment land needs; and

WHEREAS, Chapter 3 (Land Use) and 4 (Economic Development) include the City's economic development strategies and related policies consistent with the EOA; and

WHEREAS, The City will be using the findings of the EOA and Economic Development Strategies and Implementation Measures as the basis for any future Urban Growth Boundary Expansion for employment lands, per OAR 660-009-0025; and

WHEREAS, in consideration of public testimony from "Westside" property owners, City staff prepared a new Option 2 to postpone consideration of commercial land needs until Phase II of Customized Periodic Review, when commercial and residential land needs can be considered together; and

WHEREAS, the City provided notice of and held separate public hearings before the Planning Commission and City Council regarding the draft EOA on June 23, 2009; and

Ordinance No. _____

Page 1 of 2

This promises us nothing regarding a time of when we will be in the dust

WHEREAS, at its hearing on June 23, 2009, the Planning Commission took testimony on this matter related to Options 1 and 2; and

WHEREAS, the Planning Commission considered said testimony in making its recommendation of approval of Option 2 to the City Council; and

WHEREAS, the City Council continued its hearing of June 23, 2009 to June 30, 2009. At its hearing on June 30, 2009, the Council took testimony on Options 1 and 2, as well as a new "Option 3" presented by representatives of Westside property owners. Option 3 was proposed to amend the assumptions and findings of the EOA as related to commercial land needs to justify inclusion of additional commercial land within the Junction City UGB. The Council closed the public hearing to oral testimony, but left the record open for written comments until July 14, 2009. This allowed Westside property owners to describe Option 3 in writing; allowed state agencies and other interested parties to address the testimony on and implications of Options 2 and 3, and allowed ECONorthwest to amend the draft EOA consistent with Option 2; and

ask that we include Option 3 in City Government Refused to Consider the Option -

WHEREAS, on July 14, 2009, the City Council considered written and oral testimony from Westside property owners, state agencies, and other interested parties on this matter and voted to approve Option 2; and

WHEREAS, Option 2 calls for deferred consideration of commercial land needs and related changes to the draft EOA and Chapter 4 of the Junction City Comprehensive Plan; and

Now, therefore, the City Council hereby adopts the provisions described in Sections 2 and 3 into its Comprehensive Plan.

THE CITY OF JUNCTION CITY ORDAINS AS FOLLOWS:

Section 1. Findings of Fact, as set forth in Exhibit A, are hereby adopted as support for this Ordinance.

Section 2. The Economic Opportunities Analysis (including the Economic Development Strategies and Implementation Measures) in Attachment 1 of Exhibit A is hereby adopted as Appendix III of the Junction City Comprehensive Plan.

Section 3. Chapters 3 (Land Use) and 4 (Economic Development) as shown in Attachment 2 of Exhibit A are hereby adopted and replaced, in their entirety, Chapters 3 and 4 of the Junction City Comprehensive Plan.

Read in full for its first reading on this 11th day of August 2009.

Read by title only, for its second reading this 25th of August 2009.

Passed by the Council this ____ day of _____ 2009.

Approved by the Mayor this ____ day of _____ 2009.

ATTEST:

APPROVED:

Kitty Vodrup, City Recorder

Dwight Coon, Mayor

Ordinance No. 2

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY OF JUNCTION CITY COMPREHENSIVE PLAN MAP CONSISTENT WITH THE RECOMMENDATIONS OF THE JUNCTION CITY ECONOMIC OPPORTUNITIES ANALYSIS (EOA) AND THE POLICIES IN CHAPTER 4 (ECONOMIC DEVELOPMENT) OF THE JUNCTION CITY COMPREHENSIVE PLAN.

WHEREAS, On July 17, 2008, the City received a Customized Periodic Review (CPR) grant from the Department of Land Conservation and Development (DLCD) to conduct an Economic Opportunities Analysis, Buildable Land Inventory and Urban Growth Boundary Expansion Evaluation as Phase I of a two-phased work program; and

WHEREAS, the EOA and Chapter 4 (Economic Development) of the Junction City Comprehensive Plan adopted by Ordinance _____ provide factual and policy justification for inclusion of approximately 396 acres of Agricultural land for Industrial and Public use within the UGB, consistent with applicable Statewide Planning Goals; and

WHEREAS, Agricultural properties to be included within the UGB are more particularly described as approximately 257 acres owned by the Department of Corrections and re-designated for Industrial use to meet the specific site requirements of the state hospital and prison (Tax Lots 1400, 1500, 2700, 2800, 2900 T16S R04W S20, and Tax Lot 1600 T16S R04W S20), 99 acres owned by Grain Millers and re-designated for Industrial use to meet the city's economic development objective to develop sites with suitable rail access, and to meet this firm's specific site requirements (Tax Lots 200, 300, 400 and 1900 T16S R04W S29), and 40 acres owned by Junction City and re-designated Public to allow for expansion of the wastewater treatment plant necessary to support the City's economic development objectives (Tax lots 700 & 800 T15S R05W S36) (Exhibit A.1 and A.2); and

WHEREAS, the Junction City Comprehensive Plan Map shows the western UGB boundary running down the centerline of Highway 99 north of Milliron Road and along the east side of Highway 99 south of Milliron and the on the north side of High Pass Road west of Oaklea Drive and on the south side of High Pass Road east of Oaklea Drive. The adjustment to the UGB to align with existing ODOT and Lane County right-of-way will make the provision of key urban services more efficient and will not add additional buildable land to the UGB (Exhibit A.3, A.4 and A.5); and

WHEREAS, the GIS map of the Junction City UGB prepared by the Lane Council of Governments incorrectly shows the UGB as not being collinear with property lines and road rights-of-way as originally intended when the UGB was established in 1982 (Exhibit A.3, A.4 and A.5); and

WHEREAS, in consideration of public testimony from "Westside" property owners, City staff prepared a new Option 2 to postpone consideration of commercial land needs until Phase II of Customized Periodic Review, when commercial and residential land needs can be considered together; and

WHEREAS, the City provided notice of and held separate public hearings before the Planning Commission and City Council regarding the draft EOA on June 23, 2009; and

WHEREAS, at its hearing on June 23, 2009, the Planning Commission took testimony on this matter related to Options 1 and 2; and

WHEREAS, the Planning Commission considered said testimony in making its recommendation of approval of Option 2 to the City Council; and

WHEREAS, the City Council continued its hearing of June 23, 2009 to June 30, 2009. At its hearing on June 30, 2009, the Council took testimony on Options 1 and 2, as well as a new "Option 3" presented by representatives of Westside property owners. Option 3 was proposed to amend the assumptions and findings of the EOA as related to commercial land needs to justify inclusion of additional commercial land within the Junction City UGB. The Council closed the public hearing to oral testimony, but left the record open for written comments until July 14, 2009. This allowed Westside property owners to describe Option 3 in writing; allowed state agencies and other interested parties to address the testimony on and implications of Options 2 and 3, and allowed ECONorthwest to amend the draft EOA consistent with Option 2; and

*Option 3
2nd
Hearings
2/20/09
2/20/09
2/20/09
2/20/09
2/20/09*

WHEREAS, on July 14, 2009, the City Council considered written and oral testimony from Westside property owners, state agencies, and other interested parties on this matter and voted to approve Option 2; and

WHEREAS, Option 2 postponed consideration of commercial land needs and called for an UGB expansion; and

WHEREAS, the City Council has determined that the said UGB expansion, map corrections and property re-designations are consistent with applicable Statewide Planning Goals, as set forth in the staff report and Exhibit B; and

WHEREAS, the City has coordinated with the Oregon Department of Transportation to devise a means of mitigating impacts to the transportation system and achieve consistency with Goal 12 (Transportation), which mitigation measures are conditions of approval in Exhibit C; now, therefore

THE CITY OF JUNCTION CITY ORDAINS AS FOLLOWS:

Section 1. The City of Junction City Comprehensive Plan Map and UGB shall be modified as shown in Exhibits A.1 – A.5.

Section 2. Findings of Fact, as set forth in Exhibit B, are hereby adopted as support for this Ordinance.

Section 3. The City of Junction City requests that Lane County co-adopt this amendment to Junction City's Comprehensive Plan.

Read in full for its first reading on this 11th day of August 2009.

Read by title only, for its second reading this 25th of August 2009.

Passed by the Council this ____ day of _____ 2009.

Approved by the Mayor this ____ day of _____ 2009.

ATTEST:

APPROVED:

Kitty Vodrup, City Recorder

Dwight Coon, Mayor

SCHULZ Stephanie E

From: gary crum [garycrum@countryvisioncable.com]
Sent: Monday, October 12, 2009 3:22 PM
To: SCHULZ Stephanie E
Subject: additional testimony re: Junction City UGB

ORD. NO. _____
P.A. NO. 09-5599
DATE: 10-12-09 EXHIBIT NO. 4

To: Lane County Planning Commission

From: Gary Crum 25534 Hall Road, Junction city, Oregon 97448

I wish to submit additional testimony regarding the proposed UGB expansion brought to you by Junction City.

First, a brief statement regarding my interest in this issue: I have no direct economic interest in the UGB expansion...I neither profit nor lose based on your decision. While virtually everyone involved, from Grain Millers to the "Westsiders" has an economic interest in the UGB, I don't.

I and my family moved to the Junction City area in 1971 and bought a ten acre farm southwest of Junction City. Our children are grown but my wife and I still live on the farm. I am a retired teacher, having taught twenty-eight years in special programs for disturbed and delinquent adolescents I taught twelve of those years in Junction City from 1971 through 1983. I then served eight years on the Junction City Schools Budget Committee (the last three as chair) and five years on the Junction City School Board. We own rental property in Junction City and, over the years, I've done several projects rehabilitating properties in the City. I consider myself a "longtime" member of the Junction City community. I care deeply for that community and its future.

Therefore, when I was asked to join the Junction Citizens' Comprehensive Planning Committee, I did so, looking forward to participating in a process which would help promote a positive, constructive future for our community. However, as the UGB process moved forward, I became very concerned with the direction the staff was taking that process and the tactics being used to steer that course. The more the process advanced, the more I personally witnessed and the more I researched the issues, the more concerned I became. My opposition to the proposal is based on my experience and my research.

Should you, your staff or the Junction City staff in their rebuttal to my information, have any concerns over the accuracy or veracity of my statements, I'd be very pleased to support those statements with testimony of other witnesses or written documentation. I feel the actions of City staff during this process have been dishonorable and have so seriously corrupted the process that the product of that process should be rendered unacceptable.

May I offer an additional disclaimer: I have absolutely no quarrel with the prison/hospital site and the Grain Millers site being included in the Junction City UGB. In fact, if the City had taken a direct, honest approach to seeking their inclusion, I would have been supportive of that effort.

However, as I shall detail, the efforts to bring the properties into the UGB were not direct and, regrettable, were not, in my opinion, honest. The City decided to bring the properties into the UGB under the guise of a UGB update. The handbook supplied to me as a member of the CCPC is titled "JUNCTION CITY COMPREHENSIVE PLAN UPDATE 2008-2010" Several of my references in providing this information will come from this Handbook (when I so reference, I will provide a highlighted copy of the pertinent page).

May I begin with a consideration of probably THE most basic premise of this entire issue. As you recall from the meeting of October 6th Junction City staff several times, definitively stated "the prison/hospital must be in the UGB before the city can provide water and sewer." They even cited your county counsel as support of this statement.

I admit to being a rather skeptical soul, so I asked myself, "If this is the case, why wasn't the prison site included in the previous UGB expansion which brought in those industrial properties north of the prison? Those properties were only proposed as industrial lands BECAUSE they would be able to use the infrastructure developed to serve the prison. If you're going to expand your UGB based on infrastructure development, why leave out the UGB inclusion of the very site bringing that infrastructure when the ability to provide such infrastructure is dependent on that very UGB inclusion? My only conclusion was Occam's Razor: the prison site didn't need to be in the UGB to be served by infrastructure provided by Junction City.

I, therefore, researched this question by contacting Mike Morgan, City Administrator for the city of Madras, Oregon. I had an extended telephone conversation with Mr. Morgan and, in answer to my questions, he provided some interesting information regarding the City of Madras and its relationship with Deer Ridge, the new Oregon State Prison, located about one and a half mile from Madras.

The most interesting information involved two items: first, Deer Ridge Prison is NOT within the Urban Growth Boundary of Madras. When the Prison was built neither the City nor ODC felt it necessary or advisable to expand the boundary to include the prison. Secondly, the City of Madras provides both water and sewer for the prison at, according to Mr. Morgan, the same rate it provides services to users within the city. Mr. Morgan relayed information regarding his negotiations with ODC regarding services and infrastructure development, including roads, sewer and water. He mentioned contacts with Junction City staff and providing them with information to help them more successfully negotiate with the State regarding such services. I specifically asked him if the State had "supersited" the prison and he told me "no, the process was amicable with the prison finding a "home" and the economically depressed and isolated community of Madras.

Therefore, based on the above information, may I submit that the prison/hospital site south of Junction City clearly does NOT have to be in the Junction City UGB to receive infrastructure (water and sewer) from Junction City. It might be BETTER to have it in the UGB, but, if that's the case, fine, the City should make the argument for its inclusion as BETTER. A study of a) the history of the previous UGB expansion South to the prison site; and b) even more convincing, a look at the 2007 precedent of the City of Madras and the Deer Ridge Prison relationship, shows that ODC and the city of Madras did not consider it necessary to be in the UGB to be served by a city. I find it difficult to believe this was just a "oversight" by both Madras's counsel and counsel for the State of Oregon. Junction City's statement of NECESSITY for UGB inclusion is the kind of action which deeply troubles me. Surely the City staff knows Madras serves the Deer Ridge facility OUTSIDE its UGB and, surely, a more honest approach to this key issue would have been possible. If the City wants the prison/site in the UGB, great, make the argument, but don't provide an incorrect statement to avoid having to provide that argument.

The inclusion of the Grain Millers site in the UGB is also an interesting story. The spokesperson for Grain Millers assured me that they had purchased the property proposed for UGB inclusion BEFORE there was any conversation with the City or ODC and them regarding their inclusion in the UGB expansion. He related that they planned to have their own water source and provide their own sanitary facilities. And, of course, as an agricultural-related business, they could gain approval to build on ag-zoned land. However, when the possibility of UGB inclusion was mentioned, Grain Millers decided it was a more cost effective approach to their development.

The UGB proposal before you provides benefits to both the prison and Grain Millers. Inclusion of the prison/hospital site in the UGB allows Grain Millers to "piggy-back" on the prison site, get into the UGB and receive access to water and sewer. The prison/hospital will gain an easement across Grain Millers' property giving them a South-end access to Mill Iron Road. It's important to note that Grain Millers could only be considered for UGB inclusion if the prison/hospital site came into the UGB. DLCD has made it very clear they would never "jump" over the prison/hospital site to include a property which was not otherwise contiguous to the UGB.....no prison/hospital inclusion meant no Grain Millers inclusion and that may well have meant Grain Millers wouldn't develop the property.

I can understand the City's pressing desire to include the prison/hospital site and, therefore, be able to include Grain Millers. I can't understand the need to be devious about the process. If Junction City

wants the prison/hospital site in the UGB, fine, if the City wants it in the UGB so Grain Millers can be in the UGB fine, I have no quarrel with such desire.....all I ask is, let's be honest about it. As a member of the CCPC I certainly would have supported inclusion of the hospital/prison site to allow inclusion of the Grain Millers site based on the employment opportunities afforded by the Grain Millers plant and the increased property tax base Grain Millers would provide for our Junction City service districts. It was not necessary to contend that no services could be provided for the prison/hospital without UGB inclusion.

THE CITIZENS' COMPREHENSIVE PLANNING COMMITTEE:

At our first CCPC meeting each of us members was given a handbook entitled JUNCTION CITY COMPREHENSIVE PLAN UPDATE 2008-2010. Several pieces of information I provide come from that handbook. I provide copies of the pertinent pages.

First, this was a "Comprehensive Plan Update". Whether "a city of Junction City's size" had to, or did not have to, perform such an Update is irrelevant. Junction City "chose" to perform the process, received a grant to do so and the CCPC (after an earlier "visioning" meeting) was the first step in the public process.

On the second page of the initial orientation handout was the statement: Two Phases

*Phase 1: Employment Land Needs --October 2008 to June 2008 (sic) (they meant 2009)

*Phase 2: Residential and Public/Semi-public Land Needs --July 2009 to September 2010

It was made very clear that the process was, indeed, "bifurcated"...split into two distinct Phases; Phase 1 for "employment lands" and Phase 2 for residential and public/semi-public lands.

In this context it's important to point out that "employment lands" are defined as commercial, industrial and mixed-use, and, of course, Goal 9 Economy of the statewide planning goals and statutes refers to OAR 660-009-0025 the need to "designate lands for commercial and industrial uses". Thus, commercial land inventory and designation for UGB expansion is not only included in the employment lands portion of the process, but is given "first ranking" over industrial use. So clearly, in statute, policy and goals, commercial lands are at least as important as industrial lands. On page 5 of the CCPC handbook states, "This task will result in an inventory of buildable lands designated for employment lands (commercial and industrial) within the Junction City UGB." So clearly the "official" process was to involve both commercial and industrial (again please note commercial was listed first, so clearly is considered at least as important as industrial land in the process.)

However, as the CCPC process advanced, I was concerned that commercial lands seemed not to even be part of the City staff's agenda. I suggested that it seemed to me we should be discussing the possible addition of the properties along the Westside of highway 99 south of town to fill the identified inventory need for the sixty-two acres of commercial (primarily large parcel commercial) land.

I was told by the Chair that my suggestions were "out of order" and any consideration of the Westside properties would only "muddy the waters" of the Phase 1 process. I couldn't understand this position of the Chair (a position which was supported by the City administrator who was in attendance).

Later that evening I studied the CCPC materials to try to understand the position the Chair and City administrator had taken.....it just didn't make sense to me. While everywhere in every document associated with the process employment lands were defined as "commercial and industrial", I re-read the first page of the handout titled "Junction City UGB Planning CPCC (sic) Meeting #1" At the bottom of the page under "What is the project about?" was listed "Address employment land needs *State prison and hospital *Grain Millers" there was no third bullet "commercial properties."

It was my conclusion, based on both the actions of the chair and city administrator and the written scope of the employment land needs identified by the City, that the City had no intention of including

any properties other than the prison/hospital site and Grain Millers in their Phase I process. It is my contention that, from the very beginnings of the Phase I process, the true agenda of the City was to get the prison/hospital site and Grain Millers into the UGB, get it done as quickly as possible, and nothing was going to stand in the way of that goal. It became very clear to me that they never intended to include commercial lands in that proposal and worked throughout the process to insure the commercial land portion of the process was not performed and no commercial lands were included in the UGB proposal. The Phase I was not, as advertised, for "employment lands", but only for "the prison, hospital site and Grain Millers." This is the fundamental basis for my contention that the process has been a "fraud"...a misrepresentation of truth.

May I digress a moment to place the UGB process in proper context relating to the Westside property owners and their involvement:

At the second or third CCPC meeting (after it was clear to me the process was geared to include only the prison/hospital site and Grain Millers) I discovered additional troubling information. I was studying a map of the UGB proposal area and the infrastructure development route. I was shocked to see that the proposed route was to run along the Westside of Highway 99 down to Milliron Road; crossing the very properties the City administrator had said could not be considered for inclusion in the UGB expansion. I asked in shock, "Do you mean to tell me you're running the water and sewer across these peoples' property but not even considering their inclusion in this Phase I UGB expansion? Do you mean to tell me you're going to condemn an easement across these properties while, at the same time, telling the owners "and, by the way, you can't hook-up to that infrastructure"? He answered in the affirmative. I was shocked and replied, "I find it unimaginable that the City would do something so unfair." He replied, "Well, that's the way it has to be, sometimes things that may be unfair still have to happen."

At about this same time, the Westside property owners received in the mail the City's initial "offer" to purchase the easements. Only when they read this offer did they realize they were to be excluded from the UGB AND, additionally, unable to access those service infrastructure lines crossing their properties. The Westside property owners immediately became involved in the process, attending meetings and hiring attorneys in an effort to seek consideration for inclusion in the UGB.

It has been repeatedly stated by City spokespersons (again repeated at your October 6th meeting by the City Consultant) that the Westside property owners only became involved in the process "late in the game." In fact, they became immediately involved when they learned they were to be excluded from both the UGB and the services. It is very unfair for the City to discount their concerns as "late in the game". Their involvement was immediate when they learned they would not be included. Their requests to be considered for inclusion in the UGB expansion occurred with ample time for the process to have included consideration of the 99 properties to meet the inventory needs for the commercial lands in the employment lands (Phase 1) UGB proposal. Contentions to the contrary are simply untrue.

City staff, particularly the City administrator, took numerous and repeated actions to exclude commercial lands, especially the 99 properties, from consideration in the Phase I proposal, thereby, truncating the performance of the Commercial Land needs process needed to complete the Phase I (employment lands) process as described CCPC documents, the City's agreement with DLCD and the grant received from DLCD.

May I document the most egregious of these actions as they corrupted the process and denied those citizens on the "Westside" their opportunity to participate in the process by present their case for inclusion in the Phase I expansion procedure. The essence of the administrator's actions in no way addressed the need (or lack of need) for commercial land, in no way addressed the suitability of the westsiders' properties. Instead, it focused on a fear campaign that including those properties would, simply put, "ruin everything!"

First, the City administrator and the Chair of the CCPC asserted that the Visioning process had held

commercial development along 99 in disfavor...that the many Junction City residents participating in that visioning exercise were opposed to inclusion of those properties. I pointed out to them the ECONorthwest document dated November 5, 2008 and titled "SUMMARY OF ECONOMIC DEVELOPMENT PUBLIC WORKSHOP." On page 5 of that document under the heading "State Prison and mental hospital" the third bullet is titled "Development along Highway 99" and reads:

"Development along and immediately adjacent to Highway 99 was an important topic for participants. Suggestions for development focused on the need for attractive development that fits with the City and surrounding areas, with no strip malls. Participants were concerned about availability of land for development and that business development could occur faster than the City could accommodate it."

I pointed out to both gentlemen that, just as the summary states, the visioning process was supportive of 99 South commercial development and wanted the City to play an important role in promoting attractive development. I added that the most effective way the City could play that role was to include those properties in the UGB and then the City through annexation. I stated that it seemed clear that the visioning process FAVORED the inclusion of the 99 properties, and did not OPPOSE that inclusion as they were contending.

The City administrator abandoned all efforts to oppose the inclusion on substantive grounds. Instead he launched an attack against their inclusion based on a "fear campaign". I will cite a list of comments he made to the CCPC, the Planning Commission and the City Council to discourage the consideration of including these properties in the UGB expansion. The comments were witnessed by many others beside me. The statements refuting the administrator's allegations are from those persons used as the "scare tactic" instrument.

- 1) Statement: "If the Westside properties are included, the UGB won't be approved or it will slow the process and the State will change its mind about using their site and we will lose the prison and all those jobs. Inclusion of the Westside properties risks everything."
Fact: Several different persons checked with Doug Young, spokesperson for the Oregon Department of Corrections, regarding this statement. His answer, "the State has the property, it has the plans, and it will build the prison as soon as it has the money. The inclusion of the Westside properties in the UGB expansion proposal would not impact the State's plans in any way."
- 2) Statement: "If the Westside properties are included, the UGB won't be approved or it will slow the process and Grain Millers will abandon their plans to build south of the prison/hospital site."
Fact: I asked the Grain Miller spokesperson about this statement and he answered, "We are not planning to build immediately. We looked long and hard to find an ideal property, purchased the property and will build on that property. At the earliest, we won't build until the infrastructure is all in place, since our plans are now dependent on that infrastructure availability." At your meeting on the 6th he further stated that a delay of nine months would not impact Grain Millers, however, a "longer" delay might cause them to "postpone" development of this site in preference to first developing one of their sites elsewhere. In sum, inclusion of the Westside properties would not, in any event, cause Grain Millers to abandon their plans to develop their site and, a delay of up to nine months would not even cause a delay.
- 3) Statement: "if the Westside properties are included LandWatch and other environmental groups will oppose and appeal the UGB and the UGB will be denied or delayed and we will lose the prison, the hospital and Grain Millers.:"

Fact: Mia Nelson, an environmental activist and frequent representative for LandWatch, was present at the meeting when the City administrator made this statement. Her response to the statement was very interesting: First, she, at this time, saw nothing in the Westside properties inclusion that would cause such opposition or appeal. Additionally, she addressed the administrator's recommendation that the Professional/Technical property on Oaklea be

rezoned "business park" –office and commercial- to meet the need for the 62 acres of commercial buildable land. She pointed out that the property was separated from downtown by twelve blocks of residential land and surrounded by residential development and, logically, should be rezoned residential to meet the City's 20 year inventory need for residential land. She continued that, were the parcel to be rezoned "business part" instead of residential, it would mean the city would need to go outside the UGB for additional residential land, and she would virtually guarantee that such action would be opposed or appealed as urban sprawl. So, not only would the commercial zoning of 99 south likely NOT generate opposition from environmental groups, the alternative recommended by the City administrator WOULD be virtually guaranteed to generate that very opposition and appeal.

4) Statement: "The inclusion of the 99 properties in the UGB proposal would never be approved by Lane County. It would doom the UGB and jeopardize the prison/hospital and Grain Millers."

Fact: I checked with West Lane Commissioner Fleenor and he assured me (one June 16th) that the Commissioners had not discussed this issue and would do so at the appropriate time in the appropriate fashion and attempt to meet the needs of the people of Lane County. When asked, he further stated that he knew nothing at the time which would cause a UGB proposal including the 99 properties to be rejected, essentially, he didn't know what the City administrator was talking about; that the Lane County Planning Commission and the County Commissioners would speak for themselves regarding whatever proposal came from Junction City.

5) Very late in the process, the City administrator solicited a letter from an DLCD official which supported his contention that DLCD would not approve a UGB which was "reverse engineered", The administrator had, apparently, characterized any inclusion of the 99 properties as "reverse engineering."

Fact: The consideration of, and possible inclusion, of the Westside 99 properties in the Phase I process (as, I contend, it should have been) would NOT have constituted "reverse engineering". On the contrary, it would have constituted following the goals and procedures of the Phase I – employment lands – UGB process. The violation of process was the exclusion of those properties' consideration for inclusion. It's important to remember that the Westsiders' efforts to be included in the process by having the commercial part of the employment lands Phase I processed and, thereby, be able to make their case for inclusion, occurred easily early enough in the process (at the CCPC level) to have been performed without having to "redo" any part of the procedure. It would have involved nothing that even hinted of "reverse engineering."

Moreover, the response from the DLCD official came in response to a letter from the City presenting only the City's interpretation of circumstances. The Westsiders had no opportunity to present their "side" of the issue to the official before he wrote his letter. As, I'm sure, the City's rebuttal to my concerns will demonstrate, there are two sides to every issue and a reaction based on the presentation of only one side is, by definition, so biased as to be meaningless.

Should the City challenge the accuracy or veracity of my reports of any of the above-listed events, I would be most happy to have other witness or involved parties contact you to confirm those events.

The impact of this fear campaign was the decisions by the CCPC, the Junction City Planning Commission and the City Council to approve the City administrator's recommendations and not perform the Commercial part of the Phase 1 process. The campaign was successful....several of the members who voted to support the recommendations have told they did so because they truly feared including the 99 commercial properties would mean we'd lose everything....the prison and hospital, grain millers and all those promised jobs. I don't blame them for their votes...had I been in their position and believed what the city administrator said, I may have

voted the same way. This fear campaign, while not honorable or fair, was successful.

NET RESULT: As I stated at your meeting on October 6th, you have before you the flawed product of a corrupted process. I'm not at all sure what you can or will do about it. I expect the City will, in its rebuttal, deny the actions I have listed. All I can say is, if they do, they are not telling you the truth. Again, I'm not alleging any illegal actions, but I'm certainly alleging the City's actions have been so dishonorable that they invalidate the resulting product. I ask that you reject that product and return it to the city for completion of the Phase I proposal by processing the commercial portion of the employment lands proposal.

Thank you for your patience in reading this rather long submission.....

Best wishes

Gary Crum

ORD. NO. _____
P.A. NO. 09-5399
DATE: 10-12-09 EXHIBIT NO. 5
email

Why we are skeptical:

David Cline mentioned that west siders were late getting into the UGB process. I spoke with city planner, Kay Borg, Tuesday Oct 14, 2008, the day the front page article in Register Guard came out on inclusion of Grain Millers property of UGB.

After 2 phone conversations with Kay I was told that it looked positive for my inclusion in the UGB so I hired a Land Use Attorney and sent him to meet with her and make sure I did everything correctly. At that meeting her attitude had reversed 180 degrees with no explanation why,

When I brought these questions up at an early April public meeting, Ms Borg denied the two conversations and denied publicly meeting with my attorney, even though I paid a bill for the meeting. She has refused to explain her lapse of memory.

Mr. Cline also mentioned the prison has to be in the UGB but failed to mention that the Madras facility is not in the UGB but receives city services.

The inclusion of Grain Millers is not economic development but in fact economic maintenance for these jobs already exist, they are just relocating.

The development of the southwest corner of Milliron and Hwy 99, (Eugene Livestock Auction, Lane Truckbody and the old apartments) where there will be a stoplight, meets the definition of economies development. The investors interested in putting a hotel at that location need the property in the UGB.

Jay Mathison of the Lane County Septic Division has recently visited us on a complaint made by DEQ that our drain field fails in wet weather. He is also confused why the city would pass on this opportunity to correct this problem which has been caused by the redirection of water on the east side of 99 thru our property.

We feel we qualify for UGB expansion on more goals than either Grain Millers or the prison. We are not wanting to exclude them just join them.

If we qualify in December why don't we qualify now.

Sincerely,

Bruce J Anderson
Eugene Livestock Auction, INC
92380 Hwy 99
Junction City, OR 97448

SCHULZ Stephanie E

From: hbhan1960@aol.com
 Sent: Tuesday, October 13, 2009 12:26 PM
 To: SCHULZ Stephanie E
 Subject: Fwd: Urban Growth Boundry Island Fence

ORD. NO. _____
 P.A. NO. 09-5599
 DATE: 10-13-09 EXHIBIT NO. 6

-----Original Message-----

From: hbhan1960@aol.com
 To: stepanie.schulz@co.lane.or.us
 Sent: Tue, Oct 13, 2009 12:21 pm
 Subject: Urban Growth Boundry Island Fence

To Lane County Planning Commission
 C/O Stephanie Schulz
 Regarding Junction City U.G.B. adoption ordinance. Please add this to the public record

Dear Commissioners: We own and operate Island Fence Company, at 93114 Highway 99 South in Junction City. Our property has been used as a fencing company since 1984. We have owned the business for ten years. We currently employ thirty one people at this location. These are primarily skilled workers earning family wages. We have been growing since we started, and even throughout these weak economic times we have continued to grow, and add employees. We want to expand our business, update and replace old buildings, and add new employees, but we can not. We do not have enough septic system capacity to add any more employees at this location. Our system is working properly, but it is very old. There is not enough room on the property to replace it and add the required length of drain field it would take to meet the modern sanitation codes.

The city plans to put the new sewer and water for the prison right through our front yard. For many years we were told by Junction City that if we (us, and all of our neighbors) supported the prison we would be rewarded with annexation to the Urban Growth Boundary, and be allowed to use the utilities. All of those past politicians are gone now, and the new bunch has forgotten those promises. We have cooperated fully with right of way associates, and now we are being told by the city we can not use the services. This creates hardships for us, and many of our neighbor in the same situations. We will lose twenty feet for permanent easement across the full width of our properties. That area is used to store units of fencing and materials. We will not be able to block access to this ground, so we will have to move it. The only place to go with it is to our parking area. We are short of parking now, and ODOT does not allow us to park on the highway right of way.

Our plans were to replace buildings, and gain ground currently used for leach lines, but to do this we need the new sewer.

Junction City was supposed to do the Economic Opportunity Analysis, and study ALL EMPLOYMENT LANDS, they did not. They claimed to have studied the industrial land needs, with a promise of doing the commercial later, and taking care of us at that time. When we complained about their procedure, they told us we came to them too late in the process to be considered. Then they told us they were going to bring in the pvt site, and that would take care of all of Junction City's needs both commercial and residential for twenty years. That way they hoped we would go away and let them run their game up opposed. We are still here!! We believe the prison and mental hospital are, and should be

considered Public lands. Therefore Junction City did not consider the industrial, or the commercial lands needs. In fact, the Junction City planning code states that an industrial zoned property must produce a marketable product. Prisons do not produce goods, nor do they pay real estate taxes, as they are publicly owned. In fact the only thing they considered for employment was the Grainmillers. The Grainmillers will be saving some existing jobs in Eugene, not adding new jobs for Junction City. We appreciate the importance of those jobs, but we can not understand what makes them more important than the jobs that we provide for Junction City. We understand that the State, or Junction City, can condemn our property for government use, but we believe that there is a statue that reads they can not condemn from one private party to serve another. This is what they are doing for all of us, to help support the Grainmillers project. That is wrong!!

We were told forever that we would get the utilities, in fact, the pipes were up sized at the city's expense to allow us all to connect and be served immediately. Now we are being told to be patient, and we will get them in the next go around. This is not acceptable, we are concerned that in their hands, the next go around will never come around. We are being told that if the city tried to include us, it would be considered a predetermined outcome and nobody would accept that approach. Is that not exactly what the prison and Grainmillers was? We do not believe that any reasonable person would question why someone giving an easement for a public utility would be allowed to use that utility. It is purely common sense. In fact everyone that has heard about this fiasco listens in disbelief, when the situation is explained to them.

The only argument Junction City has presented was telling everyone that by including the citizens in the proposals, they were risking a total loss to the whole development because they refused to take the time to listen, and work with us. This is absolutely not a true statement. There is no funding to complete a prison, the hospital is a guaranteed project to begin in 2011 and be completed in 2014, the Grainmillers are in no hurry to develop in the current economy. we started talking to them last May, as soon as we found out we had been left out of the plans. The city was not forward about that when they asked us to allow right of way associates to survey and make easement offers for right of way acquisitions. So far Junction City spent about seven months and countless of thousands of dollars trying to turn away all of the people along 99 away. What would have happened had they made an effort to work with us?

The bifurcated process experiment tried by the city and DLCD has failed. Junction City claims to have funding to complete the project. We would ask you to look at what is really happening out her and tell Junction City that you agree with the citizens. Send them back their work plan and suggest that they do all of the commercial and industrial and take care of 99 and the citizens in Junction City and Lane County.

Thank You,Signed,

Indar and Heiid Bhan, owners of Island Fence, Inc.

SCHULZ Stephanie E
 ORD. NO. _____
 P.A. NO. 09-2599
 DATE: 10.13.09 EXHIBIT NO. 7

From: Oldcarsforu@comcast.net
 Sent: Tuesday, October 13, 2009 1:45 PM
 To: SCHULZ Stephanie E
 Subject: please add to the public record for the Junction City UBG meetings Thank You

Oct. 12, 2009
 Lane County Planning Commission
 C/O stephanie Schulz.

Please enter this into the public record for the Junction City Urban Growth Boundary adoption

Lane County Planning Commission Members

Thank you for listening to me, and my constituents at your meeting held October 6th. I appreciate the opportunity to be heard, and answer your questions.

I believe Junction City is way off track with their whole urban growth procedure. There are an endless number of things that happened throughout the last six month process that are very questionable. I will attempt to highlight some of the more important ones.

The city is using an Economic Opportunity Analysis prepared without consideration of commercial land needs.

The Guinea pigged bifurcated process used in the guise of a DLCD funding shortage was a complete failure

While the concept is reasonable, split the costs, split the workload, I believe the city further split half of the workload in an effort to shoehorn in the Prison/Hospital, and Grainmiller projects, and used funding, and a very exaggerated time-line as the artificial basis for doing so.

I never quite understood the city's argument for funding. They repeatedly said that DLCD could only pay for half of the work packet up front, and half in October or November, and that they were guaranteed to be the first ones funded. Assuming that Eco Northwest gets paid when the job is completed, as do the rest of us that work for a living, Why was the work packet delayed? The work could have been completed in plenty of time for Eco to accept the check, when the job was finished. Instead the city spent seven months and unknown amounts of taxpayer money to deprive the very citizens making the entire project possible. It makes no sense at all!

It was common practice for Junction city to submit into public record, "feel good" letters of support from other agencies, such as land watch, ODOT, and DLCD. These were generally submitted by people higher up in those agencies, and those people were not actually aware of what was happening at our level. They were also submitted at the deadline, or in at least one case after the deadline for public comment was closed, and we were deprived of our opportunity to rebut the information in them. Interestingly I wrote a letter to the members of the city council, and was chastised for trying to squeeze it in after the record closed. It was never my intention to get that letter into the public record, and the fact is, Junction city uses a legislative process, rather than a quasi judicial process, and I was perfectly within my right to lobby the city council members with visits, or letters.

The father son team on the planning commission, should be a conflict of interest at best, I guess it was our good fortune when the second son resigned from the city council just as our matters were being considered back in May.

The City is using the same engineer for design, and construction, that engineer appears to be working for the state as well. Where are the checks and balances?

10/13/2009

There are two members on the Junction city Citizens comprehensive Planning Commission that have publicly stated, they would not have supported the city's position if they had all of the facts when they were forced to vote on the measure, and a third, Gary Crum, has said that the entire process was a fraud. One other was a city council member that has been put in a position of overseeing his own work, as a planning member, and yet another had no understanding of the condemnation process even days before voting on the issues. Finally the last member, also a city councillor, said he did not believe the process had been fair to the citizens.

The City has used the EOA, as a tool to bring in the Prison and Grainmillers when in fact, those entities should not have been a part of the twenty year periodic review. Typically when a special need develops, there is a special needs UGB amendment. These are for things that are site specific, and can not be accommodated in the existing Urban Growth Boundary. This applies to the Prison, and Grainmillers. Normally a UGB expansion for a specified need is paid for by the Applicant, since they happened to apply at the same time Junction City was scheduled to do the twenty year periodic review, The City Manager led a crusade to bring them in at the expense of the taxpayer using DLCD funds. What a sweet deal for these guys! Although this is highly questionable as it stands, I believe it would have worked had the people on highway 99 not stood up for themselves as effected property owners. The EOA is about employment lands and Job Opportunities. There is no guarantee that the Prison will ever be funded, and those jobs while highly welcomed by all of us, may never come to fruition. There are many on highway 99 that are in need of infrastructure to support existing jobs, and add jobs to our employment base right now.

We have heard repeatedly the quote from the city manager " taking time to address the needs of the people on 99 will likely cause us to lose the entire project" This is completely bogus, yet it has been the driving force behind the entire process. We have been promised for about eleven years that if we supported the prison, we would be included in the development. The Prison once again is held up for funding concerns, the Hospital is scheduled to be completed in 2014, and that portion of the land is already within the Urban Growth Boundary, and the Grainmillers are not really affected by a slight time delay, as they are waiting for the economy to improve before developing the meadowview site.

Even though the city engineered the infrastructure to include us at local taxpayer expense, we are once again being put on hold. This is ridiculous, Junction City is running on a negative budget, and we are many new accounts waiting to pay every monthly into the city coffers.

There is a long history of septic problems along 99 due to the high water tables. These can be eliminated immediately when we are allowed to hook up to infrastructure, and eliminate all those old septic systems.

According to Junction City Planning regulations, the prison does not qualify for industrial land zoning. This property should be classified Government, or Public lands. They build no product, and they will pay no property taxes. If that is the case, there was really no industrial, or commercial land need met in the EOA.

There was a statement made at the meeting about the city working with the legislature to change a state law regarding sewer access outside the UGB. That, in my opinion is just another sham to portray to the general public that the city is working for the citizens, when in fact, quite the opposite has been true for the entire proceeding.

Another interesting topic for discussion! I asked Doug Young from DOC, to support us in our efforts to being a part of the project, he told me in public forum that the only reason the prison needed to be in the UGB was to receive the standard city sewer rates. He said if they were outside the UGB they would pay a rate of fifty percent more than standard. This amounts to some Huge monetary differences. A month later the City Attorney urged the City Council(also in public forum) to sign the Intergovernmental agreement with the state that included the incorrect language,(and she knew it, and talked about it during the meeting) and in city sewer

rates even if the prison was not included in the UGB.

A month after that I asked Bobby Burton from DOC to urge the city to support our efforts. She did not want to get involved, When I pointed out the IGA gave her the in city rate she said she was aware of that and would litigate if necessary to protect the states position.

The city has stated that any attempt to include the westsiders would be considered a predetermined outcome, and would not pass the ugb guidelines. I believe that is bogus, The simple questions are, Why would you run infrastructure through citizens property and not allow them to use it, and what reasonable person would question the validity of that argument. All of the westside properties, are subject to high traffic and train noise now, we are on a divided state highway with existing turn lanes, and wide shoulders. These are properties that should be considered prime commercial areas.

The City stated that they can not serve the prison if it is not in the UGB. Madras serves the prison over the mountain, and that prison facility is outside the UGB. another point to ponder is the fact that they are running at only 20-25% capacity. This could lead a person to reasonably suspect that funding for the Junction City Prison could remain on hold indefinitely.

Lastly! The City Attorney, Carrie Connolly told you at the meeting that she expected the westsiders to sign an agreement with the city . this agreement was to ask all of us on the west side not to contest this adoption request in return for the promise of the city looking at our issues in phase two. There was nothing available for us to hold the city to completing the work in a timely fashion. I have heard twelve to eighteen months in the chatter. I will admit, we were all skeptical, the check has been in the mail for nearly twelve years already and the broad twelve to eighteen month time line is too long, and too vague.. When we learned of the hold back on the prison funding , that further proved our point on the artificial time line the city has used. In fact, we determined that the city was obligated to complete the work, on a timely basis anyway, and therefore it seemed foolish to give up our right to oppose something we know is dead wrong! It is our position that if the city is forced to deliver a good work packet to the county, they will get motivated, and address everybody concerned with the same fast service considerations they have tried to give the Prison, and Grainmillers.

I am asking you to consider all of these points, and all of the other information submitted by other parties, and make the only logical recommendation to the Board of Commissioners. Ask the Commissioners to Tell the city thier work is incomplete, Their time line argument has absolutely no merit, Considering the needs of the citizens should not take second position to the prison development. The EOA has not been addressed , The proposed ammendments do not serve the best interests of the general public.

Thank You

Jeff Haag

27430 8th street, Junction City, Oregon 97448

SCHULZ Stephanie E

ORD. NO. _____
 P.A. NO. 09-5599
 DATE: 10-13-09 EXHIBIT NO. 8

From: borbesek4398 [boresek2003@comcast.net]
 Sent: Tuesday, October 13, 2009 2:26 PM
 To: SCHULZ Stephanie E
 Subject: Fwd: LCPC letter please subit into public record for J.C. UGB adoption ordinance

----- Forwarded Message -----

From: "borbesek4398" <boresek2003@comcast.net>
 To: bill@boresek.com
 Sent: Tuesday, October 13, 2009 2:06:31 PM GMT -08:00 Tijuana / Baja California
 Subject: LCPC letter

Dear members of the planning commission:

My name is Bill Boresek and my family owns a 40.6 acre parcel at the corner of hwy 36 and hwy 99. I have attended every meeting from the odot meetings for J.C.'s roadway improvements, the UGB workshops, and the rest of the UGB expansion process. There is not enough time day to explain what has transpired between J.C. administration, hired consultants and some councilors towards the citizens. In my opinion and many others the process was very unprofessional to put it lightly. Here are a few concerns of mine.

If J.C. is allowed to proceed with the bifurcated process of employment lands, industrial phase 1 then commercial and residential phase 2 there is nothing to hold their "feet to the fire" to do a proficient, timely just portion of the commercial and residential lands. At that point they have what they set out to get at everyones expense, D.O.C and the Grainmillers in the U.G.B. we also supported those intitities from the very beginning. If you recommended setting the industrial aside and tell J.C. to go back and finish the rest of the process correctly there will be enough pressure then on J.C. staff and hired consultants to do a complete, precise, fair job. Then instead of opposition we will all show our strong support.

I would like to propose a question, why is the only prison in the state of oregon coming in as insdustrial land in J.C.. insted of government public lands. If indeed It should be zoned government/public lands then the taxpayers payed 80,000 for an EOA that only brought in Grainmillers in the UGB and another 40,000 battleing the westsiders? MONEY NOT WELL SPENT. Grainmillers needs around 47 acred to relocate and build their new facility but the city is bringing in all 103 acres that they have purchased. What keeps the city from rezoning the other 50 plus acres commercial almost meeting their 66 acres of commercial land needed. If the prison never gets build they would have 200 plus acres of shovel ready dirt that could be rezoned commercial, eliminating the westsiders that provided the access for the infrastructure feeding D.O.C. and Grainmillers. HAVE ALL OF THE PLANNING GOALS BEEN MET? thank you for your valuable time.

sincerely
 William J. Boresek/Aikon LLC.
 27948 green oaks drive
 Eugene, Ore 97402

LAW OFFICE OF BILL KLOOS, PC

OREGON LAND USE LAW

ORD. NO.

P.A. NO. 09-5599

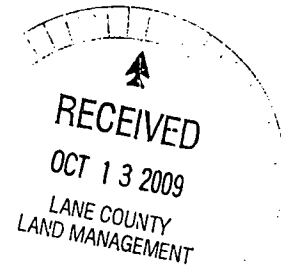
DATE: 10-13-09 EXHIBIT NO. 9

375 W. 4TH STREET, SUITE 204
EUGENE, OR 97401
TEL (541) 343-8596
FAX (541) 343-8702

E-MAIL BILLKLOOS@LANDUSEOREGON.COM

October 13, 2009

Lane County Planning Commission
125 E. 8th Ave.
Eugene, OR 97401



Re: File No. PA 09-5599; Junction City UGB Amendments

Dear Members of the Commission:

Please accept this letter into the record. My client, Aikon LLC, is the largest of the "Westsidiers," owning the 40-acre parcel at the intersection of Hwys 99 and 36.

When the city finished its work on the Industrial lands piece of its UGB review, I wrote the city and copied the county suggesting that the city should complete all of its UGB homework assignment before approaching the county to make the same changes. A copy of my July 17 letter to the city is attached. The gist of my letter was that it would be much more efficient for the county to go through the UGB amendment process for Junction City just once, for Industrial, Commercial and Residential lands, rather than multiple times. That rationale still holds true.

Nothing has been put on the table to suggest there is a rush that requires doing this in pieces. It will take about 14 months for the city to finish up parts 2 and 3 of its homework assignment from the DLCD – Commercial and Residential land needs. Neither the prison nor the hospital is going to happen in the meantime. The city could finish all its UGB work and then put a single package before the county – a proposal that reflects all the city's needs and all the related policy choices. (Enclosed is the city's program/schedule for completing the work.)

The Planning Commission only recommends to the County Board. The county Board will decide how to proceed. The Commission, however, should make the common sense recommendation. You should recommend denial to the County Board, with the suggestion that the city complete the Commercial and Residential parts of its UGB analysis and then put a single, comprehensive proposal on the table for the county to consider.

Sincerely,

A handwritten signature in cursive script that reads "Bill Kloos".

Bill Kloos

Encl. Ltr from B. Kloos to Junction City Council (July 17, 2009)
Junction City, Periodic Review Phase II Schedule (Oct. 13, 2009)
CC: Client

JUNCTION CITY COUNCIL AGENDA ITEM SUMMARY



Customized Periodic Review Phase II - Work Plan Review & Approval

Meeting Date: October 13, 2009
Department: Planning
www.ci.junction-city.or.us

Agenda Item Number: 7
Staff Contact: Kay Bork
Contact Telephone Number: 541.998.2153

ISSUE STATEMENT

Staff is seeking City Council review and approval of the Customized Periodic Review Work Plan and Public Involvement Strategy for Phase II of the project. The work plan and grant application are due to Department of Land Conservation and Development by November 1, 2009.

BACKGROUND

By adopting Option 2 in August of 2009 the City Council agreed to fund additional commercial analysis relating to infill and redevelopment during Phase II. Council agreed to fund up to \$40,000 to complete this work. Council also expressed a desire to have more Council and public input during the planning process for Phase II.

Staff is seeking City Council input and direction on the following:

- Review and recommend approval on the proposed work plan for Phase II of Customized Periodic Review
- Review and recommend approval of a public involvement strategy, i.e. continuing with the CCPC or replace CCPC with joint Planning Commission/City Council Work Sessions.

The work plan to be submitted to DLCD addresses the work necessary to address the additional commercial analysis (**see Tasks 5 and 6 of the attached work plan**) and all the necessary tasks to complete the UGB Analysis to comply with Statewide Planning Goals.

Staff anticipates the commercial work to happen in tandem with the residential analysis. The work plan estimates the portion of the commercial analysis and workshops will total approximately \$20,000 however during the process City Council may wish to conduct additional workshops. The City will establish a separate contract with ECO NW to carry out the tasks to complete the commercial analysis. The City will be asking for \$115,000 in grant funds to complete Phase II. This cost does not include the additional commercial analysis funded by the City.

The CCPC was formed to review Consultant's work and accept or make recommendations on project deliverables. The CCPC was made up of the entire Planning Commission, 3 City Councilors and 3 citizens. Council expressed a desire to be more involved in the planning process. Staff drafted the work plan to include a CCPC with visioning workshop to be held with City Council and community. Staff

also plans on reporting monthly to the Council on the project. However, the City Council may choose to not utilize the CCPC but instead hold joint Planning Commission and City Council work sessions (open to the public) throughout the project. These meetings would be held in addition to the regular Planning Commission and City Council meetings. The work program has estimated 8 CCPC meetings (or joint PC/CC workshops instead) and two visioning workshops over the 12 month planning period, not including required public hearings.

It is worth noting that during Phase II the City will be updating the Transportation System Plan which requires the formation of a Citizen Advisory Committee with Council and Planning Commission representation. Staff anticipates this will be an 18 month project. A work plan for this project will be presented to Council at their November meeting.

RELATED CITY POLICIES

None

COUNCIL OPTIONS

1. Make suggested changes to the Phase II work plan and recommend staff submit work plan to DLCD with changes. There is also the option to review suggested changes to the work plan at the October 27th meeting.
2. Make a recommendation to staff on either continuing with the CCPC for Phase II or to hold joint Planning Commission/City Council work sessions instead.

CITY ADMINISTRATOR'S RECOMMENDATION

None

SUGGESTED MOTION

Make a motion to approve the work plan with suggested changes and make a recommendation on either continuing with CCPC or holding joint PC/CC meeting throughout Phase II project.

ATTACHMENTS

A. Draft Work Plan and Schedule

FOR MORE INFORMATION

Staff Contact: *Kay Bork*
Telephone: *541-998-2153*
Staff E-Mail: *kbork@ci.junction-city.or.us*

PHASE II CUSTOMIZED PERIODIC REVIEW

Purpose

The purpose of this customized periodic review is to update the City's Comprehensive Plan land use policies and implementing ordinances to address emerging issues resulting from the siting of the state mental health and prison facilities. These two State facilities will result in a "sub regional economic employment center" for Lane and Linn counties in the south part of Junction City. The customized periodic review process is a two phases, multi-year project beginning in 2008 and ending in 2011. The issues addressed in each phase as part of this customized periodic review include:

Phase 1:

- Economic Opportunity Analysis (EOA), including a buildable lands inventory (BLI) for employment land,
- UGB Analysis for employment lands
- Local Wetlands Inventory (LWI), partial

Phase 2:

- Establish 50 year vision (urban reserves) for commercial, residential, industrial and public land.
- Residential Buildable Lands Inventory (BLI) and Residential Land Needs Analysis (RLNA),
- Revisit commercial infill and redevelopment land needs
- UGB Analysis and Establishment of Urban Reserves
- Local Wetland Inventory (LWI), completion

Background

The Oregon Department of Correction (DOC) and Oregon Health and Human Services (DHS) will be constructing two state facilities in Junction City. The two state facilities will be located on 236 acres of vacant industrial land in the south part of Junction City and will create approximately 1,800 jobs. The minimum security correctional facility plans to be operational in 2014 and the state hospital is planned to open in 2015. This announcement prompted the City to evaluate its readiness to plan for the impact these facilities and subsequent development will have on the community. In August 2007 nearly 30 State and local officials met in Junction City for a work session to begin discussions of the next steps in planning for both the proposed prison and state mental health facilities. This session was coordinated with the Willamette Valley Economic Revitalization Team (ERT). Customized Periodic Review (CPR) was discussed as a logical tool to use to address many of the issues identified at the work session.

Objective of Phase II

1. Re-evaluate commercial land needs based on alternative assumptions regarding infill and redevelopment based on local and regional trends.
2. Prepare a Residential Buildable Lands Inventory (BLI) and Residential Land Needs Analysis (ORS 197.296, 197.303) for Junction City that will be used to update the Housing Element of the Junction City Comprehensive Plan to address the 20-year housing needs for the city's urban growth boundary (UGB);
3. Prepare a UGB evaluation/Urbanization Study to identify long term land needs and possible UGB expansion areas (ORS 197.298), and Urban Reserve Strategy.
4. Complete the Local Wetland Inventory Report started in Phase 1 for DSL Review and approval
5. Prepare draft and final Comprehensive Plan (Chapter 2 Environmental Element, Chapter 3 Land Use Element and the addition of a Housing Element) and Zoning Code Amendments for Review and Adoption.

Work Methods and Tasks

Expectations about Written and Graphic Deliverables

All graphic deliverables must be well documented, with project name, a title that corresponds to the work program deliverable, draft number, a legend, and the date of preparation. Graphic deliverables are required in hard copy and any that are prepared electronically must be submitted in electronic format as well. All electronic copies of illustrative drawings must at a minimum be in .PDF and .tiff or .jpg format. All electronic copies spatial data (coverage/shape files) must be in Arc GIS shape files projected as follows: State Plane, Oregon South, and NAD 83. All written (text) deliverables must be prepared using an MS Office program (e.g. word, excel, access, PowerPoint, etc.) and must include the project name, a title that refers to the work program deliverable, draft number, task number, and date of preparation. Written deliverables are required both in hard copy and electronic version and needs to be usable and readable in black and white. Consultant shall send one copy of each deliverable to the City's Project Manager according to the schedule specified in the statement of work.

Project Management

Objective: To set up roles and responsibilities of the project committees.

Project Oversight: The City shall take the lead role in the CPR process, with Consultant support as indicated per work subtasks and deliverables throughout the duration of the project. Project Management includes the work necessary to manage City staff and Consultant analysis and production efforts, coordinate with agencies, monitor progress, and direct quality control activities. Specific City staff activities include:

- Program, supervise, and coordinate with Consultant project team
- Prepare, monitor work plans, budgets and schedules
- Lead project management team meetings
- Prepare monthly invoices, progress reports and backup data
- Maintain project files
- Coordinate production and quality control efforts
- Conduct management level review of work in progress and final work products
- Coordinate monthly project management team meetings (conference calls)
- Coordinate Public Involvement Plan

Public Involvement

Objective: Provide for continued public involvement throughout the customized periodic review (CPR) process that will ensure the broadest participation by the public in this project and solicit comments on draft work products through public meetings. The Coordination of the PIP is part of Project Management (Task 1).

The Public Involvement Program (PIP) shall include:

- Formation of a Technical Advisory Committee and Comprehensive Citizen Planning Committee
- Committee meetings, and public workshops
- Council and Planning Commission work sessions
- Written article(s) for the local papers
- Displays in public places with local exposure, such as but is not limited to the library, the City Office, and the Post Office and
- A project web site

A. Advisory Committees:

1) Technical Advisory Committee (TAC)

City shall identify and appoint TAC members including, but not limited to key City staff, the DLCDC Regional Representative, and representatives from affected county and state agencies (e.g. Lane County Planning, Economic Revitalization Team, etc.). City shall develop TAC roster. The TAC shall review and comment on all draft project deliverables and meet as needed to provide technical guidance to City and Consultant regarding work products and process.

2) Comprehensive Citizen Planning Committee (CCPC)

City shall identify and appoint CCPC members including, Planning Commission, City Council (2 to 3-members), and citizen representatives (3-members). City shall develop a CCPC roster. The CCPC shall review Consultant's work and accept or make recommendations on project deliverables.

3) Stakeholder Group.

This group consist of citizens, property owners and business owners in and near Junction City (e.g....) who will help shape the development of the project through public workshop participation. Lane County Planning staff will be involved in the planning process.

B. Maintain a Project Web Site

A project web site was developed and maintained by the city in Phase 1 and will continue to be used in Phase 2. Elements of the web site include: project schedule, project documents, maps and public meeting schedule in a format to be easily down loaded.

Conduct Public Involvement Program (PIP)

The PIP will include CCPC and TAC meetings, Stakeholder outreach, and public meetings that can use a workshop, open house or public hearing format. City staff shall collaborate with the CCPC to review project purpose and update as necessary.

- 1) City Project Manager shall be responsible for distributing draft work products to TAC members for review, comment and revision prior to distribution to CCPC, stakeholders, and the general public. The City Project Manager shall provide feedback to the TAC on comments received prior to preparation of the draft work product for distribution to the CCPC and Stakeholders. The City Project Manager shall be responsible for convening TAC meetings as necessary to get consensus on issues.
- 2) City Project Manager shall be responsible for distributing draft work products to CCPC members for review, comment and revision prior to preparation of the final draft work product. The City Project Manager shall be responsible for convening CCPC meetings as necessary to get consensus on issues
- 3) City Project Manager shall be responsible for securing meeting facility, posting/ mailing meeting announcements, copying and distribution meeting materials for all meetings and meeting minutes for all meetings. City shall publish notice of all CCPC and public meetings 10 days prior to the meeting. All meetings will be open to the public.
- 4) Consultant shall be responsible for preparation of meeting agendas, meeting presentations, and meeting materials.

WORK PROGRAM

Task 1: Project Kickoff

Purpose: Present for review and comment to the TAC and CCPC the Project schedule and public and agency involvement process (anticipate planning commission's and city council's involvement in all stages of the public review process).

Consultant Deliverables:

- Agenda, meeting materials and meeting presentation for TAC Meeting #1
- Agenda, meeting materials and meeting presentation for CCPC Meeting #1
- Draft Memorandum of Understanding for Phase II Public Involvement Process
- Final Memorandum of Understanding for Phase II Public Involvement Process

City Deliverables:

- TAC Meeting #1 securing meeting facility, posting/ mailing meeting announcements, copying and distribution meeting materials and meeting minutes

Task 2: Complete Local Wetland Inventory Report and Goal 5 Comp Plan Amendments

Purpose: To complete the local wetlands inventory with a list of significant wetlands with DSL review and approval. In Phase I a draft Local Wetlands Inventory and map was completed. The remaining tasks for completion are as follows:

- (a) Consultant to complete LWI / LSW. Complete detailed Division of State Lands wetland forms for each identified wetland; complete OFWAM and other required assessment documentation; determine locally significant wetlands; complete GIS mapping, analysis, and digital data documentation; prepare LWI report for City review.
- (b) Consultant shall conduct DSL coordination and review process for LWI. Consultant shall submit report, maps and data to DSL for review; conduct field meeting/tour with DSL staff; and carry out DSL review coordination for LWI approval. City will prepare City may review and comment if desired.
- (c) Consultant and City shall conduct Public Meeting to present draft LWI products and solicit public input.
- (d) Consultant shall conduct Goal 5 Economic, Social, Environmental, and Energy (ESEE) Process. Prepare Goal 5 ESEE Analysis (for wetlands not addressed through safe harbor); revise draft Plan and Code amendments and findings consistent with ESEE Analysis; coordination with County and DLCDC staff.
- (e) Consultant shall present LWI, Code and Plan Amendments and findings to City Council at a public hearing for review and adoption.
- (f) The City, after LWI approval by DSL, shall notify affected landowners of results within 120 days of DSL approval.

City Deliverables:

- One set of non-conflicting comments on the draft LWI to Consultant
- Public Meeting
- Public Hearing
- 120 DSL Notice

Consultant Deliverables:

- Draft LWI Inventory Report to DSL
- Coordination with DSL
- Draft/Final Amendments to Comp Plan and Zoning Ordinance with Findings for adoption
- Public Meeting
- Public Hearing

DSL Deliverables:

- One set of non-conflicting comments on the Draft LWI Inventory Report.

Task 2 Estimated Budget: \$28,000

Task 2 Estimated Timeline: 8 months

Task 3: 2030 Residential Housing Needs Analysis

Objective: This task is intended to update the City's 2000 Buildable Land and Housing Needs Analysis and determine the housing types, housing mix, and residential land needs for the 20 year planning period as required by Goal 10 and 14, OAR 660, Division 008, ORS 197.295-197.314, and ORS 197.475-197.493 and Division 24.

- (a) Evaluate Historical development trends
- (b) Identify needed housing mix and density for 2010-2030 and 2030-2060 based on Goal 10 and Division 8 and possibly using Division 024 housing mix and density safe harbors.
- (c) Determine the number of new housing units and housing types needed in the next 20 years and identify and determine effects of residential land use efficiency measures *or* apply housing mix and density safe harbor and rezone land accordingly within UGB.
- (d) Consider using public land safe harbor (25%) *or*
 - Use park plan for parks
 - Consult with schools for schools
 - Standard methods for estimating institutional land needs

Consultant Deliverables:

- Draft and Final Residential Buildable Lands Inventory and Land Needs Analysis document

City Deliverables:

- One set of non-conflicting comments on the draft LWI to Consultant

Task 3 Estimated Budget: \$10,000

Task 3 Estimated Timeline: 3 months

Task 4: Residential Buildable Lands Inventory within UGB

Objective: To conduct a residential buildable lands inventory consistent with Goal 10, Division 008 and Division 024. The analysis of wetland constraints will rely on data from the LWI. Thus, the analysis of constraints and final BLI cannot be completed until the LWI is completed.

- (a) Conduct a residential buildable lands inventory consistent with Goal 10, Division 008 and Division 024; identify partially developed land that can reasonably be developed.
- (b) Conduct public workshop to discuss BLI & LWI results.
- (c) Recommend plan and code amendments necessary to meet housing needs / urban efficiency requirements (this task relies on a completed LWI)
- (d) Determine amount and type of buildable and suitable land available to meet 20-year residential land needs.
- (e) Determine the amount and type of buildable and suitable land available to meet 20-year "other" land needs (e.g., parks, schools, etc.)

Consultant Deliverables:

- Draft and Final Residential Buildable Lands Inventory

City Deliverables:

- One set of non-conflicting comments on Residential Buildable Lands Inventory

Task 4 Estimated Budget: \$15,000

Task 4 Estimated Timeline: 3 months

Task 5: Compare 20-Year Commercial and Residential Land Need with Buildable/Suitable Land Supply within Existing UGB

Objective: Determine capacity of the existing UGB to accommodate identified commercial and residential land needs.

- (a) Conduct vacant commercial space inventory to determine infill and redevelopment potential (City will be funding this subtask).
- (b) Review recommended efficiency measures for meeting identified commercial land needs within the existing UGB (City will be funding this subtask).
- (c) Consider alternatives for meeting commercial and residential land needs, including but not limited to mixed use options (City will be partially funding this subtask).
- (d) Determine remaining capacity of the existing UGB to accommodate identified commercial and residential land needs
- (e) Identify unmet commercial and residential land needs (i.e., how much buildable / suitable land must be added to the UGB to meet 2030 commercial and residential land needs)

Consultant Deliverables:

- Draft and Final chapter on Commercial and Residential Land Need comparison

City Deliverables

- One set of non-conflicting comments on Residential Buildable Lands Inventory

Task 5 Estimated Budget: \$10,000

Task 5 Estimated Timeline: 3 months

Note: The City will contribute \$15-20,000 towards analysis to identify alternatives to meet commercial land needs.

Task 6: Community Vision and Guiding Principles

Objective: To develop a community vision, guiding principles in order to:

- Develop policies and other efficiency measures to ensure needed residential and commercial development will occur,
 - As criteria for evaluating potential UGB expansion areas and,
 - To determine how well alternatives expansion scenarios accomplish the desired vision.
- (a) The Consultant shall facilitate a meeting to develop draft vision statement about community character, guiding principles and policies for future residential, commercial and industrial development and urban growth boundary and urban reserve planning. These will be used as criteria for evaluating potential UGB expansion areas to balance technical issues and determine how well the alternatives accomplish the desired vision.
- (b) The Consultant shall facilitate a meeting with the Council to finalize a draft vision statement about community character, guiding principles and policies for future residential, commercial and industrial development and urban growth boundary and urban reserve planning.

Consultant Deliverables:

- Draft and Final Community Vision, Guiding Principles and Policies

City Deliverables:

- One set of non-conflicting comments on draft Community Vision, Guiding Principles and Policies

Task 6 Estimated Budget: \$5,000

Task 6 Estimated Timeline: 2-3 months

Note: City will contribute \$5,000 towards visioning process to account for commercial redevelopment and infill policies. This is not part of the requested grant amount.

Task 7: UGB Alternatives Analysis

Objective: identification and preliminary evaluation of potential UGB expansion areas

- (a) Apply 197.298 priorities and Goal 14 locational factors to determine where to expand the UGB (if UGB expansion is warranted) to meet identified commercial and residential land needs
- (b) Amend UGB as necessary to meet identified 2030 residential and commercial land needs consistent with 6.a above

Consultant Deliverables:

- Draft and Final UGB Alternatives Analysis
- Coordination with County, DLCD and ODOT staff
- Public Meeting and response to issues raised

City Deliverables

- One set of non-conflicting comments on UGB Alternatives Analysis
- Coordination with County, DLCD and ODOT staff

Task 7 Estimated Budget: \$10,000

Task 7 Estimated Timeline: 1-2 months

Note: industrial land needs will have already been met as a result of ongoing and limited UGB amendment process

Task 8: Determine 2030- 2060 Urban Reserve Developable Land Needs

Objective: Evaluate the existing UGB for its capacity to provide land for needed housing and employment for the next 30 years, add capacity through reasonable measures and identify land for potential Urban Reserves.

- (a) Using Lane County coordinated population projection for 2030 apply Division 024 Safe Harbor to determine Junction City's 2030-60 population (JC's growth rate = LC's growth rate)
- (b) Use EPA method based on ECO's 2060 employment projections to determine the amount of "developable" land needed to for UR commercial and industrial employment needs (cannot use site needs method) as prescribed in Division 021
- (c) Use Division 024 housing mix and density safe harbors to determine land needed for housing
- (d) Use Division 024 public land needs safe harbor to determine land needed for streets, parks, schools etc.

Consultant Deliverables:

- Draft and Final Urban Reserve Developable Land Needs

City Deliverables

- One set of non-conflicting comments on Urban Reserve Developable Land Needs

Task 8 Estimated Budget: \$10,000

Task 8 Estimated Timeline: 1-2 months

Task 9: Urban Reserve Alternatives Analysis

This task will include identification and preliminary evaluation of potential UGB expansion areas.

- (a) Evaluate Urban Reserve study areas against Division priorities and Goal 14 locational factors.
- (b) Based on this evaluation, include sufficient developable land to meet 30 year need beyond the 2030 UGB

Consultant Deliverables:

- Draft and Final UGB Alternatives Analysis
- Coordination with County, DLCD and ODOT staff
- Public Meeting and response to issues raised

City Deliverables

- One set of non-conflicting comments on UGB Alternatives Analysis
- Coordination with County, DLCD and ODOT staff
- Public Meeting and response to issues raised

Task 9 Estimated Budget: \$10,000

Task 9 Estimated Timeline: 1-2 months

Task 10: Prepare Findings and Meeting Support for UGB Expansion

Objective: To prepare ordinance amendments and written findings for adoption to update the City's Comprehensive Plan and Zoning Ordinances, consistent with Goal 14 and other applicable statewide planning goals.

- (a) Support City Planning Commission and City Council Review Process
- (b) Support County Planning Commission and Board Review Process
- (c) Coordination with County, DLCD and ODOT staff
- (d) Revise findings as necessary
- (e) Identify generalized need for "developable" land as prescribed in Division 021 and interpreted by LCDC in the Newberg Review

- (f) Coordination with County, DLCD and ODOT staff

Consultant Deliverables:

- Draft and Final Findings for Comprehensive Plan and Zoning Ordinance Amendments
- Coordination with County, DLCD and ODOT staff
- Public Hearing and response to issues raised

City Deliverables

- One set of non-conflicting comments on Comprehensive Plan and Zoning Ordinance Amendments
- Public Hearing and response to issues raised
- Coordination with County, DLCD and ODOT staff

Task 9 Estimated Budget: \$10K

Task 9 Estimated Timeline: 1-3 Month

Task 11: Prepare Findings and Meeting Support for Urban Reserves

Objective: To prepare ordinance amendments and written findings for adoption to update the City's Comprehensive Plan and Zoning Ordinances, consistent with Goal 14 and other applicable statewide planning goals for the establishment of Urban Reserves.

- (a) Support City Planning Commission and City Council Review Process
- (b) Support County Planning Commission and Board Review Process
- (c) Coordination with County, DLCD and ODOT staff
- (d) Revise findings as necessary

Consultant Deliverables:

- Draft and Final findings for Comprehensive Plan and Zoning Ordinance Amendments for the establishment of Urban Reserves
- Coordination with County, DLCD and ODOT staff
- Public Meetings and response to issues raised

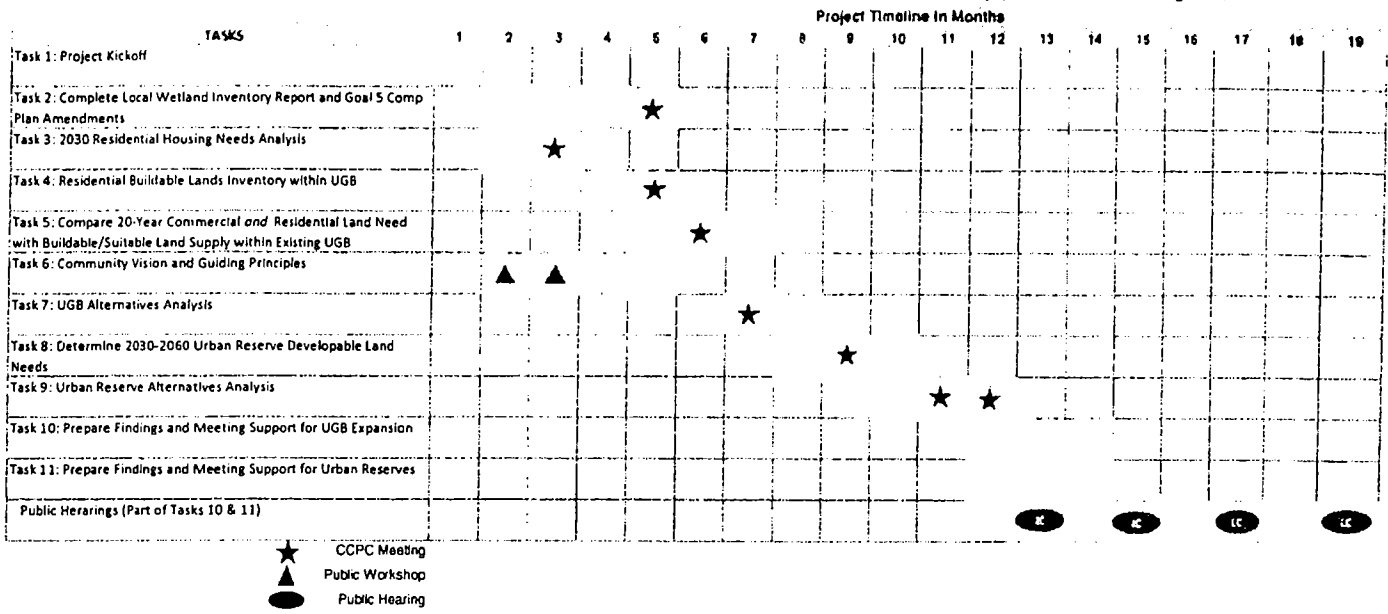
City Deliverables

- One set of non-conflicting comments on findings for Comprehensive Plan and Zoning Ordinance Amendments for the establishment of Urban Reserves
- Coordination with County, DLCD and ODOT staff
- Public Meetings and response to issues raised

Task 11 Estimated Budget: \$10,000

Task 11 Estimated Timeline: 1-3 Month

TASKS	Estimated Timeline	Estimated Budget
Task 1: Project Kickoff	Month 1	\$2,000
Task 2: Complete Local Wetland Inventory Report and Goal 5 Comp Plan Amendments	Months 2-5 (add 2 months for DSL Review)	\$28,000
Task 3: 2030 Residential Housing Needs Analysis	Months 2-3	\$10,000
Task 4: Residential Buildable Lands Inventory within UGB	Month 4-5	\$15,000
Task 5: Compare 20-Year Commercial <i>and</i> Residential Land Need with Buildable/Suitable Land Supply within Existing UGB	Month 5-7	\$10,000
Task 6: Community Vision and Guiding Principles	Months 2 and 3 or Months 4 and 5	\$5,000
Task 7: UGB Alternatives Analysis	Months 7-8	\$10,000
Task 8: Determine 2030-2060 Urban Reserve Developable Land Needs	Months 8-10	\$10,000
Task 10: Urban Reserve Alternatives Analysis	Months 10-12	\$10,000
Task 9: Prepare Findings and Meeting Support for UGB Expansion	Months 12-14 Hearings may add additional time to task	\$10,000
Task 11: Prepare Findings and Meeting Support for Urban Reserves	Months 12-14 Hearings may add additional time to task	\$5,000
TOTAL EST. TIME & BUDGET	14 Months	\$115,000



LAW OFFICE OF BILL KLOOS, PC

OREGON LAND USE LAW

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EUGENE, OR 97401
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E-MAIL BILLKLOOS@LANDUSEOREGON.COM

July 17, 2009

Junction City Council
City of Junction City
680 Greenwood
Junction City, OR 97448

Re: Testimony on "Round I" UGB Amendments
Suggestion for One-Step Process with Lane County

Dear Mayor and Councilors:

There was a fair amount of discussion at the July 14 meeting about how the city will proceed with Lane County, which must make the same UGB changes as the city. What I heard is that the city intends to go through the county plan amendment process twice – once for the initial UGB amendment (industrial) and a second time for the commercial/residential amendment.

My client, Aikon LLC, and Mike Reeder's clients, the Westsiders, would like to suggest that the city go through the county process just one time. That is, the city should make its initial UGB amendment decision, then do its commercial/residential UGB amendments, and then take the whole package through the county in a single step. This has some obvious advantages in terms of energy, expense and complexity. Simply put, it is better to run the gauntlet one time rather than twice. In land use terms, if the city waits and takes the full, final package to the county, all the ultimate policy issues will be resolved. The county will have a clean, final city package to consider and adopt.

My client hopes that this suggestion is one that the city council can consider and support.

Please accept this testimony as an appearance in this proceeding. My client would like to receive notice of the city's final decision, as provided for in ORS 197.615.

Sincerely,



Bill Kloos

Cc: Kent Howe, Lane County Planning Director
LandWatch Lane County
Client
Mike Reeder, Attorney for Westsiders

ARNOLD GALLAGHER PERCELL
ROBERTS & POTTER

A Professional Corporation

ATTORNEYS AT LAW

REC'D OCT 13 2009

800 U.S. Bank Center
800 Willamette Street
Eugene, OR 97401

Telephone: (541) 484-0188
Facsimile: (541) 484-0536
E-Mail: mreeder@agsprp.com
www.arnoldgallagher.com

Correspondence:
P.O. Box 1758
Eugene, OR 97440-1758

MICHEAL M. REEDER

October 13, 2009

Hand Delivered

ORD. NO. _____
P.A. NO. 09-5599
DATE: 10/13/09 EXHIBIT NO. 10

Lane County Planning Commission
c/o Stephanie Schulz
Land Management Division
125 East 8th Avenue
Eugene, Oregon 97401

Re: Junction City Economic Opportunities Analysis and UGB Amendments
Lane County File: PA09-5599

Ladies and Gentlemen:

This office represents the group of individuals and businesses known as the "Westsidiers" that own property on the west side of Highway 99 South.¹ I have enclosed Attachment 1 to this letter which includes the following: (1) a list of the members of the Westsidiers², (2) a list of the Westsidiers' property and descriptions of each property, (3) a map showing the location of each Westsider property, and (4) a map identifying the Lane County zoning. Additionally, I enclose, as Attachment 2, letters from myself, Bill Kloos, and Jeff Haag that provide context for the Westsidiers' and Aikon LLC's positions on the City of Junction City's (the "City") comprehensive plan and urban growth boundary ("UGB") amendment process. Please include this letter and the enclosed attachments into the record for PA09-5599 (the "Application").

The Application submitted to Lane County by the City is incomplete. It does not properly evaluate and analyze Employment Land as required by Statewide Planning Goal 9 and the Goal 9 Rule. At the local level, the Westsidiers requested that the City appropriately plan for the 20-year planning period for *all* employment land (i.e. industrial and commercial land) and adopt an Economic Opportunities Analysis ("EOA") that addresses the short- and long-term needs of the City (called "Option 3"). Rather than complete the Employment Land EOA as requested by the Westsidiers, the City artificially sloughed off the "other employment lands" (i.e. commercial) and

¹ Please note that Bill Kloos represents the owner of the 40-acre property located at the southwest intersection of Highway 99 South and Highway 36, Aikon LLC. Although our positions and interests have been nearly identical throughout this process, I do not speak for Aikon LLC and Mr. Kloos does not speak for the Westsidiers.

² This list is the most accurate list of the members of the Westsidiers and supersedes any other list that may be in the record.

adopted an Industrial Lands EOA and UGB expansion (called "Option 2"). This is the Application that is before you.

The Westsiders suggest you recommend to the Board of Commissioners to require the City to do one of two things. The City should either:

(1) Do as the Westsiders suggested at the City level, which is to go back and revisit appropriate goals and assumptions regarding the City's 20-year need for commercial and industrial lands and economic development (i.e. Option 3); or

(2) Do as Bill Kloos has suggested (in his October 13, 2009 letter to the Lane County Planning Commission and his July 14, 2009 letter to the Mayor and City Council), which is to hold the "industrial" UGB amendment application, complete the commercial/residential lands amendment ("Phase II"), and present Lane County with one complete UGB amendment application ("Option 4").

Either Option 3 or Option 4 is acceptable to the Westsiders and meets the intent of Statewide Planning Goals 9 and 14. The advantage of Option 3 is that the City has already done a significant amount of work analyzing commercial land needs and, therefore, the process of compiling a complete Phase I, Employment Lands EOA and corresponding UGB amendment application would proceed rather quickly. The advantage of Option 4 would be that all lands (Industrial, Commercial, and Residential) would be analyzed prior to the City submitting an application to Lane County, allowing the City to adopt a better, more comprehensive plan for its 20-year future.

The Westsiders respectfully request that you recommend to the Board that the Board deny the Application and suggest to the City that it either complete the Employment Lands analysis (Phase I) with appropriate assumptions, or complete the commercial and residential lands inventories (Phase II as currently proposed) and submit to Lane County one, comprehensive application.

Thank you for your consideration in this matter.

Very truly yours,



Micheal M. Reeder
Attorney for the Westsiders

MMR:jgh

Enclosures: Attachment 1 and Attachment 2.

cc: Clients (w/o enclosures)
Bill Kloos (w/o enclosures)
Carrie Connelly (w/o enclosures)
Matt Laird (w/o enclosures)

MEMBERS OF THE WESTSIDER GROUP

Member and Contact Information	Site Address & Map and Tax Lot
Bruce Anderson and Kate Garvey/ Eugene Livestock Auction 92380 Highway 99 South Junction City, Oregon 97448 998-3353 eugeneliv@aol.com	92380 Highway 99 South Junction City, Oregon 97448 16-04-08-20 TL 500 & 600
Indar and Heidi Bhan/ Island Fence & Window Guard, Inc. 93114 Highway 99 South Junction City, Oregon 97448 952-1100 (office) 517-6330 (Indar's cell)/521-6915 (Heidi's cell) hbhan1960@aol.com Hunt4fish2@hotmail.com	93114 Highway 99 South Junction City, Oregon 97448 16-04-08-31 TL 501, 600 & 700
Jeff Haag 27430 8 th Street Junction City, Oregon 97448 689-5185 (home) 554-8672 (cell) oldcarsforu@comcast.net	93072 Highway 99 South Junction City, Oregon 97448 16-04-08-34 TL 700
James and Karen Leach 385 Timothy Street Junction City, Oregon 97448 998-8489 leaco@comcast.net	93048 Highway 99 South Junction City, Oregon 97448 16-04-08-34 TL 800
George and Hazel Nielsen 93390 Highway 99 South Junction City, Oregon 97448 998-2319 hisgin@msn.com	93390 Highway 99 South Junction City, Oregon 97448 16-04-08-20 TL 202 & 203
Bryan and Teresa Austin 93410 Highway 99 South Junction City, Oregon 97448 998-6283 ncompany5@yahoo.com	93410 Highway 99 South Junction City, Oregon 97448 16-04-08-20 TL 206

<p>Lane Truck Body, Inc. c/o Gary C. Banton 92410 Highway 99 South Junction City, Oregon 97448 998-6552 lanetruckbody@aol.com</p>	<p>92410 Highway 99 South Junction City, Oregon 97448 16-04-20 TL 300</p>
<p>Kenneth D. and Mary E. Jamieson 1250 Kalmia Street Junction City, Oregon 97448 998-9208 (home) 998-7325 (fax) **No email** Son, Ken Jamieson's email: hemicar24@yahoo.com</p>	<p>92998 Highway 99 South Junction City, Oregon 97448 16-04-08-34 TL 1100</p>
<p>Robert and Anne Jamieson 19492 Kemple Drive Bend, Oregon 97702 (541) 389-9851 (home) (971) 678-0601 (cell) Office email: rj@mhoxygen.com Personal email: rj@krisjamieson.org</p>	<p>92982 Highway 99 South Junction City, Oregon 97448 16-04-08-34 TL 1300 92988 Highway 99 South Junction City, Oregon 97448 16-04-08-34 TL 1200</p>
<p>Dave Theophanes and Sharon Richards 93042 Highway 99 South Junction City, Oregon 97448 998-2094 (home) 554-6886 (Dave's cell) Email: pinkflamingo@peak.org</p>	<p>93042 Highway 99 South Junction City, Oregon 97448 16-04-08-34 TL 900</p>

Note: As of July 14, 2009 2:30 pm

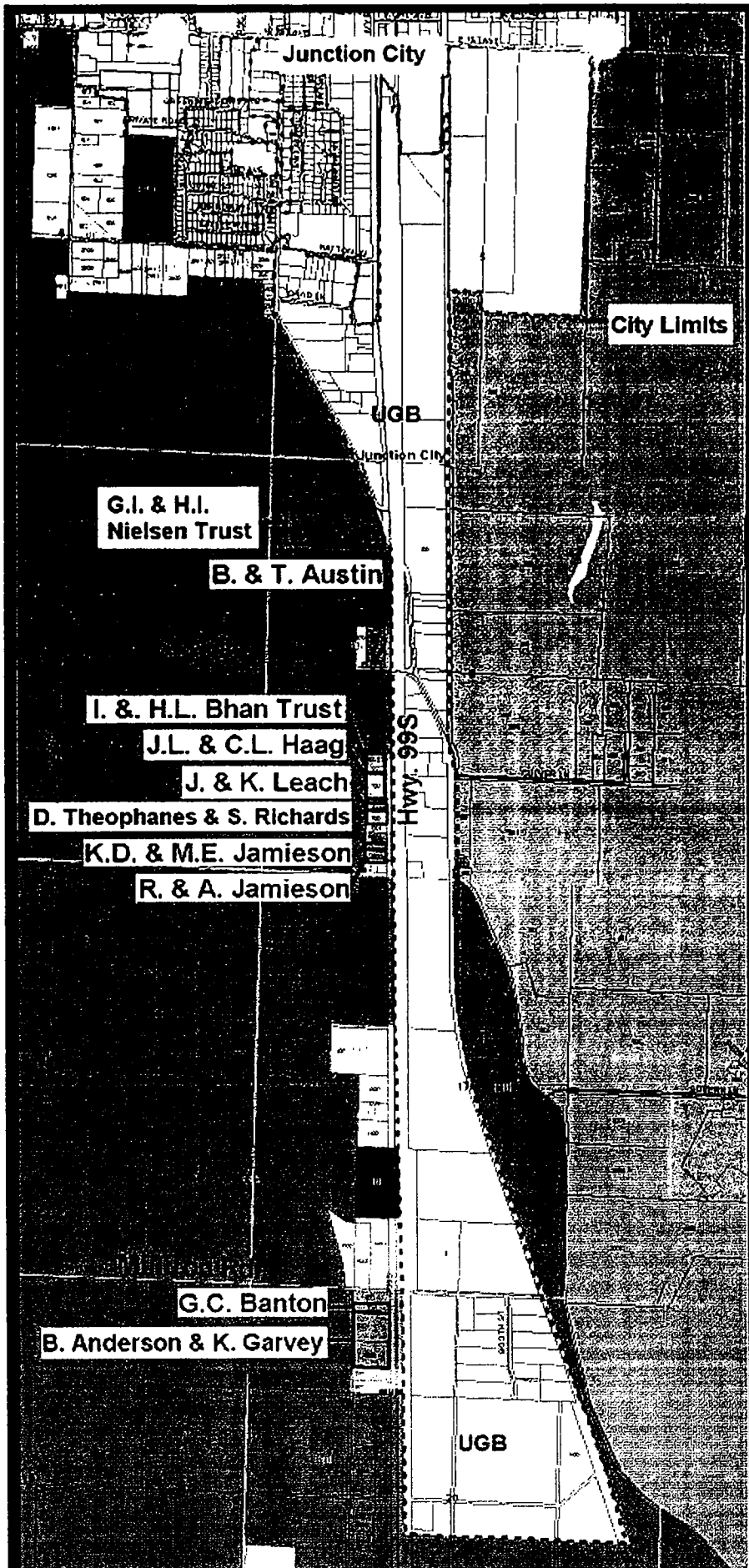
MEMBERS OF THE GROUP

NAME & ADDRESS	MAP & TAX LOT	SIZE ACRES	CURRENT USE	ZONING
Bruce Anderson & Kate Garvey 92380 Hwy. 99S Junction City, OR 97488	16-04-20 TL 500	4.09	Eugene Livestock Auction	RC/CAS
	16-04-20 TL 600	3.55	Eugene Livestock Auction	RC/CAS
Indar & Heidi Bhan 93114 Hwy. 99S Junction City, OR 97448	16-04-08-31 TL 501	.56	Island Fence & Window Guard, Inc. (IF&WG, Inc.)	RC/CAS
	16-04-08-31 TL 600	.34	IF&WG, Inc.	RR5/CAS
	16-04-08-31 TL 700	.51	IF&WG, Inc.	RR5/CAS
	16-04-08-31 TL 500	.03	IF&WG, Inc.	RC/CAS
Jeff Haag 93072 Hwy. 99S Junction City, OR 97448	16-04-08-34 TL 700	1.86	Single Family Housing and Aircraft Storage	RR5/CAS
James & Karen Leach 93048 Hwy. 99S Junction City, OR 97448	16-04-34 TL 800	.6	Single Family Housing and Shop	RR5/CAS
George I. & Hazel I. Nielsen 93390 Hwy. 99S Junction City, OR 97448	16-04-08-20 TL 200	11.96	Vacant & Agriculture	E40/CAS
	16-04-08-20 TL 202	1.25	Single Family Housing	E40/CAS
	16-04-08-20 TL 203	.42	Vacant	RI/CAS
	16-04-08-20 TL 204	1.40	Vacant	E40/CAS
Bryan & Teresa Austin 93410 Hwy 99S Junction City, OR 97448	16-04-08-20 TL 206	1.53	Single Family Housing	E40/CAS
Gary C. Banton 92410 Hwy. 99S Junction City, OR 97448	16-04-20 TL 300	.92	Lane Truck Body, Inc.	RC/CAS

MEMBERS OF THE GROUP

NAME & ADDRESS	MAP & TAX LOT	SIZE ACRES	CURRENT USE	ZONING
Kenneth D. & Mary E. Jamieson 1250 Kalmia St. Junction City, OR 97448	16-04-08-34 TL 1100	.50	Single Family Housing 92998 Hwy 99S	RC/CAS
Robert & Anne Jamieson 19492 Kemple Dr. Bend, OR 97702	16-04-08-34 TL 1200	.50	Single Family Housing 92982 Hwy 99S	RC/CAS
	16-04-08-34 TL 1300	.50	Single Family Housing 92982 Hwy 99S	RC/CAS
Dave Theophanes & Sharon Richards 93042 Hwy. 99S 97448	16-04-08-34 TL 900	1.01	Single Family Housing	RR5/CAS

Updated 6-22-09 4 pm



**G.I. & H.I.
Nielsen Trust**

B. & T. Austin

I. & H.L. Bhan Trust

J.L. & C.L. Haag

J. & K. Leach

D. Theophanes & S. Richards

K.D. & M.E. Jamieson

R. & A. Jamieson

G.C. Banton

B. Anderson & K. Garvey

Junction City

City Limits

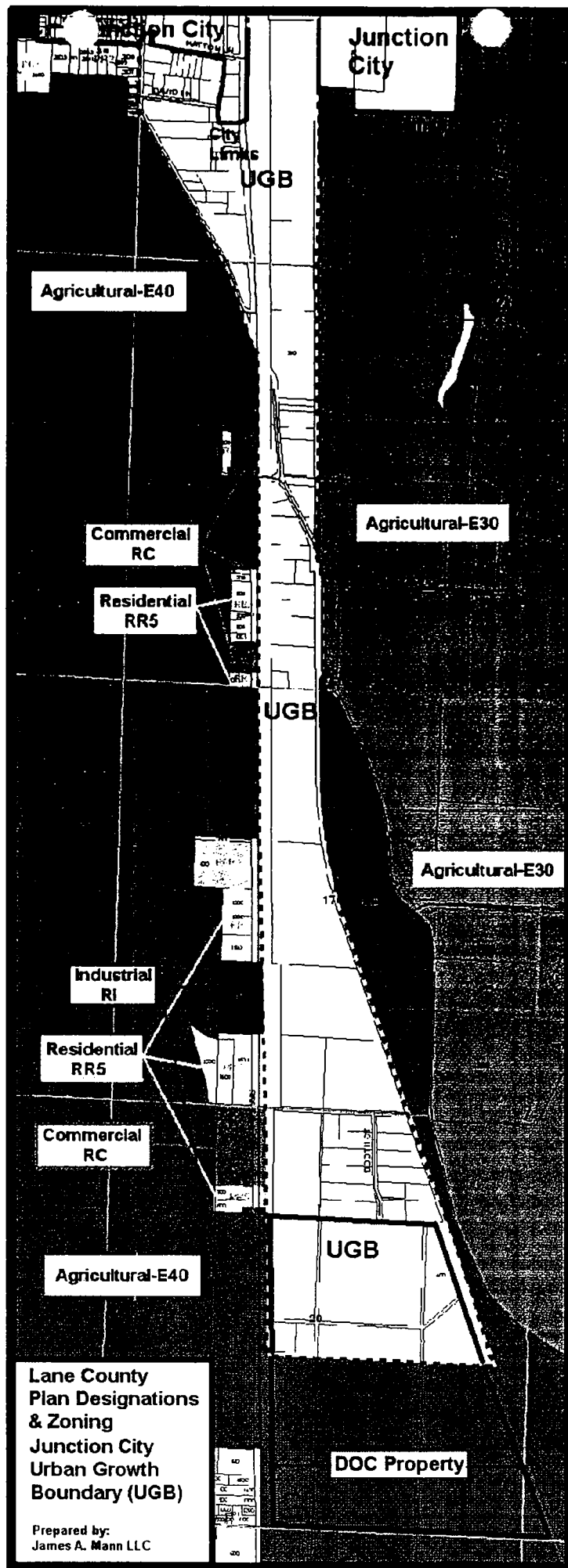
UGB

Junction City

Hwy. 99S

UGB

**Westsider Group Properties
Represented by M. Reeder**



LAW OFFICE OF BILL KLOOS, PC

OREGON LAND USE LAW

Attachment 2

375 W. 4TH STREET, SUITE 204
EUGENE, OR 97401
TEL (541) 343-8596
FAX (541) 343-8702
E-MAIL BILLKLOOS@LANDUSEOREGON.COM

July 17, 2009

Junction City Council
City of Junction City
680 Greenwood
Junction City, OR 97448

Re: Testimony on "Round I" UGB Amendments
Suggestion for One-Step Process with Lane County

Dear Mayor and Councilors:

There was a fair amount of discussion at the July 14 meeting about how the city will proceed with Lane County, which must make the same UGB changes as the city. What I heard is that the city intends to go through the county plan amendment process twice – once for the initial UGB amendment (industrial) and a second time for the commercial/residential amendment.

My client, Aikon LLC, and Mike Reeder's clients, the Westsiders, would like to suggest that the city go through the county process just one time. That is, the city should make its initial UGB amendment decision, then do its commercial/residential UGB amendments, and then take the whole package through the county in a single step. This has some obvious advantages in terms of energy, expense and complexity. Simply put, it is better to run the gauntlet one time rather than twice. In land use terms, if the city waits and takes the full, final package to the county, all the ultimate policy issues will be resolved. The county will have a clean, final city package to consider and adopt.

My client hopes that this suggestion is one that the city council can consider and support.

Please accept this testimony as an appearance in this proceeding. My client would like to receive notice of the city's final decision, as provided for in ORS 197.615.

Sincerely,



Bill Kloos

Cc: Kent Howe, Lane County Planning Director
LandWatch Lane County
Client
Mike Reeder, Attorney for Westsiders

From: Micheal Reeder

Sent: Monday, July 13, 2009 12:35 PM

To: 'Kay Bork'; David Clyne; Bradley King; davebl@nu-world.com; dwightdcoon@juno.com; garycrum@countryvisioncable.com; Lance Stoddard; Matt Nelson; pete@eugenebarsupply.com; aelfric@uwol.net; Allen DeBoer (sdebo27@gmail.com); Tere Andrews; Anne Davies; Dena Audette; Bev Ficek (jcsaddle1@aol.com); Beverly Harper; Bill Gabriel; Bill Van Vactor; billkloos@landuseoregon.com; Bobbie DeLess; Boresek; Bruce Anderson; carl@jcfire.org; Catherine Lawrence; Christian Kongsore; Clayton Walker; Dale Borland; Deeda Schroeder; Don & Sheri Parker; Doug Beveridge; Ed Moore ; Frank Boresek; hopsbran@aol.com; Indar Bhan; J.B. van Hecke; Jack Roberts; James Spickerman; jccrandynelson@comcast.net; Jeff; Jeff Curran (jeffcurran@tri-countyinsurance.biz); Jeff Greenwald; Jeff Haag; Jim Leach; Jon Edwards; Kathleen Rodden-Nord (kroddenord@junctioncity.k12.or.us); Kathy Olafson; Keith Horton; Ken Jamison; Kersey Family; Kuiper, Jennifer; Kurt Straube; Lee Leighton; LinLouVan@aol.com; Marguerite Nabetta; Marti Templeton; Matthew Conser; Mia Nelson; Michael MCKENZIE BAHN ; Mike Heckard; miketcpa@qwest.net; Nancy Ingram; nelsoneh@msn.com; newsdesk@kmtr.com; pstraube@darimart.com; Randy Cuddeback; Chuck Salisbury; Savannah Crawford; stephanie.schulz@co.lane.or.us; taryl@jch-chamber.org; TCeditor@triwestnews.com; Thomas Hogue; Vincent Hinton; Whitney Malkin; Bob Nelson; Donna Bernardy (E-mail); Jack Sumner (E-mail); Jenna Wheeler; Laurel Crenshaw; Leona Houston; Sandra Dunn (E-mail)

Cc: Beth Goodman; Bob Parker; Greg Winterowd; CRAWFORD Savannah; Ed Moore ; Darren Nichols; stephanie.schulz@co.lane.or.us; Marguerite Nabetta; 'Carrie Connelly'; 'Bill.Fleenor@co.lane.or.us'

Subject: Westsiders' Rebuttal to JC UGB Option 3 Comments

Follow Up Flag: Follow up

Flag Status: Red

Dear Honorable Mayor and City Council:

It is necessary, on behalf of my clients, the Westsiders, to respond to the comments by Richard Whitman of the DLCD that were submitted on July 7, 2009 and made available to the public on July 8, 2009. I also write to respond to Kay Bork's comments inserted into her July 14, 2009 Agenda Item Summary (AIS), dated July 10, 2009. I urge the City Council to reopen the record to allow an adequate response these comments. I understand that it may seem that this email comes close to your July 14th meeting (tomorrow), but I provide these comments to you as soon as reasonably possible, in a good faith, so that you have them before your July 14th meeting.

It was not until July 7th, the day the record closed, that the DLCD took an official, public position on any of the options. No one had an opportunity to rebut the DLCD - we did not have the DLCD's position until a day after the record closed. Furthermore, Kay Bork's AIS (dated July 10, 2009, 3 days after the record closed) adopts much of the July 7th DLCD letter. We have not had a fair opportunity to respond to those comments, many of which, we believe, mischaracterize our position.

Not allowing the public to respond to these comments would not be in keeping with statewide planning Goal 1, "Citizen Participation" or the "purpose" statement of the Periodic Review Rule, which states: "Periodic Review is a cooperative process between state, local governments, and other interested persons." Oregon Administrative Rule (OAR) 660-25-0010, "Purpose." This cooperative process that allows for citizen involvement is "in all phases of the periodic review process," not just at the beginning "visioning" process as has been suggested by the consultants. OAR 660-025-0080(2). If the City Council, based on citizen participation, cannot reevaluate important assumptions such as the Oaklea - PT site and redevelopment, then there is no point in having the City Council weigh in at all. Surely the City Council can, and should, change course when it becomes aware of faulty assumptions. The "Customized" Periodic Review, as with "regular" Periodic Review is a process for planning for a 20-year period. It is in the best interests of the City to assure that the assumptions are done right the first time.

Below are my abbreviated responses to the July 7, 2009 DLCD letter and Kay Bork's AIS for July 14, 2009:

1. Mr. Whitman from the DLCD characterizes Bill Kloos' "Option 3" letter as an attempt to achieve

a "preconceived" result. I believe that Bill's letter was shorthand for the position that the Westsiders have consistently taken: that the City should process "Customized" Periodic Review/Phase I in a proper manner and not to achieve a preconceived result. Likewise, Kay Bork, in her AIS for July 14, page 5, makes the same characterization of the Kloos Option 3 letter. These charges are a feeble attempt to take the Westsider's "backward planning" or Mia Nelson's "reverse engineering" argument against Option 1 and use it to discredit Option 3. The legislative record does not support this faulty conclusion. Below is one of many examples of the Westsiders' position:

*"It must be understood that although the Westsiders have framed the issue of working through Phase I correctly and adopting appropriate assumptions and policies as "including the Westsiders Property into the UGB," the Westsiders understand that the City, unless it chooses to go through the specific "needs analysis" for each property, cannot guarantee that specific properties will be included into the UGB. However, the Westsiders are confident that should the City use reasonable assumptions and revise the Draft EOA and supporting documents accordingly, **that the effect will be to naturally include the Westsiders Properties into the UGB.** In other words, **the Westsiders are asking for a fair shot** at being included into the UGB now. Crafting the Draft EOA to meet the needs of a predetermined group of properties cannot be legally supported." My June 23, 2009 letter, pages 2-3, (Emphasis added).*

2. At the May 5, 2009 Lane County Planning Commission worksession (at 1 hour and 11 minutes), Beth Goodman from ECONorthwest stated that ECO did not factor in any additional demand for employment land based on the demand for goods and services from the DOC and Grain Millers. In other words, the consultants purposely ignored the fact that the thousands of new employees and others will not affect the need for more employment land. This is one example of the consultants using faulty assumptions in order to manipulate the process so as to appear to justify not increasing the UGB for commercial land. In other words, it is clear that the commercial land "need" for 66 acres (now 62 acres) is unreasonably low - in order to gain results to justify only the state DOC, Grain Millers and the STP property.

3. Kay Bork's AIS, page 2, states that the City expects to meet 45% of the commercial land need through redevelopment and that "[t]his is significantly lower than the 80% referred to on page 4 of Mike Reeder's June 23, 2009 letter...and is also within the range of 'realistic' assumptions quoted in the same letter (i.e. 10-50%)." What Kay fails to mention is that the 80% number comes directly from the consultants. Greg Winterowd stated that "the analysis showed 20% commercial need can be met on vacant land...[t]he analysis conducted by ECONorthwest states that 80% of the commercial employment growth can be addressed through redevelopment and re-designation of other employable land [i.e. the Oaklea - PT site] to allow commercial use." Page 7 of the minutes to the May 13, 2009 CCPC Meeting. Since the Oaklea site is proposed to be redesignated to BP - Business Park, it is unclear how much, if any, of the Oaklea site will be designated or used for commercial purposes. Therefore, without this analysis, the 80% figure remains unreasonable.

Even if 45% is an accurate figure, in a 2005 publication, the DLCD gives the reasonable range for redevelopable land assumptions as 10 to 15%. "Industrial and Other Employment Lands Analysis - Advanced Guidebook," page 2-27.

4. Kay's AIS states that the requests from property owners on the west side of Highway 99 total 196 acres, "which far exceeds the City's identified commercial land need." Page 5. However, the 196 acres is a red herring - the Westsiders, which are primarily developed properties, are less than 32 acres. Most, if not all, of the rest of the "requests" are for undeveloped Goal 3 property. The City can easily distinguish between those properties and exclude them from consideration. Furthermore, most of the other property owners have invested little or no time in the Periodic Review process as have the Westsiders and Aikon, LLC (represented by Bill Kloos).

Additionally, even if the City included the Westsiders' already developed properties, it is not adding a great deal to the buildable commercial lands inventory. This is because the City would be required to subtract out the already developed acreage (minus its redevelopment potential), leaving 7 acres of vacant, buildable land that would be added to the UGB. Next, the City would need to make an assumption about redevelopment potential of that 25 acres. In other words, say the City included all 32 acres of the Westsiders' property. And suppose that 25 of those acres and by using a reasonable factor or 15% (i.e. the high end of the DLCD range), 3.75 acres are redevelopable and therefore should be added to the buildable commercial lands inventory for a net increase of only 10.75 acres. To summarize, the inclusion of the Westsiders' property is not equivalent to including vacant ag land, and therefore, has less of an expansionary effect.

Even if the City could not allow all property owners in the UGB, it does not make sense to exclude the rest. Again, all the Westsiders are asking for is that the process be done right; let the chips fall and give the Westsiders (and Aikon, LLC) a fair shot.

5. The statement in Kay's AIS that "the Oaklea PT property would have to be utilized to address City's commercial and/or industrial needs" (page 6) is not accurate. There is no requirement that the City redesignate the PT site. Furthermore, if redesignated, it should be redesignated Residential. And lastly, and most importantly, redesignating it BP as proposed by the consultants would create more industrial land in violation of Goal 14; the Draft EOA already shows a significant surplus of industrial land.
6. The statement in Kay's AIS that the "City does not have Master Plan provisions to limit urban sprawl/commercial strip development along the west side of Highway 99" (page 6) is also a red herring. There is also no "master plan" for the Oaklea - PT site, nor are there regulations proposed to "increase the efficiencies" in the downtown core. Limiting sprawl/commercial strip development, although a concept that should be explored, is not a criterion for this process.
7. A Periodic Review task such as this may be extended, by the DLCD director, for up to one year. ORS 197.636 (1); OAR 660-025-0130(4). In light of the fact that (1) it was the DLCD staff that created the impetus for Option 1 (planning for "short term needs" rather than the required 20-year planning cycle), (2) that this new impetus was imposed midway through the process, and (3) that this impetus in essence quashed all discussion of the west side of Highway 99 and the assumptions that naturally control this, it seems only fair that the DLCD should grant an extension and pay for the process to be done right.

In conclusion, the City's best chance for approval (and hence getting the DOC and Grain Millers property into the UGB) is to do the process correctly and not use strained and faulty assumptions that make no sense. The "Customized" Periodic Review process is not designed to plan for a specific project (or projects) only, but to guide the City's growth and economy **for the next 20 years**. That is why Option 1 will fail and why Option 3 should be adopted by the City.

Yours,

Mike

Micheal M. Reeder
 Arnold Gallagher Percell Roberts & Potter, P.C.
 800 Willamette Street, Suite 800
 Eugene, OR 97401
 Phone: (541) 484-0188
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From: Kay Bork [mailto:kbork@ci.junction-city.or.us]
Sent: Friday, July 10, 2009 2:19 PM
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Cc: Beth Goodman; Bob Parker; Greg Winterowd; CRAWFORD Savannah; Ed Moore ; Darren Nichols; stephanie.schulz@co.lane.or.us; Marguerite Nabetta
Subject: Junction City UGB Council Info

Hello All,

Attached is a copy of the Council Memo for their July 14, 2009 meeting. We have published all comments received as of July 7, 2009 except for an email submitted by Ed Moore, DLCD which is attached <http://www.ci.junction-city.or.us/planning/compplan.frameheader.html> Also attached is the draft EOA with the changes for Option 2 as requested by City Council.

Please call or email me with any questions.

Kay

Kay Bork

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July 2, 2009

Junction City Council
City of Junction City
680 Greenwood
Junction City, OR 97448

Re: General Summary of "Option 3" Process

Dear Councilors:

You asked at the June 30 hearing for a summary of the process for "Option 3." This is that summary. I represent Aikon, LLC, owner of the 40.5 acre vacant tract south of Hwy. 36. Mike Reeder, who represents the smaller Westsider owners, has reviewed and contributed to this summary.

Carrie Connolly has confirmed that what the city is looking for at this point, is a summary of the Option 3 process, not proposed numbers to stick into Option 3. Our clients are committed to helping with that, and making specific proposals if necessary. But the focus now is on process – how the city would approach Option 3. In short, we support Option 3 over Option 2 because Option 3 is a cleaner process, is consistent with the current DLCD workplan and grant agreement, and if done as we propose, has a better chance of being approved without appeal than Option 1 or Option 2.

Option 3 is the same as Option 1, but with changes to assumptions and policy decisions that would naturally justify including the Westsider properties at the same time as land is added for the prison, Grain Millers, and the STP. In other words, timing-wise, the City would reevaluate the assumptions for "employment" land as part of Phase I (industrial and commercial land). Residential and other land would be evaluated as part of Phase II later this year. Option 1 is the approach recommended in the Staff Report for which we are opposed. It would amend the UGB to add land only for the prison, Grain Millers, and the STP. The current draft of the EOA supports this Option 1 with (faulty) assumptions and numbers that attempt to justify adding only these lands. The fundamental problem with Option 1 is that is an attempt to plan for the immediate need, rather than the Goal 14 required 20-year planning need. Although better than Option 1, the fundamental problem with Option 2 is that it unnecessarily bifurcates Phase I ("employment land") that the city has already paid for and evaluated. Reevaluating the assumptions for the EOA as we propose for both industrial and commercial land as part of Phase I is Option 3.

Option 3 would make some changes in assumptions about how growth will occur. It would reflect policy decisions by the City Council that differ from the policy assumptions that were

included in the current draft of the EOA by the consultants. These different assumptions would support the need for adding a bit more commercial land (and possibly a bit more industrial land) to the UGB. The city would decide that including the Westsiders to meet the additional need is the right way to go. The EOA would be amended accordingly.

The key to making Option 3 work is making modest, reasonable changes in the assumptions in the EOA which, taken together, support a demand for commercial (and possibly more industrial land) to be added to the UGB. We would point out, for example, that recent successive drafts of the EOA have made changes in assumptions, and the resulting numbers have changed. Option 3 boils down to making more changes in the assumptions in the EOA, but making them in a direction that ultimately supports the Westsiders' inclusion. It is the City Council's responsibility to provide the policy assumptions that will guide the future of the City for the next 20 years. Until now, the important assumptions included in the current draft of the EOA that we suggest be modified have come from your consultants. We urge you to adopt assumptions that are both reasonable and supportable.

Here is a list of variables that could be considered for adjustment by the City:

(1) The percentage of new jobs assumed to be accommodated on residential lands, such as through home occupations. If the percentage is reduced a bit from that in the EOA, then the need for additional land goes up a bit.

(2) The percentage of new jobs assumed to be accommodated by intensifying employment at existing sites. If the percentage is reduced a bit from that in the EOA, then the need for additional land goes up a bit.

(3) The percentage of new jobs assumed to be accommodated through redevelopment of existing industrial and commercial land. The EOA reflects a high assumption about redevelopment. If the assumption is reduced a bit, then the need for additional land goes up.

(4) The EOA currently assumes that the Oaklea site has 70 acres of suitable commercial and industrial land. If the city should decide that the site is better suited for Residential, then the need for additional commercial and industrial land goes up.

(5) When the city is done with this UGB, the entire southern half of the city will be Industrial. The city could decide that there is a need for some commercial property in the southern half of the city to service the industrial uses. This is a defensible policy choice for the city to make. We doubt that the DLCDC will demand that all workers at the prison and Grain Millers need to drive three miles north to buy lunch or a tank of gas, or that visitors need to stay in a hotel three miles distant.

(6) The city's 20-year growth strategy will be severely constrained by ODOT's transportation standards. Those standards will stifle growth at the north end of the city. As the

Kay Bork, Planning director
July 2, 2009
Page 3 of 3

consultants have explained, there is capacity at highway 99 intersections at the south end of the city, notably at Highway 36. The city can make the policy choice to use this capacity by adding commercial land in that area.

When we propose making changes in assumptions, it is a given that the changes need to be within the bounds of reasonable parameters acceptable to the DLCDC as consistent with state law. There is no one right number on any variable. There is a range of acceptable numbers. The city has some room to move within the parameters. That is what the city would do in Option 3.

I hope this is a useful big picture summary. If the city wants to take a closer look at Option 3, we look forward to helping put numbers on this option.

Thank you for your consideration.

Sincerely,

Bill Kloos

Cc: Aikon, LLC
Mike Reeder

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MICHAEL M. REEDER

June 23, 2009

Via Email and Hand Delivered

The Honorable Dwight Coon and the
Junction City City Council and Planning Commission
c/o Kay Bork, Planning Director
City of Junction City
680 Greenwood Street
Junction City, Oregon 97448

Re: Westsiders Analysis of Phase I of Customized Periodic Review
Proposed Comprehensive Plan Amendments/UGB Expansion

Dear Mayor Coon, City Council and Planning Commission:

This office represents a group of individuals and businesses (the "Westsiders") that own property on the west side of Highway 99, south of Junction City (the "Westsider Property") and immediately adjacent to the current Junction City Urban Growth Boundary (the "UGB").¹

The Westsiders are opposed to City staff's Proposed UGB Expansion Strategy (the "Proposed Strategy") as expressed in the Agenda Item Summary ("AIS") for the June 23, 2009 joint Planning Commission and City Council hearing. The current Phase I of customized Periodic Review process ("Phase I") that attempts to justify the inclusion of only the Department of Corrections ("DOC") and Grain Miller property is fundamentally flawed and will be appealed if approved by the City and Lane County. Approval of the Proposed Strategy will guarantee a delay of Phase I. Instead, the Westsiders strongly urge the City to continue with Phase I, but to do so correctly, thereby most likely assuring approval and avoiding appeal. Furthermore, the Westsiders proposed corrections to the Phase I process, as detailed below, should not delay the Phase I in any significant manner. Any suggestion to the contrary is a misguided attempt to

¹ Attached to this letter is Exhibit 1, which is a list of all the members of the Westsiders and the individual member's Westsider properties listed by Assessor's Map and Tax Lot numbers and each property's physical address. Exhibit 2 shows the acreage, zoning and use of each of the individual member's Westsider properties. The total acreage of all of the Westsider Property is 31.53 acres on 18 separate tax lots. Of the 18 tax lots, all but 3 are developed and all but 4 are "exceptions land." The 4 tax lots that are zoned E40 are close to the center of Junction City and are located at the junction of Prairie Road and Highway 99 South, making these properties excellent candidates for inclusion into the UGB. Exhibit 3 is a map showing the Westsider Properties.

discourage the City from doing Phase I right the first time in an effort to just “get through” the process.

To be clear, the Westsiders strongly support the inclusion of the DOC and Grain Millers properties into the UGB. Any suggestion to the contrary is absolutely false. Any suggestion that including the Westsiders into the UGB as part of Phase I will somehow jeopardize the location of the state prison is also false. Additionally, the Westsiders support the request of Aikon, LLC to be included into the UGB if a revised EOA supports such an outcome, which is a very likely possibility.

The Westsiders include individuals and businesses of varying interests, goals and backgrounds. However, the Westsiders share an important common goal: to urge the City to adopt realistic and reasonable assumptions and to develop reasonable policies as a part of Phase I. These assumptions and policies will guide the City for the next 20 years. These assumptions and policies cannot be rushed or manipulated in order to achieve a desired outcome. A rushed customized periodic review process to accommodate predetermined properties, and only those predetermined properties, is backward planning. It violates the statewide planning system generally, and specifically Statewide Planning Goals 2 (Land Use Planning), 9 (Economy of the State), 12 (Transportation) and 14 (Urbanization). Skewing the periodic review process to intentionally exclude the Westsider Property (or any other property) is an inappropriate way to achieve the goal of keeping the DOC and the Grain Millers interested in Junction City. It is understandable that City staff would work diligently to attract and maintain the interest of the DOC and Grain Millers. However, stepping back and revising the assumptions that will guide the City for 20 years will not jeopardize this goal; it will solidify it. Whatever the eventual outcome, the Westsiders will not appeal should Phase I proceed in a correct manner.

Therefore, do not sacrifice the Westsiders on an altar of unnecessary expediency. Like Isaac of old, their sacrifice is not required. If the City and Lane County accept the June 2009 Draft Economic Opportunities Analysis (“Draft EOA”) and artificially limit the expansion of the UGB, an appeal is assured. Conversely, revising the Draft EOA and corresponding comprehensive plan updates using correct assumptions and with the intent of truly meeting the 20-year planning cycle needs will almost certainly assure a clear path to acknowledgment without appeal.

It must be understood that although the Westsiders have framed the issue of working through Phase I correctly and adopting appropriate assumptions and policies as “including the Westsider Property into the UGB,” the Westsiders understand that the City, unless it chooses to go through the specific “needs analysis” for each property, cannot *guarantee* that specific properties will be included into the UGB. However, the Westsiders are confident that if the City uses reasonable assumptions and revises the Draft EOA and supporting documents accordingly, the effect will be to naturally include the Westsider Property into the UGB. The Westsiders are asking that the City do it right the first time and do it now while there is interest in the process. In doing so, a substantial amount of work and momentum will not be lost in the near future and the outcomes will occur naturally. In other words, the Westsiders are asking for a fair shot at

being included into the UGB now. Crafting the Draft EOA to meet the needs of a predetermined group of properties cannot be legally supported.

Sometime in late 2008 or January 2009, a DLCD staff person, Tom Hogue, suggested that the City limit its employment land needs to only short-term needs (i.e., DOC and Grain Millers). January 28, 2009 CCPC meeting minutes, page 1. The minutes state that Mr. Hogue suggested that the City “focus on short term employment land needs, i.e. DOC and Grain Millers, and then revisit a possible UGB expansion for longer term and larger employment land needs.” *Id.* The apparent advice from Mr. Hogue (at least as expressed in the minutes) makes no sense, legally or from a planning perspective. The purpose of Periodic Review is precisely the opposite of what Mr. Hogue seems to be suggesting – to look at the long-term employment needs for the next 20 years. If the City wants to bring in the DOC and Grain Millers “quickly,” without the “trouble” of abiding by the requirements of the Periodic Review statute, ORS 197.628, then the correct course of action should have been to treat the DOC and Grain Millers UGB expansion as a quasi-judicial, post-acknowledgment plan amendment and not pretend to plan for 20 years.

In direct contrast, the Westsiders ask that the City direct its consultants to go back and evaluate the employment lands assumptions and policies as they were originally directed by the CCPC, prior to the suggestion from Mr. Hogue.

The rest of this letter is broken into four parts: (1) an analysis of the assumptions that the Westsiders believe should be changed which would almost assuredly bring the Westside Property into the UGB, (2) an analysis rebutting many of the arguments that have been made in order to justify the current course of action recommended by City staff and the consultants and the expansion of policy arguments in support of the Westsiders, (3) a legal analysis of the current course of action, and (4) a conclusion.

Part I: Change the Assumptions of the Draft EOA and Revise the Draft EOA

Assumption #1: Oaklea Site as Business Park.

Even though the consultants have admitted that the Oaklea Site is best used for residential purposes (March 4, 2009 CCPC meeting, Exhibit 4)², they curiously suggest redesignating the site from an Industrial category (Professional/Technical-P/T) to a commercial designation (Business Park-BP).

Proposed Change to Assumption #1: Oaklea Site as Residential.

For reasons described in Part III, the Proposed Strategy that suggests the Oaklea Site be designated BP is not only a sham effort to achieve a desired result, but it violates Goal 2, Land

² Exhibit 4 includes 8 audio cassette tapes of the last three CCPC meetings (March 4, 2009, May 13, 2009 and May 27, 2009) and the June 9, 2009 City Council meeting that included an agenda item regarding Phase I.

Use Planning, Goal 9, Economy of the State, Goal 12, Transportation, and Goal 14, Urbanization.

Assumption #2: The City will redevelop and infill 80 percent of the 20-year need for commercial land and, therefore, no expansion of the UGB for commercial land is required.

This assumption comes directly from the consultants: “*ECO assumed* that all commercial land needs will be addressed through development on existing vacant land or through redevelopment.” Draft EOA, p. vii. (Emphasis added).

Proposed Change to Assumption #2: The City should adopt a realistic assumption of redevelopment and infill (i.e. 10 to 50 percent).

It is difficult to believe that with the stated desire of City staff and the consultants to do everything in their power to not add additional land to the UGB (other than the DOC and Grain Millers) that the redevelopment and infill assumptions would produce a result to justify not adding *any* more land into the existing UGB for commercial land. In order to achieve this predetermined result, the consultants had to propose an incredibly high assumption – 80 percent redevelopment. (The other 20 percent is captured with vacant land within the current UGB.) A comparison of other jurisdictions with greater populations shows how strained this assumption is. The City of Springfield is assuming 50 percent – and the Springfield City Council believes that this is high. The City of Grants Pass is looking at 10 percent. A truly remarkable point is that both jurisdictions actually discussed this assumption in detail. See the December 1, 2008 PowerPoint presentation for the City of Grants Pass (Exhibit 5) and the minutes of the January 12, 2009 Springfield City Council work session (Exhibit 6).

Part II: Analysis of City Staff Arguments Not to Revise EOA

Argument #1: Including the Westsiders into the UGB will expose the UGB Expansion to certain doom and if Phase I is delayed, the DOC and/or Grain Millers will walk away from Junction City and the infrastructure upgrade opportunity will be lost.

At the last two CCPC meetings, City staff and the consultants constantly pounded this layered theory as gospel. If the City considered bringing the Westsider Property into the UGB, there would be a domino effect that would be a lose-lose for everyone involved. Specifically, City staff and the consultants argued that either (1) the Lane County Board of Commissioners would reject the proposal, or (2) even if Lane County did approve the proposal, certain individuals or groups would appeal under the theory that *any* UGB expansion is worthy of appeal. In either case the argument went, the UGB expansion proposal would be doomed and the DOC and Grain Millers would not wait around and would leave Junction City. Naturally, if the DOC pulls up stake, the majority of the funds required for the water and sewer upgrades would leave town with the DOC.

Response to Argument #1: False. The risk of appeal is greater by not including the Westsider Property. Lane County would likely approve a UGB expansion if it is done correctly and the DOC is not dependent on the UGB.

Proceeding with City staff's Proposed Strategy that ignores the Westsiders concerns assures that the Westsiders will appeal. Likely the Borseks, who are represented by Mr. Bill Kloos will also appeal. Additionally, LandWatch of Lane County will likely also appeal. The fear that Mia Nelson or LandWatch will appeal the Proposed Strategy has been proven dead wrong. This fear of City staff was of their own making. As important as it is for Junction City to have the state prison (and all the facilities upgrades that will come with it), 20 year planning should not take a back seat to immediacy. Second, the argument that the State will walk away from Junction City if the City takes a bit more time to revise its EOA and other planning documents is unfounded. In a June 4, 2009 meeting with City staff, Right of Way Associates and Doug Young, Project Manager for the DOC, Mr. Young made it clear that the State is committed to Junction City and that the State will move forward with the prison regardless of the Periodic Review process. Mr. Young was adamant and consistent in his opinion that the State could and would use its super-siting authority pursuant to ORS 421.628 if it had to. The State has already expended significant staff time and \$8 million on this project, and it is unreasonable to claim that the State will pull up stakes and go somewhere else, especially since the State is funded and will site the state hospital in the current UGB. The savings for co-location alone are worth a slight delay on correcting the Draft EOA.

Argument #2: Revising the Draft EOA to include correct assumptions will unnecessarily and unreasonably delay Phase I and thereby risk losing the DOC and Grain Millers.

It has been suggested that if the City Council was to direct staff and the consultants to revise the assumptions in the Draft EOA, this would push Phase I back another six months or so.

Response to Argument #2: False. The City Council may direct staff and the consultants to revise very specific assumptions and revise the EOA without the need for additional meetings.

First, it is clear that the CCPC, in its May 27, 2009 meeting, was led to believe by the constant assurances from City staff and the consultants (erroneously) that if the Westsider Property is brought into the UGB, the DOC and/or Grain Millers would walk away from Junction City and the "golden goose" would be lost forever. See May 27, 2009 CCPC minutes, pages 4-6. This is absolutely false. The CCPC has been misled in three significant ways:

First, revising the assumptions regarding the Oaklea Site and Redevelopment would jeopardize the UGB expansion for the DOC and Grain Millers. The minutes state: "The more complexity added to the UGB expansion, the less likely it is the expansion will be approved, and thus eliminate the sewer lines down to the major employers in the short term." *Id* at page 5. This statement is extraordinarily sweeping, misleading, and unfounded. It erroneously assumes

the following: (1) that adding the Westsider Property adds complexity to the UGB expansion process, (2) that adding the Westsider Property will increase the likelihood of having the UGB expansion not approved by Lane County, and (3) that if Lane County does not approve the UGB expansion, the prison will not locate on the DOC site and the State will not fund the sewer and water upgrades. All three assumptions have been proven incorrect. Therefore, the rationale for not including the Westsider Property is no longer valid. It is important, therefore, to question why City staff and the consultants continue to advocate the exclusion of the Westsider Property.

It is important to note that the Westsiders are not asking that all the property owners who have asked to be brought into the UGB be brought into the UGB. City Attorney Carolyn Connelly suggested that all of the property be brought in, which would be well over 100 acres. The Westsider Property is a mere 31 acres, most of which is already developed. There is no need to deny all property owners because not all can benefit from being included in the UGB.

It took the consultants less than four weeks to make “three large changes to the [Draft] EOA.” June 8, 2009 Memorandum from Bob Parker, Greg Winterowd and Beth Goodman to Kay Bork (“EOA Changes Memo”). One of the biggest changes was to revise the extraordinarily important assumption that the City would develop 50 percent of its wetlands that are within the current UGB. At the May 13, 2009 CCPC meeting, Mr. Kloos raised the issue regarding the assumptions about how much wetlands impacted the current UGB buildable lands inventories. By June 8, 2009, the consultants had already revised the Draft EOA to make the Draft EOA consistent with a preliminary wetland inventory (“PWI”). No additional public meetings were held to discuss this major change. The change was made without direction from the CCPC! Furthermore, the PWI has not been made available for review to challenge the changed assumption that there is “a great deal more vacant and suitable employment land within the UGB than [the consultants] had originally thought.” EOA Changes Memo. Most of the members on the CCPC are currently on the Planning Commission or City Council. There is no reason to send the CCPC back to the drawing board in order to direct the consultants to change their assumptions (and the Draft EOA) based on policy direction. It is also interesting to note the Draft EOA was also quickly revised to reduce the deficiency of commercial land for the 20-year planning cycle from 66 to 62 acres, without explanation. It is apparent that when changes are needed to justify the City staff and the consultants proposed course of action, the changes are made quickly and without public input, but when similar changes are proposed by others, the response from the City is that it may delay Phase I.

Argument #3: Including the Westsider Property in an Urban Reserve is the next best alternative to being included into the UGB.

Partway through the CCPC process it was suggested that the City consider adopting Urban Reserves pursuant to ORS 195.145(1)(b) and OAR 660, Division 21. It was also suggested that the Westsiders should be happy that the Westsider Property would likely be included in an Urban Reserve.

Response to Argument #3: False. Urban Reserves will reduce the opportunity for the Westsider Property to be included into the UGB.

This appears to be an attempt by City staff and their consultants to appease the Westsiders into giving up their goal of having the Phase I done correctly. This attempt fails.

Generally, if a property is not included into the UGB, then the next best alternative is to include that property into an urban reserve. However, that is not true for the Westsiders in this case. One size does not fit all in the case of urban reserve policy.

There are three basic objectives for creating urban reserves, none of which help, and two of which hurt, the Westsider Property. The first objective is to put property inside an urban reserve as the highest priority for inclusion into a UGB. This actually hurts the Westsider Property because the vast majority of Westsider Property is already at the top of the priority list because it is exceptions property and because there are currently no urban reserves for Junction City. By including non-exception farmland into the urban reserve, the City would essentially put the resource land on par with the Westsider Property. So long as there are no urban reserves, the Westsider Property, as developed exceptions land, has top billing. By creating urban reserves, other property lower on the priority list, such as farmland, could leapfrog over the Westsider Property. Second, the urban reserve designation freezes the zoning and land division of property within the urban reserve for up to 50 years, again hurting the Westsider Property because it limits the Westsider Property owners' options on how to use their property. It could limit the expansion of currently existing businesses. See OAR 660-021-0040(1)-(7). Third, adopting an urban reserve enables a city to plan for public facilities and services when those lands are incorporated into the UGB. This is not relevant because the State is already picking up the majority of the cost of the urban services that will locate along the west side of Highway 99 South.

An urban reserve may be appropriate for the undeveloped, non-exception lands area directly to the west of the Westsider Property. After including the Westsider Property into the UGB, the City should include land to the west and in between the Westsider Property for inclusion into the Urban Reserve. The Westsider Property should be used as the seeds to support a vision that will grow concentrically for the next 50 years.

Argument #4: The CCPC rejected the policy choice to consider looking at the west side of Highway 99 South for inclusion into the UGB.

It has been suggested that the CCPC affirmatively rejected the policy choice of looking at bringing in the Westsider Property.

Response to Argument #4: Mostly False. The CCPC initially directed the consultants to analyze including the west side property into the UGB.

The CCPC record does not support this argument. The minutes of the initial CCPC meeting show that the CCPC was interested in the possibility of bringing in property on the west side. The October 1, 2008 CCPC minutes indicate that a property owner's willingness should be a consideration when looking at a UGB expansion. All of the nine "key issues" bullet points discussed by the CCPC on page 3 of the minutes are supportive of, or directly apply to, the Westsider Property. At the November 5, 2008 CCPC meeting, the CCPC discussed "possible expansion areas and gave direction to ECONorthwest to look at the west side of Highway 99. Bob Parker reported that alternatives and target industries will be presented at the next meeting." CCPC Meeting Minutes, November 6, 2008, page 4. However, by January 28, 2009, the consultants reported that the DLCD "suggested the City focus on short term employment land needs, i.e. DOC [Department of Corrections] and Grain Millers, and then revisit a possible UGB expansion for longer term and larger employment land needs." CCPC Meeting Minutes, January 28, 2009, page 1. However, despite this advice, the CCPC directed the consultants to "proceed with [sic] short term and long term employment land needs, including larger regional sites." *Id.* This policy direction would presumably include looking at expanding the UGB in areas in addition to the DOC and Grain Millers property, such as the west side of Highway 99. However, despite the direction to study extending the UGB to the west side of Highway 99 South, the Alternatives Analysis discussion and documents not only ignored any possibility of including the west side property, it discussed the DOC and Grain Millers property as the *only* alternative.

Argument #5: Including the Westsider Property will contribute to "sprawl."

The latest argument expressed by staff for why the City would not include the Westsider Property is that the CCPC wants to limit "sprawl" and the inclusion of the Westsider Property would contribute to sprawl.

Response to Argument #5: False. Including the Westsider Property into the UGB will reduce sprawl.

This is an example of City staff throwing out a seemingly plausible argument in hopes that it sticks. There is little or no evidence in the record to suggest that the CCPC in fact was concerned about sprawl. The term "sprawl" is a lazy term that loses meaning without context.³ Almost everyone supports limiting it but it is difficult to define and harder to control. What may be considered "sprawl" in Portland may be "smart growth" in Junction City. The term depends on the size and other characteristics of the particular community.

To the extent that limiting sprawl is, in fact, a goal of the CCPC (and the City Council), including the Westsider Property into the UGB will actually *reduce* sprawl and pressure to expand the UGB into farm land. The purposes of limiting sprawl are to protect farm and forest land ("resource land") from development and to use land in an efficient manner. Both goals will be advanced by including the Westsider Property.

³ See Juergensmeyer, Julian Conrad, and Thomas E. Roberts, *Land Use Planning and Development Regulation Law*, 2nd Edition, 321 (2007).

First, the vast majority of the Westsider Property is already developed. The majority of it is “exceptions lands” (property already developed or committed to be developed and therefore exempt from statewide planning Goal 3 and Goal 4). To the extent that inclusion into the UGB will allow for further development of the exception property, this is the intent of the statewide planning goals. The priority of land scheme of ORS 197.298 encourages exceptions lands adjacent to current UGBs to be included prior to the inclusion of resource land.

Second, one way to limit the expansion of the UGB into resource lands, and therefore limit sprawl, is to use land efficiently. Land use efficiency can be measured through density of use. In the employment land context (commercial and industrial land), density may be measured by number of jobs or employees by acre. Not all communities with tight growth boundaries have compact growth.⁴ Density is achieved through other means such as restricting lot sizes and incentives for smart growth development.

Third, the mere fact that the Westsider Property is located along Highway 99 in a geographically linear pattern does not mean that it is sprawl. The current urban pattern of Junction City is historically linear. It is longer north and south, utilizing Highway 99 as the main arterial, than it is east and west. As noted above, the concern should be about imposing development standards that further the vision of the community rather than acting on a knee-jerk reaction to possible “strip development” along Highway 99. There many tools for controlling the type and aesthetics of development. The UGB is already linear by including the industrial property along the east side of Highway 99. Leapfrogging over existing development is certainly not a model of smart growth.⁵

Lastly, transportation is a major issue regarding sprawl. However, providing additional commercial uses for the employees, families and other visitors to the state facilities and the Grain Millers will actually reduce vehicle trips and length of vehicle trips by providing an alternative to traveling more than three miles to the nearest Junction City commercial establishments and contributing to the traffic issues that are the thrust of the ODOT Highway 99 couplet plan. Rather than creating trips, the commercial uses along the west side of Highway 99 South will actually capture “pass by” trips from the thousands of commuters who live in the Eugene-Springfield area and work in Junction City. The Draft EOA recognizes the workforce/housing imbalance in Junction City. According to the Draft EOA, only one-seventh of the workforce in Junction City lives in Junction City. For every one worker who lives in Junction City, six commute to Junction City. Draft EOA, page 40. Allowing commercial development along Highway 99 South will likely improve the traffic impacts of the DOC and Grain Millers developments.

Related to the sprawl issue is the goal to revitalize and maintain downtown. This is a worthy goal. It is one thing to espouse general, noble-sounding policy directives such as

⁴ *Id* at 67.

⁵ See Juergensmeyer, *supra* at 324 and Lewis, Paul G., *Shaping Suburbia: How Political Institutions Organize Urban Development*, 15 (1996).

“preserve downtown” or “encourage infill,” and quite another to interpret such directives to exclude from discussion and deliberation major policy assumptions that may or may not directly implement such generalized policy directives. In other words, the mere fact that the City may have a goal to preserve and revitalize downtown does not suggest that it should adopt a policy limiting commercial development along Highway 99 South. The two policies are not mutually exclusive. In fact, as discussed previously, allowing commercial development along Highway 99 South may increase the tax base and help fund downtown redevelopment initiatives and make Junction City an even more desirable place to live, work and shop. Examples of communities that have vibrant downtowns that also have highway-oriented commercial and retail development include Logan, Utah; Boise, Idaho; Corvallis and Cottage Grove. These are but a few examples that rebut the often repeated, but rarely supported, theory that highway-oriented businesses destroy downtowns. Rather than strangle development opportunities at the south end of town, the City should adopt regulations that provide assurances of reasonable standards and qualities of development; Highway 99 South does not have to look and feel like West 11th in Eugene.⁶ Plans may be adopted to connect the south portion along Highway 99 with the city center. Just as the consultants have suggested master planning the Oaklea Site, the City has the ability to also master plan the Westsider Property.

Part III: Legal Analysis of Current Draft of EOA

The current Draft EOA violates Goal 12, Transportation.

If the City accepts the recommendation of City staff and the consultants to redesignate the Oaklea Site from PT to BP, the City must prepare a scoped and approved transportation impact analysis (“TIA”) pursuant to the Transportation Planning Rule, OAR 660, Division 24 prior to the UGB expansion. (Although ODOT, in its June 11, 2009, letter accepts the idea that the City can move forward without a TIA on the basis that the City will impose a “trip cap” on the Oaklea Site, ODOT is charged only with assuring compliance with Goal 12 and the Goal 12 Rule. ODOT is not looking at the City’s requirement to comply with Goal 9 or Goal 14.) Without a TIA analyzing the effects of the redesignation of the Oaklea Site, the City cannot count the Oaklea Site as commercial in the commercial lands inventory because the “trip cap” makes the 84 acre site more or less undevelopable and therefore may not be counted as meeting the commercial land deficiency. Therefore, without the ability to count the Oaklea Site acreage, the City must look elsewhere to satisfy the 20-year need for commercial employment land.

The current Draft EOA violates Goal 14 “Orderly Urbanization Requirement.”

Goal 14, Urbanization, requires local governments “to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside the urban growth boundaries, to ensure efficient use of the land, and to provide for livable communities.” Most commentary focuses on the fact that Goal 14 requires the establishments of UGBs and that urban levels of development should be located outside the UGB. However, Goal 14 also requires that the UGB be established and expanded in an

⁶ See Porter, Douglas R., *Managing Growth in America’s Communities*, pp. 198-199.

“orderly” and “efficient” manner. Goals 3, 4, 5, and 11 also support this fundamental principle of “orderly urbanization.” *BenjFran Dev., Inc. v. Metro Service District*, 95 Or App 22, 27 (1989).

The purpose of the Urbanization goal is to “[p]rovide for an *orderly* and *efficient* transition from rural to urban land use...to ensure *efficient* use of the land, and to provide livable communities.” (Emphasis added). While the “orderly” provision of services is not the exclusive determinant of a decision to include land within an expanded UGB, it is a primary factor. *City of West Linn v. LCDC*, 201 Or App 419, 436, 119 P.3d 285, 295 (2005). It is neither orderly, nor efficient, to construct \$70 million dollars worth of urban services three miles south of downtown to extend to resource land without allowing existing development to utilize those same urban services. Leapfrogging over the west side properties violates Goal 14 (as well as the draft Environmental Element of the Comprehensive Plan). See the draft “Junction City Comprehensive Plan: Environmental Element,” pages 2-3. Island Fence and Window Guard, Inc. currently employs 30 people on less than two acres, which equals more than 15 employees per acre. By comparison, the Grain Millers site is expected to employ 95 people on 100 acres, which equals less than 1 employee per acre. Clearly, the expansion of the UGB to the west side properties would encourage the efficient use of land and public services.

Furthermore, counting the Oaklea Site as commercial has two major consequences that violate Goal 14. One, it forecloses the ability of the Westsider exception property to be brought into the UGB, thereby violating the efficient and orderly provision of services by having a multi-million dollar urban facilities upgrade bypass exception property that is already developed. Second, by not redesignating the Oaklea Site as residential, when the City completes Phase II, the residential lands analysis, it will likely show a deficiency of residential lands and a need to expand the UGB for residential lands. If the Oaklea Site is redesignated something other than residential, then there will be artificial and unnecessary pressure to expand the UGB to accommodate additional residential land, most likely on prime farmland which would have an adverse impact on the City’s agricultural and overall economy. This domino effect is not orderly or efficient and therefore violates Goal 14.

The current Draft EOA violates the Goal 14 Rule.

The Goal 14 Rule is explicit that the UGB must be based on a 20-year population forecast and that the UGB must provide land for employment over that 20-year period, no more and no less. OAR 660-024-0040(1). The Goal 14 Rule states that: “When evaluating or amending the UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. * * * For employment land, the inventory *must* include *suitable* vacant and *developable* land designated for industrial and other employment use...” (Emphasis added). The 20-year “suitable and developable” rule is found throughout the Goal 14 Rule and cannot be avoided. Just as a jurisdiction cannot include too much land in its UGB expansion, it also cannot manufacture UGB expansion that includes too little land within its UGB “expansion” process. The total employment land supply can only include “ready-to-go-land” that is “ready for

construction within one year of an application for a building permit or request for service extension.” OAR 660-009-0005(1).

Specifically, the City is over-counting its employment land (commercial) inventory by erroneously assuming that the Oaklea Site is suitable and developable as BP (i.e. commercial). This is in error. Without a traffic study that can justify the redesignation of the Oaklea Site to a commercial designation or, in the alternative, impose a “trip cap,” the City cannot count the site in its inventory of buildable commercial lands. It is off-limits to development and cannot therefore be counted. *See Opus Dev. Corp. v. City of Eugene*, 28 Or LUBA 670 (1995) (the city must demonstrate that even with constraints on otherwise buildable land, it still has an adequate inventory of commercial sites).

Furthermore, even if a TIA could be produced that would justify the redesignation of the Oaklea Site, there is no substantial evidence in the record to show that the Oaklea Site is otherwise suitable for commercial uses. It is far from the city center and any major transportation links. It has remained vacant for 30 years as an employment site. It makes no logical sense as an employment site (whether Industrial or Commercial or a mixture, i.e. BP). Its suitable designation is residential. There is no evidence in the record to suggest that the Oaklea Site can support the BP designation.

There has also been speculation about the economic viability of some of the other currently occupied and developed sites that may or may not last through the current economic downturn. However, this is an invalid reason to undercount the need for additional commercial land. The 20-year land supply analysis is intended to account for changing economic conditions, change in ownership, and many other factors that influence individual land use decisions, including redevelopment and infill. The 20-year planning horizon factors this in and should, therefore, not “double count” sites that are currently developed and unavailable based on speculation that the businesses that currently occupy them may fold. Artificially keeping the commercial lands inventory low for speculative future uses, in addition to the natural changes inherent in the 20-year horizon analysis, violates the Goal 14 Rule.

The current Draft EOA violates Goal 2.

Goal 2 requires an adequate factual basis for comprehensive land use plans and all land use actions: “To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City’s desire to rush Phase I and steamroll the Westsiders violates Goal 2 because the City is ignoring the land use planning process and policy framework as a basis for its decision of how to expand the UGB. There is no question that City staff and the consultants are deliberately attempting to justify keeping the Westsiders and any other property out of the UGB expansion as part of Phase I while ignoring the actual factual basis. The factual basis shows that there is a deficiency of commercial land (especially small commercial properties) that can only

be satisfied by including the Westsider Property (and the Boresek tract). At the March 4, 2009 CCPC meeting, Bob Parker of ECONorthwest commented on the Phase I process. Below is a verbatim transcript of a conversation Mr. Parker had with members of the CCPC. This dialogue illustrates the motivations for rushing and manipulating the Phase I process in order to achieve a desired result:

Mr. Parker: "Yeah, well, but realistically, on Highway 36 interchange would be the place that you'd want to think about putting additional commercial sites. The problem with Highway 36 is it's a ways from anything right now. Although, as you can see on this map, the relatively sizeable pieces of land that are less constrained out there. So, you know, in a 50-year vision, it would be conceivable that you could bring in some of those lands on the west side of Highway 99. In a 20-year vision, I think if you'd want to try and pull some commercial sites in there, I think it, it's going to be problematic with justifications standpoint.

CCPC member (Mr. Nelson?): "Because of where you are sitting where you are."

Mr. Parker: "*Well, we're just trying to get you through this process and, you know, you give us direction and we'll take a run at it but, uh, I will tell you that, uh, that, uh, David [Clyne, City Administrator] and Kay [Bork, Planning Director] have us on very short timeframe so we're trying to press this forward and move forward with getting at least the initial part of some research you know, the genesis this project really were the DOC and the Grain Millers site. Those are employers that are looking at wanting to expand and locate in the community now, and our recommendation would be focus on that, get that done because that then creates a base employment that can create opportunities for some of these other things to happen, which leads into a recommendation to, postpone the broader UGB expansion right now and think about an urban reserve, and think about that urban reserve potentially in the context of not only employment but the residential part of this so you can think about how this fits into the bigger fabric of your community in the future, so you can think of it as more of a complete plan and just than saying she rated some commercial sites, where are the best places to put them and then not really thinking about how that integrates into Junction City along there.*" (Emphasis added).

This statement clearly shows the motivation for artificially keeping the Westsider Property (and other property) out of the UGB.

The Oregon Court of Appeals has warned local governments that must make a good faith effort to follow correct procedures and not attempt to achieve the desired results through ignoring facts and reality: "The findings and other procedural trappings that LUBA and the courts may require can be nothing more than shadows if the parties are not committed to achieving any underlying substance for them to reflect...[i]t is unlikely that a land use decision of this magnitude and complexity [i.e. a UGB expansion] can ever be found to comply with the applicable requirements unless the decisionmaker and the participating parties are committed to achieving that objective." *D.S. Parklane Dev., Inc. v. Metro*, 165 Or App 1, 27, 994 P.2d 1205, 1220 (2000).

Specifically, there is no adequate factual basis or attempted explanation for the assumption of an 80 percent redevelopment potential. Nor is there an adequate factual basis for how the Oaklea Site can be developed with BP designation or if it could be redesignated. *DLCD v. Douglas County*, 36 Or LUBA 26, 34-35 (1999). Mr. Kloos identified four key issues with the Draft EOA that have as yet been unanswered (Exhibit 7).

Part IV: Conclusion

The City has the legal obligation to direct City staff and the consultants to revise the Draft EOA and implement ordinances that adopt changes to the comprehensive plan to include reasonable assumptions that will have the effect of expanding the UGB for commercial property. Failure to make the necessary changes leaves the City vulnerable to challenge by LandWatch, the Westsiders and the Boreseks, while completing Phase I correctly and without a desire to affect the outcome will significantly raise the chances that Phase I will be approved by Lane County and not appealed. Please direct your consultants to revise and refine the Draft EOA based on the issues and points made in this letter.

Thank you for your consideration in this matter.

Very truly yours,

/S/Micheal M. Reeder

Micheal M. Reeder
Attorney for Westsiders

MMR:jgh

Attachments

cc: Westsiders (w/attachments)
Bill Kloos (w/o attachments)
Jim Spickerman (w/o attachments)
Robert Emmons (w/o attachments)
Mia Nelson (w/o attachments)

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MICHEAL M. REEDER

May 21, 2009

Via Email and First Class Mail

Citizen Comprehensive Planning Committee
c/o Kay Bork, Planning Director
City of Junction City
680 Greenwood
Junction City, Oregon 97448

Re: Urban Growth Boundary and Extension of Urban Services
West Side of Highway 99

Dear Citizen Comprehensive Planning Committee Members:

This office represents a group of individuals and businesses (the "Group") that own property on the west side of Highway 99, south of downtown Junction City.¹ Most of the members of the Group have submitted, or will soon submit, individual letters requesting to be included into the City's Urban Growth Boundary ("UGB") and the ability to hook up to the future sanitary sewer line and water line.

Please accept this letter on behalf of the Group. The Group also supports the request made by Aikon, LLC to also be included into the UGB and to be connected to future urban services. Additionally, the Group supports the inclusion of the Department of Corrections ("DOC") and Granin Millers' properties into the UGB.

There are many policy and legal reasons to include the Group's property into the UGB. I will not repeat all of the policy and legal issues that were raised by Mr. Bill Kloos, attorney for Aikon, LLC, in his letter to Planning Director Kay Bork. I write to expand on those issues raised by Mr. Kloos' letter and to provide additional evidence to support the Group's request that its property be included into the UGB.

¹ Attached to this letter is a list of all the Group members to date and the individual Group member properties listed by Assessor's Map and Tax Lot numbers and physical addresses.

Policy Decision-Making Process

Mr. Kloos accurately summarized the work done by the City's consultants in drafting the "Draft: Junction City Economic Opportunities Analysis, April 2009" ("Draft EOA") and the other related documents. I wish to emphasize that the Draft EOA and the related documents are *draft* documents only, subject to review, revision and refinement by the City Council (with recommendations from the CCPC). The final, adopted planning documents, including the EOA, have the force of law and are meant to be used to achieve legislative policy. These important policies will guide the City's land use for twenty years. It is therefore essential that the City carefully consider its decisions throughout this process. In other words, the road that the CCPC has been guided down for these many months need not, and is not, the only path to achieving the City's goals for the future.

It may seem like the policy direction is well settled and it may be tempting to stay the course, but the City need not do so. Consistency for consistency sake often leads to poor public policy and creates unintended consequences. It may seem that the policy direction currently advocated by the consultants, planning staff, and the state Department of Land Conservation and Development ("DLCD") is the only option, but that is not the case. The City's appointed bodies such as the CCPC (and possibly the Planning Commission) have the responsibility to make policy recommendations to the elected policy making body, the City Council. The Junction City residents are depending on you, not the consultants, staff or state officials, to make these important choices. The consultant for the City, Mr. Bob Parker, advanced this view at the first CCPC meeting when he advised the CCPC to focus on the big policy issues rather than to get bogged down in too much of the technical detail. See CCPC Meeting Minutes, October 1, 2008, page 2.

The "Alternatives Analysis" discussion at the May 13, 2009 CCPC meeting illustrates generally how policy debate can be shaped and molded by unelected hands and, specifically, how the policy choice of which lands should be included into the UGB was stifled. Early in the process, it was understood that there would be an opportunity for property owners, such as Bruce Anderson of the Eugene Livestock Auction, to lobby to be included into the UGB. Although the City could not promise that the properties on the west side of Highway 99 would be included into the UGB, it was my understanding after speaking with City staff on January 7, 2008, that there was a reasonable possibility that the property on the west side of Highway 99 South would be included into the UGB. I was told that the City was looking at utilizing the Lane Council of Government's ("LCOG") "Region 2050" documents in guiding the UGB expansion process. The maps developed by LCOG as part of the "Region 2050" planning process (which have not been adopted or acknowledged) generally show the west side of Highway 99 South as being included into the City's inventory of "Employment Land." As late as July 2008, there was commitment from the consultants that the City would "identify groupings of parcels around the City's [current] UGB into logical areas for analysis." "Junction City Comprehensive Plan Update: Summarized Work Plan," ECONorthwest, July 19, 2008, page 9. This is the process

that is occurring with the City of Springfield as part of their UGB expansion process. At the November 5, 2008 CCPC meeting, the CCPC discussed “possible expansion areas and gave direction to ECONorthwest to look at the west side of Highway 99. Bob Parker reported that alternatives and target industries will be presented at the next meeting.” CCPC Meeting Minutes, November 6, 2008, page 4. However, by January 28, 2009, the consultant reported that the DLCD “suggested the City focus on short term employment land needs, i.e. DOC [Department of Corrections] and Grain Millers, and then revisit a possible UGB expansion for longer term and larger employment land needs.” CCPC Meeting Minutes, January 28, 2009, page 1. However, despite this advice, the CCPC directed the consultants to “proceed with [sic] short term and long term employment land needs, including larger regional sites.” *Id.* This policy direction would presumably include looking at expanding the UGB in areas in addition to the DOC and Grain Millers property, such as the west side of Highway 99. However, despite the direction to study extending the UGB to the west side of Highway 99 South, the Alternatives Analysis discussion and documents not only ignored any possibility of including the west side property, it discussed the DOC and Grain Millers property as the *only* alternative. An Alternatives Analysis without any alternatives is misnamed. It is like voting in a democratic election when there is only one candidate on the ballot.

Policy Considerations: Opportunities for the City

Jobs

It shocks the conscience to propose to spend \$70 million to extend three miles of water and sanitary sewer lines through developed or committed properties that abut a major transportation corridor such as south Highway 99 and not seize the opportunity to include the property that will bear the burden of such an extension. I agree completely with the consultants’ conclusion that the urban infrastructure to be placed along the west side of Highway 99 “represents a major opportunity for the City to have a ready inventory of serviced sites along Highway 99.” “Draft: Economic Development Objectives and Implementation Strategies,” January 2009, page 5.

Now is the time to leverage this unique opportunity to create and retain jobs by allowing the current businesses along Highway 99 South that need urban services to expand to hook up to urban services. The draft Economic Development Element, Chapter 4, of the Comprehensive Plan notes the following: “While it is important to provide opportunities for new industrial and commercial employment in Junction City, it is equally important to provide an environment where existing businesses thrive.” Page 4-2. The short- and long-term prospects for the current businesses of the Eugene Livestock Auction and Island Fence & Window Guard, Inc. are grim without being included into the UGB. The draft Economic Development Element further states: “Firms wanting to expand or locate in Junction City will be looking for a variety of site and building characteristics, depending on the industry and specific circumstances. In general, all firms need sites that are relatively flat, free of natural or regulatory constraints, with good transportation access and adequate public services.” *Id.* at 4-7. The Group’s property is relatively flat, free of constraints other than being within the UGB, and does not have the legal right to hook up to public services.

Property Taxes

This is an opportunity to increase the property tax base for the City in the short and long term. The City will be able to collect property taxes on the currently-existing businesses and from the potential new development and redevelopment.

Aesthetics

A major factor in attracting new businesses to the City, including downtown, is to create an attractive appearance. As noted by Mr. Kloos, Highway 99 South is the front door to the City and there is currently no incentive for the owners to invest in improving the structures. If the Groups' property is included into the City's UGB, the City, if it so elected, could have land use regulatory control over the aesthetics of any redevelopment.

Efficient Use of Land

The fact is that the property owned by the Group is already developed. Including the property into the UGB will allow the current businesses that use comparatively less land per employee than the Grain Millers to expand and infill.

Effects on Downtown

I echo the position taken by Mr. Kloos that including the Group's property into the UGB will not have a negative effect on the ability of downtown to thrive. The EOA and supporting documents provide no analysis for this theory. Furthermore, according to the City's consultants, there is already a significant amount of commercial and retail leakage to Eugene and other areas. Allowing the Group's property into the UGB would naturally capture some of that leakage lost to other communities. The types of businesses that will locate and expand along the west side of Highway 99 South are different than many of the target businesses for downtown and are in fact likely complimentary of downtown. Tax revenue garnered from the Group's properties can increase the tax base, thereby providing revenue sources for programs designed to improve downtown.

In fact, it is ironic that the supposed justification for keeping the Group property out of the UGB expansion is to promote downtown, yet the City is willing to expand the UGB for a business that currently occupies a site in a downtown location in Eugene.

The Draft EOA implicitly recognizes that not all employment firms wanting to expand or locate in Junction City will want to locate in downtown. Draft EOA, page 48. Therefore, the already developed sites owned by Group members are alternative employment sites for firms looking to expand or locate to Junction City. There are a variety of site and building characteristics within the Group.

Legal Considerations

Desire to Be “Conservative” in Expanding the UGB

Although the Group supports the Grain Millers’ desire to be included into the UGB, the Group does not believe that the considerations used to justify the inclusion of the Grain Millers property into the UGB for the Grain Millers should be ignored when considering the merit of including the Group’s property into the UGB.

The theory for being conservative when expanding the UGB is that a less expansive UGB will curb development on the fringes, thereby enhancing downtown by encouraging increased density within the UGB. However, the Group’s property is already developed. Therefore, inclusion into the UGB will only enhance the attractiveness of already-existing development rather than encouraging fringe development. Additionally, attempts to restrict the UGB to increase density are usually unsuccessful and typically have the opposite effect.²

Additionally, if the desire is to be conservative in the approach to expanding the UGB, then why is the entire 100-acre Grain Millers’ site proposed to be included into the UGB when the Grain Millers has stated that it needs only 30 acres for its facility?

Goal 14 – Urbanization

The purpose of the Urbanization goal is to “[p]rovide for an *orderly* and *efficient* transition from rural to urban land use...to ensure *efficient* use of the land, and to provide livable communities.” (Emphasis added). It is neither orderly, nor efficient, to construct \$70 million dollars worth of urban services three miles south of downtown to extend to resource land without allowing existing development to utilize those same urban services. Leapfrogging over the west side properties violates Goal 14 (as well as the draft Environmental Element of the Comprehensive Plan). See the draft “Junction City Comprehensive Plan: Environmental Element, page 2-3. Island Fence and Window Guard, Inc. currently employs 30 people on less than 3 acres, which equals more than 10 employees per acre. By comparison, the Grain Millers site is expected to employ 95 on 100 acres, which equals less than 1 employee per acre. Clearly the expansion of the UGB to the west site properties would encourage the efficient use of land and public services.

Additionally, ORS 197.298 establishes a priority of lands for consideration in UGB expansions. The first priority is designated for urban reserve land. Since there are no urban reserve areas for Junction City, the City is required to look to “exception” or “nonresource” land that is adjacent to an urban growth boundary. The Group’s property meets this criterion and should therefore be considered prior to expanding to the DOC and Grain Miller resource land. Although there is discussion about why the Grain Millers particular site meets the needs of Grain Millers, there is little, if no discussion about whether Grain Millers could locate within the existing UGB or within higher priority lands.

² See Porter, Douglas R., *Managing Growth in America's Communities*, pp. 64-65.

The Boundary Location Alternatives Analysis Rule (OAR 660-024-0060)

The Draft EOA relies on an apparent exception to the priority scheme of ORS 197.298 and OAR 660-024-0060(1)(a)-(e) to justify limiting its consideration to the DOC and Grain Millers sites. First, this exception, as interpreted by the consultants, would swallow the rule. Any time a jurisdiction wants to develop a site for any reason, so long as the jurisdiction "identifies" the site, it gets first pick. Aside from fairness and equal protection issues, this scheme, as interpreted, is suspect. First, the site must be "necessary," not just desirable. This is a high standard for a city to meet. Next, it is likely that since this administrative rule conflicts directly with a state statute (ORS 197.298) that it is unlawful.

Again, to be clear, the Group is not opposed to allowing Grain Millers to locate within the expanded UGB. However, the Group hopes that the City will recognize that many of the same arguments used to justify the inclusion of the Grain Millers land apply equally, if not more so, to the Group's property.

Conclusion

While the Group supports the DOC and Grain Millers inclusion into the UGB, it recognizes that the City has additional opportunities to include the Group's property as well as the property owned by Aikon, LLC. Please direct your consultants to revise and refine the Draft EOA based on the issues and points made in this letter and the companion letter from Bill Kloos.

Thank you for your consideration in this matter.

Very truly yours,

/S/Micheal M. Reeder

Micheal M. Reeder

MMR:jgh

Attachments

cc: Group (w/attachments)

Bill Kloos

Jim Spickerman

N:\F - JHaag, Jeff 16892\UGB Expansion 16892-1\Correspondence\UGB Expansion Ltr to CCPC 052109.doc

MEMBERS OF THE GROUP

Member and Address	Map and Tax Lot
Bruce Anderson and Kate Garvey/ Eugene Livestock Auction 92380 Highway 99 South Junction City, Oregon 97448	16-04-08-20 TL 500 & 600
Indar and Heidi Bhan/ Island Fence & Window Guard, Inc. 93114 Highway 99 South Junction City, Oregon 97448	16-04-08-31 TL 501, 600 & 700
Jeff Haag 93072 Highway 99 South Junction City, Oregon 97448	16-04-08-34 TL 700
James and Karen Leach 93048 Highway 99 South Junction City, Oregon 97448	16-04-08-34 TL 800
George and Hazel Nielsen 93390 Highway 99 South Junction City, Oregon 97448	16-04-08-20 TL 202 & 203
Bryan and Teresa Austin 93410 Highway 99 South Junction City, Oregon 97448	16-04-08-20 TL 206

From: Jeff Haag, spokesperson for Westsider Group, represented by Mike Reeder.

To: Kay Bork, Junction City Citizen Comprehensive Planning Committee, Planning Commission, Mayor, City Council and Stakeholders on the City's e-mail list.

Subject: UGB Expansion to Include the Westsider Group's Property

Dear Honorable Mayor, City Council, Planning Commission, Citizen Comprehensive Planning Committee, Kay Bork, and other Stakeholders:

I am the designated spokesperson for a group of property owners along the west side of Highway 99 South, which is represented by a land use attorney, Mike Reeder, who make up the "Westsider Group" who wish to be included into the Junction City Urban Growth Boundary (UGB).

First, Kay, I apologize for hi-jacking the e-mail list from your last email. As I was looking at the Stakeholders e-mail addresses, I realized, that I, and most of my neighbors in the Westsider Group, have done business with many of these people for a very long time, and I could use some of these stakeholders' support to help the Westsider Group get access to the new sewer and water we are being asked to provide easements for by being include into the UGB as part of the current UGB expansion process.

For those of you that are just hearing about this, there are a group of property owners on the west side of Highway 99, including most of the member of the Westsider Group, that are being asked to provide property easements for new sewer and water lines that will support the new proposed state hospital, the "on again off again" state prison, and a private corporation known as Grain Millers. These easements are in negotiations, but in the end, our property can be condemned by the City if settlements can not be reached.

The property owners on the west side of the highway have been very cooperative with the City's acquisition agent, Right of Way Associates (ROWA). ROWA was hired by Junction City to negotiate the terms for sewer and water easements that will run along the west side of Highway 99 south to Milliron Road and serve the state facilities and the Grain Millers.

All of the Westside property owners who are asked to give our property for the extension of the water and sewer lines believed that we would have the right to hook up to the facilities that will run along Highway 99 just feet from our homes or businesses. However, it was not until we received our settlement packets from ROWA that we discovered that the City was not planning on bringing us into the UGB and that we were not being allowed to hook up to, or benefit from those utilities. This is UNACCEPTABLE!

In addition to that we will lose ABSOLUTELY ALL of our trees and shrubs along the first 20 foot depth of our properties. We will also have our fences replaced by ROWA one time. Even though in theory, we are supposed to be "left whole", according to the City of Junction City's Engineer, if there should arise a need to make future repairs to sewer or water lines that will run below our land, the City would be permitted to remove our fences, and place them neatly in a pile so we could put them back at our own expense. This may or may not happen, but it could happen any number of times. That is a big risk, and therefore also UNACCEPTABLE. We see the need for future maintenance and repairs, and we feel it only reasonable that our fences, and land, be restored each and every time they are disturbed. We are being offered a very minimal dollar amount for real estate that we had no intention of selling.

To be fair, we have been offered a reasonable amount for our trees and shrubs, however, we can not place new trees in this right of way, or signs, or any other permanent improvement along the front of our properties EVER again. This will be a permanent 20 foot strip of nothing along the highway from Milliron Road to Prairie Road on the west side, just south of Guaranty's R.V. lot. We will, however, have the responsibility to mow, and pay property taxes on the ground we can not use, forever.

In addition, most of the properties are being asked to lease an additional ten feet of ground multiplied by the width of their property for a construction right of way. Basically this means all construction equipment will rumble across our properties for a two year construction period while these lines are being built.

We have been told we can not use the sewer and water unless we are included into the UGB. To that we said, "Please bring us in!" We have written to the City and asked to be included in the UGB, and attended two of the Citizen Comprehensive Planning Committee (CCPC) that we had notice of. At those two meetings we were given a few minutes to speak our peace, but then the meetings were taken over by Winterbrook Planning. Winterbrook is a consultant firm hired by the City to assist in developing the background planning documents that are supposed to analyze how much employment land the City needs for the next 20 years. However, instead of looking objectively at whether the City needs more land for commercial and industrial development for the long haul, Winterbrook Planning has asked the City to basically shove us under the bus so they can proceed quickly with the development of the state facilities and the Grain Millers.

Winterbrook Planning swept aside the Westsider Group's request to be included into the UGB by telling us that we "MAY be considered for inclusion in the Urban Growth Boundary at a later date" and that we would get services then. So with that information we asked David Clyne, the City Administrator, and the City Engineer, what the hook up costs would be in the future if we ever were to be brought into the UGB, and we were told "they did not know." We were also told

they did not know when that could happen, possibly 20 or 50 years. That is UNREASONABLE!

It is only REASONABLE for the City to give us a quote in writing as to the future hook up costs when they become available. Whether it is in this phase or the next, we need this information to negotiate a fair easement settlement for each of our properties.

Winterbrook Planning is also in favor of allowing Junction City to add 103 acres of EU40 Farmland, with many acres of wetlands into the UGB that was purchased by a private company called Grain Millers. This property is located at the intersection of Highway 99, and Meadowview Road. It's the old railroad siding that has a posted sign that says "OWLS are a protected species."

At two different public meetings Greg Winterowd of Winterbrook Planning urged the City to only bring in the Grain Millers, and deny the people with homes and businesses on Highway 99 access to the UGB. He stated much work has been done and we should have asked to be included in the process sooner. To that we said, we were under the impression we were included while we were waiting on our ROWA settlement offers, and only when the offers were presented, did we realize we were left out. We are being asked to provide utility easements for everybody else, and receive no benefit from the utilities being placed on our property. It is my understanding that the state can not condemn for one private user to benefit another private user.

The property owners on the west side of Highway 99 generally support the Grain Millers, as they will be preserving 100 jobs for the state of Oregon, even if the BENEFIT is for the CITY OF EUGENE! One big question is why are Grain Millers being considered to bring in 103 acres of farmland with wetlands, when they have stated they need only 37 acres for their operation. Also, why did Greg Winterowd advise the CCPC at two different public meetings, to NOT BRING UP THE WETLANDS ISSUES? Is this a case of "letting sleeping dogs lie"? How many acres of wetlands will Grain Millers mitigate? The properties on the west side of Highway 99 have no wetlands issues, another reason to bring us into the UGB.

According to Winterbrook Planning, the Governor's office has asked Junction City to fast track the Grain Millers request. Unfortunately, all of the west side property owners are working people just like YOU. We don't have tens of thousands of dollars to help us get heard. Once again, the property owners along Highway 99 are not opposed to the Grain Miller operation. We do however question why Junction City wants to bypass already developed properties along a busy highway corridor, located at the City's front door just to reach past us, and be a mile from the City of Eugene's UGB? This amounts to bypassing local growth, that will create jobs for residents of Junction City, just to reach out and save jobs for Eugene. Helping relocate the Grain Millers from the Washington

Jefferson neighborhood in Eugene to Meadowview Road WILL NOT create job opportunities for Junction City, UNLESS the City includes the Westside properties that are located near, and could directly benefit from the state facilities and the Grain Millers!!! It is also very unlikely that someone that lives in Eugene and works on Meadowview Road would swing an extra six miles out of their way (each way) to support Junction City business on their way home from work.

Gary Crum wrote two great email letters to the CCPC which support the Westsider's position. However, he was unable to attend the last two meetings. His letters were never read at the meetings on our behalf. WHY NOT? Jack Roberts also wrote an email letter in agreement to Gary Crum's letter. His letter was also in support of bringing in the west side of Highway 99 into the UGB.

Winterbrook consultants are WRONG when they tell the you that the only way to fast track the project is to ignore the requests of the people on the west side of Highway 99. They insinuate that if the City's proposed UGB expansion includes the Westsider's property that "someone" may file appeals and delay the project, and the state and Grain Millers will pack up and leave town completely.

This misses the point. The purpose of state land use laws is to follow the law equally to all, not to bend the rules for the state and Grain Millers. A point lost to Winterbrook is that the rest of us have the right to file appeals also. So, rather than worrying about who may appeal or who won't, let's focus on doing the background planning documents right the first time and let the chips fall where they may. We are confident that the buildable lands inventory and the Economic Opportunities Analysis will show that Junction City can include the state property, the Grain Millers and all of the Westsider Group's "exceptions land" property.

If an overall FAST SOLUTION is what you are looking for, you should learn the art of discussion and compromise. It would be a lot faster to help craft a viable plan for the property owners on Highway 99, than to fight appeals from a number of different property owners.

This Prison project has been in the works for many years, a few weeks cleaning up some mistakes made during the planning process would be time well spent right now.

Not bringing in the Westsiders poses real risks to actual, current employment along Highway 99. Island Fence, the Eugene Livestock Auction, and a few other scattered small business and property owners have made it clear, they want to expand business operation and employment, but need sewer access to do it. As far as the economy goes, who made you believe a job at one of our places is worth less than a job at Grain Millers or anywhere else? You can have both!

Greg Winterowd basically told the Citizens Comprehensive Planning Committee that if you spend time on the west side property owners you will lose the Grain

Millers and risk the state prison. That is absolutely FALSE information. The DOC, has spent years, and approximately 8 millions of dollars on the project thus far. The Grain Millers paid a million plus dollars for some farm ground they hope to develop, I do not see them walking away from that investment over the little inconvenience of a time delay.

It sounds a lot like Winterbrook Planning is offering you legal advice. It is my understanding that they are planners and development consultants and NOT attorneys. I think it important that you separate their facts from their legal opinions.

When we were given three days notice of a public meeting of the CCPC we packed City Hall. We evidently impressed them enough to get an additional meeting. We thank the CCPC members for that opportunity.

It was obvious from the beginning that the CCPC had pretty well made up their minds before hearing our points of view. After we packed the house with a three day notice, they were very sincere (frankly, I think they were very impressed with our turn out on such a short notice) and had a lot of questions for the City staff and for us, and for Winterbrook. However, I do not feel that many questions posed to staff and Winterbrook were answered. Our group was given a few minutes at the beginning of the meeting, and then there was a 40 minute filibuster by Greg Winterowd. I believe he is a competent planner, and did a good job with the information he had on the prison and Grain Millers, however, he did not take our situations into account prior to making a recommendation to the CCPC. His greatest feat was to low talk everyone in the room into a state of political boredom, and try to get the CCPC to sign off and be done with us. We deserve to be a part of ACTIVE DISCUSSIONS when the plans involve our properties. Winterbrook Planning needs to head back to the drawing board and direct the City to make the right decision. That decision is to include the property owners on the west side of highway 99 into the UGB, so we can have sewer and water access. We need this NOW to save jobs at Island Fence and the Eugene Livestock Auction. We need this NOW to redevelop and create new jobs along the Highway 99 corridor.

Additionally, there is a property owner, not in our group, but represented by Bill Kloos that owns a large undeveloped parcel on the corner of Highway 99 and Highway 36. It is my understanding that this parcel contains little or no wetlands. It is less than a mile from the City limits, has frontage on two state highways, and is ripe for development. It too makes sense from a practical and planning standpoint to include this property. Although we do not know what would be developed on this property, it is a prime, strategic location for employment land, whether it be a big-box store like a Costco, or a Winco, or some other type of development. Chances are, every one of you have shopped at a Winco and a Costco. Those businesses typically create HUNDREDS OF PERMANENT JOBS, as well as hundreds of temporary jobs during the construction. The City's

consultant from ECONorthwest identified this as one of the best properties available in the Junction City area. Why is he being overlooked? A large store there would certainly mean jobs for Junction City residents, and those people will continue to support the local economy, including downtown.

FACT: nearly every Junction City resident shops the big stores in Eugene. This is a chance to keep some money in our local economy.

FACT: according to Junction City's 20-year growth plan there is a large shortage of small to medium commercial property available for development. Besides the recently vacated Gibson Motors properties, can anyone show us anything available with decent parking, and good visible road frontage in the Junction City area?

I have listened to Greg Winterowd and David Clyne repeatedly tell the CCPC that any delays by the council to act now will cause a delay, or even a loss of the prison. This is ABSOLUTELY NOT TRUE!!

On June 4th, at a City-sponsored informational meeting with the ROWA and the DOC, Doug Young from the Department of Corrections said, he was going to build a prison as soon as the funding becomes available. He stated that the City's UGB expansion project will have NO IMPACT on whether and when the state builds the prison and puts in the sewer and water lines. Any delays regarding the extension of the UGB have will not affect him in any way. He stated that the state has spent over 8 million dollars so far, and they were not backing out for any reason. The prison project will begin solely on the legislature's say-so.

Winterbrook Planning also told the CCPC that Lane County would never bring us into the UGB. That is his opinion, not a fact. The FACT is, that Lane County knows there are existing water and septic problems along the west side of Highway 99. They will also realize they can eliminate a lot of these problems by allowing us to hook up to water and sewer. This benefit, comes at NO COST TO THEM! There is NO down-side!!

It is our position that developing property along the highway is a benefit to the tax base for the City, will create and maintain jobs, and benefit to the environment, and a much easier plan to embrace than developing more wetlands.

Winterbrook Planning has oriented the CCPC's thinking they can encourage redevelopment downtown by not including the Westsiders' property. The current draft of the planning documents assume that the long term needs for commercial property in Junction City for the next 20 years will take place all within the existing UGB!! ECONorthwest has assumed that at least 80% of the 20-year need will come from redevelopment. That's a pretty far reaching number! But look at the City of Springfield's UGB expansion process. Springfield, a much

larger City is only using redevelopment figure that is a more modest 50 percent! The downtown area would be well suited for offices, and bookkeeping, clerical type businesses. It is nearly IMPOSSIBLE to make a living in a retail establishment when you have virtually NO PARKING.

They also think we can rejuvenate downtown with tourism by promoting the Scandinavian Festival!

Let that sink in a moment-----

That's what I thought! The Festival used to be a strong family event, but as the old-timers are disappearing, and the younger people do not have the time and energy it takes to promote a fun family event, it is unlikely to expect much economic development with the Festival. The Festival has become just another over-priced food fair. A four-day event can not save downtown.

On the other hand there are some other avenues for tourism Junction City should explore. For instance, the Function for Junction lasts one day, and in 40 years I have never seen so much activity in J.C. in a single day of shows and car cruises. I saw the mayor, and a couple council members enjoying the cruise. Maybe some effort should be put forth to generate more car related events that will actually fill up the town for a few days!!! All of those car event attendees spent money in Junction City.

I want to again thank the CCPC for taking time to hear us at the first two meetings. However, our attorney and the attorney for another property owner were given very little time to develop our legal and planning positions and lay out much of a case for how the City can justify bringing us in the UGB. We ask that the Planning Commission and the City Council give Mike Reeder and Bill Kloos time (30 minutes each) at the June 23rd joint meeting to explain in detail the legal and planning reasons for why the City is required to bring in our property. It will be time well spent as they have diligently reviewed and analyzed the work done by ECONorthwest and Winterbrook Planning. I am asking you to direct Winterbrook, and ECONorthwest to DEVELOP A PLAN THAT INCLUDES US NOW. Remember, those people work for you. The taxpayers are spending a lot of dollars for their input and recommendations. It is YOUR RESPONSIBILITY to be certain they are doing everything they can for the local economy.

We need the utilities. We want to protect and create jobs that will help support the Junction City area economy. We are asking the City Council to carefully consider bringing us into the UGB.

I am sending this letter to everyone on Kay Bork's email list, and several other parties that may be interested

I am asking for some community support from all of you local business owners, and some other special e mail recipients.

YOU CAN HELP BY COMING TO ALL THE MEETINGS AND SUPPORT US- IN RETURN WE WILL CONTINUE TO SUPPORT THE BUSINESSES IN JUNCTION CITY! REMEMBER, WE ARE YOUR NEIGHBORS!

To the members of the Planning Commission and City Council: You should be aware that this is a "legislative" decision; not "quasi-judicial." In other words, you CAN talk to us. We have every right to lobby your support. You have the authority to include us in your long range development plans. You know we are members of the Community and many of us have lived in and around Junction City for our whole lives. You have the authority to do what is right. It is inappropriate for you to tell members of our group that "you can not speak to us outside the meetings."

City Council Worksession (no public testimony) - June 9th 6:30
Joint Planning Commission/City Council Public Hearing - June 23rd 6:30

These two meetings are all at City Hall. Please make an effort to attend.

On behalf of the Group of property owners represented by Mike Reeder on the west side of Highway 99.

Thank you,
Jeff Haag

LAW OFFICE OF BILL KLOOS, PC

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May 20, 2009

Kay Bork, Planning Director
City of Junction City
680 Greenwood
Junction City, OR 97448

Re: Urban Growth Boundary Strategy and Hwy 99 West Side Properties
Aikon, LLC Properties: (16-04-08-00, TL 700 (35.88 acres)
(16-04-08-31, TL 4.72 acres)

Dear Kay:

Please accept this letter on behalf of my client, Aikon, LLC, which owns the 40.5 acres in the SW corner of the Hwy 99/Hwy 36 intersection. You have my October 2008 email and recent letter asking the city to consider including this vacant land within the UGB. The strip of developed small parcels adjacent to the south of Aikon is in the same boat.

I have reviewed with some care the excellent Economic Opportunities Analysis ("EOA") done by ECO Northwest and Winterbrook Planning. The EOA charts a policy course for the city, which I would summarize as follows: With the exception of the prison/hospital and Grain Millers (both of which are unique cases), the city should accommodate all new employment and commercial growth for the next 20 years inside the existing UGB, relying on vacant land and redevelopment of existing uses.

This strategy is aimed at breathing new life into downtown Junction City. This is a worthy objective, but freezing the UGB may be the wrong strategy. It has not worked in Eugene. Note that Eugene has the same UGB today that it adopted in 1980 – 29 years ago. Under that strategy Eugene's downtown has not come back to life; instead it has gone from ailing to critical to moribund. Eugene's frozen UGB strategy is a 29-year failed experiment, right next door.

Please consider that holding the line on the UGB might have the opposite effect of what the city intends. It could result in a "big chill" on development in Junction City if, for a number of reasons discussed below, the intensive redevelopment of downtown can't happen. The proposed frozen UGB strategy might have the opposite effect the city intends for downtown. The EOA strategy could become a self-defeating prophecy.

Please consider an alternative strategy, which starts with the reality of what Junction City will be with the prison/hospital in place. It will be a very long city with a heavy employment anchor on the south, very, very close to Eugene. The city should focus on creating a magnet for economic opportunities in the city to keep jobs and spending from bleeding away to Eugene. This means

making shopping easily accessible. Taking advantage of the land adjacent to Hwy 99 throughout the city will promote this. If, in contrast, the city restricts growth to only the north end of town, it faces the prospect of clogged arteries that stop growth and redevelopment. Highway 99 is the key pipeline for economic activity through the city. It has a limited capacity. That capacity should support development throughout its length, not just at the north end. Including land on both sides of the highway is the strategy that maximizes what the city can get out of the highway. Making more land available for economic growth in the city is the strategy that will draw jobs and spending back home from Eugene.

I divide the balance of this letter into two parts. In the first part I discuss policy reasons for adding more employment land to the UGB. These are the common sense reasons for not freezing the UGB. In the second part of the letter I address the more boring issues. These are legal reasons why the frozen UGB strategy may not pass legal muster under the state scheme. That is, if the city adopts the EOA strategy, and then implements it, and someone wants to file objections with the LCDC, these are the kinds of legal objections that persons might raise.

I want to stress that my client fully supports the UGB expansion proposal for the prison/hospital and for Grain Millers. These are special situations. Our challenge is to the wisdom of otherwise freezing the UGB for the next 20 years for any other economic development.

I. Policy reasons for not freezing the UGB for economic growth.

A. Water and fertilizer are better than a tourniquet and CPR to grow the local economy.

The EAO's approach to economic growth for the next two decades is to restrict growth at the margins and put all the city's efforts into boosting downtown. This is akin to putting a tourniquet on the patient and doing CPR. What if this strategy does not work? Will there still be time to recover the patient?

The city is about to get a very large employment anchor at the south end. It makes economic sense to take advantage of the land, infrastructure, and existing development between the north and south ends of town to maximize the potential for economic growth overall. This is the water and fertilizer strategy. A bigger overall local economy will promote local paychecks being spent locally, which will help all parts of the city grow.

B. Protect all local wetlands; don't force citizens to face the risks and the costs of developing wetlands.

The EOA assumes that some future development in the existing UGB will occur on wetlands.¹ Developing wetlands inside the UGB for commercial and industrial uses means land does not

¹ The EOA shows 172 acres of vacant wetlands inside the UGB. It assumes that 86 (or exactly 50%) of these are developable, and, therefore, count toward meeting the need for land. EOA at 15, Table 2-7.

need to be added to the UGB for these uses.

We question the wisdom of this policy – that is, assuming wetlands will be developed for commercial and industrial uses. The policy has two major shortcomings that are a real burden to landowners – the risk that development will not be allowed by the U.S. Army Corps of Engineers and the DSL, and the cost if development is allowed.

Risk: The city might approve development of wetlands zoned for industrial or commercial use, as the EOA recommends. If that happens, none of that land may actually be developed unless the Army Corps and the DSL give permission. Either agency can say “no” in whole or in part. These agencies apply different standards than does the city. Each agency asks the developer to prove why the wetlands have to be filled, rather than being left alone. There is rarely a good answer. There is no answer that is binding on these agencies. There are proposed residential subdivisions in west Eugene, for example, that have been tentatively platted on wetlands. The developers are facing deadlines to start construction before city approvals expire. The Corps and DSL won’t process the permits, however, because the owners can’t explain why the wetlands have to be developed. These developers are living a nightmare. The EOA recognizes this risk by assuming (guessing, really) that only half the wetlands inside the UGB will get the green light from the Corps and DSL to be filled. So, if a developer gets through the city approval process, she then has a 50% chance of getting through the Corps and DSL process. Is that a prospect that encourages development and job growth? The city should follow the approach it took in the OR 99 Junction City Refinement Plan, which was to debit all of the wetlands from the buildable lands calculations. See Refinement Plan, Ch. 1, page 12.

Cost: For those lucky few that get an ok from the Corps and DSL to fill some wetlands (maybe for a part of the proposed development), they then face the financial hurdle of paying for mitigation of the wetlands they fill. The preferred Corps and DSL approach these days is to buy credits from a wetland bank, like the one run by Eugene. Credits are in the neighborhood of \$80,000-\$100,000 per acre now. So, the development cost is another \$80,000 per acre for mitigation, on top of the extra cost of developing wetlands, on top of the additional cost and delay of getting Corps and DSL approval to fill. Is this a scenario that encourages development and job growth?

C. Use the capacity available in the Hwy. 99 corridor to support job growth.

Highway 99 is the lifeline of the city. It is a state highway. ODOT controls access to it. ODOT sets volume to capacity ratios (V/C) that must be met. Any city plan or zone changes that would allow more intensive development (and, therefore, more traffic) must prove that the highway intersections will still meet minimum V/C ratios fifteen years in the future with the increment of traffic from the zone change. If the projected traffic will flunk the V/C standards, the plan or zone change can’t be made until someone identifies and agrees to pay for highway improvements that ODOT agrees will restore the future V/C ratio.

Highway capacity is the capacity for growth. If the city spreads future growth along the highway, rather than concentrating it at the north end of town, it will be maximizing its use of the capacity for growth already in Highway 99. If, instead, the city concentrates growth at the north end, it will be wasting the existing capacity to the south. More importantly, the city will be setting itself up for a big chill on development. Eugene is facing this problem now in the far West 11th corridor, where W. 11th is an ODOT road. The city can't justify the most simple zone changes (say, to change the zoning to comply with the plan designation) because the increment of traffic will cause the V/C standards to flunk 15 years in the future at the state intersections. The big chill has set in. There is a lot of potential development capacity shown on the city's plan and zoning maps for this area, but it can't be realized because ODOT's standards can't be met 15 years out.

So, the key policy question for the city is: Does the city want to spread development along Highway 99 to use what capacity is there to support growth? Or does the city want to reject using the capacity on the south end of the city, plan to concentrate growth at the north end of the city, and hope that someone will commit to make the highway improvements needed at the north end to support the concentrated growth in downtown? To borrow loosely from our former Secretary of Defense, you should plan and zone for growth based on the transportation facilities you have, not on the transportation facilities you wish to have.

D. The existing development along the west side of Hwy 99 means instant jobs and a chance to spruce up the city's front door.

The city should absorb the strip of small, developed parcels south of Aikon, LLC and adjacent to the west of Highway 99 for two reasons – jobs and appearances.

These sites already generate many jobs. Island Fence, for example, has three acres but employs about 30 people. (Compare this with the proposal of Grain Millers – 95 acres and 100 promised jobs.) These sites are a mix of Rural Residential, Rural Industrial, and rural Commercial uses and zoning. Being in the county, they are severely limited in terms of their expansion and redevelopment potential. They are not entitled to sewer services, even though the sewer will run through them to the prison. If they were in the city, they could connect to services and expand and redevelop under proper city zoning. As long as they are outside the city they will be legally crippled in terms of development potential.

As long as this strip is outside the city, it will be a rough looking neighborhood. Yet it appears to be the western doorstep of the city. The redevelopment potential of all these sites is severely limited, so long as the land is in the county. As such, there is no incentive for the owners to invest to improve the appearance or functionality of the structures. Bringing these parcels into the city would encourage and facilitate redevelopment and would put the city in charge.

II. Legal hurdles to justifying the frozen UGB strategy.

The strategy recommended in the EOA is quite radical – accommodate 20-years of commercial and industrial growth inside the existing UGB (but for the exceptional situation of the prison/hospital/Grain Millers). The city has high hurdles to get over if it hopes to defend this position when objections are filed with the DLCD. (Note that quiet support or acquiescence of DLCD staff at this juncture in the proceeding will not help the city if objections to the final product are filed with the DLCD/LCDC.) The issues listed here are akin to the issues listed above. However, the issues are framed not in policy terms, but in terms of the legal standards that the city must meet to defend the course it has charted. It is our hope, of course, that after considering the points below, the city will adjust the policy direction to the one outlined in Part I above.

A. Wetlands may not be counted toward the Buildable Lands Inventory (BLI) because the city is not in control of whether they may actually be developed for the commercial and industrial uses.

Lands with wetlands are assumed to be “constrained” by the EOA. However, the EOA assumes that 50% of the vacant wetlands inside the UGB with employment plan designations will be developed for such uses. EOA at 15, Table 2-7. Thus, as shown in the table, the EOA is assuming that 86 acres of wetlands inside the UGB will be developed for employment uses. *Id.*

This assumption, that 50% of the wetlands can be assumed to be developable, is at odds with the “Scope of Work,” ECO Northwest (July 28, 2008). The Scope of Work admits: “Generally speaking, areas that are highly constrained by wetlands are unlikely to meet site suitability criteria for targeted employment.” Scope of Work at 4.

Whatever assumption the city makes about the contribution of wetlands to the BLI, the city may not count any wetlands toward the acreage needed to meet growth during the 20-year period. This is because the city has no control over whether the wetlands can actually be developed. As discussed in Part I.B. above, the final call on whether any wetland can actually be developed is in the hands of the Corps and the DSL, individually.

The basic requirement for an adequate inventory of land for employment is found in Goal 9. The LCDC’s Economic Development Goal, Goal 9 (OAR 660-15-000(9)), requires, *inter alia*, that local comprehensive plans and implementing regulations:

“3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies;”

Wetland acreage can’t be part of the supply because it is not available. At best, until the federal

and state agencies approve filling of a wetland, one can only say that it "might" be available. That is, it is available if the state and federal agencies say so on a site-by-site basis.

The legal rationale for excluding wetlands from the BLI is found in a number of LUBA decisions. See *Opus Development Corp. v. City of Eugene (Opus I)*, 28 Or LUBA 670, 691 (1995); *Opus Development Corp. v. City of Eugene (Opus II)*, 30 Or LUBA 360, 366, *aff'd* 141 Or App 249, 918 P2d 116 (1996) (*Opus III*) (adding discretionary site review approval to Goal 9 land violates the inventory requirement). See also *Home Builders of Lane County v. City of Eugene*, 41 Or LUBA 370, 444 (2002) (city protection of critical roots zones for trees throughout the city violated Goal 9 inventory requirements). In summary, if the city wants to count land toward the BLI for Goal 9, the land must be truly available for development. Just like discretionary site reviews for Goal 9 development debits land from the inventory (*Opus*) and protection of trees and root zones debits land from the inventories (*Home Builders*), so, too, does trying to count wetlands. Including wetlands in the Goal 9 BLI is one step worse than what was found objectionable in *Opus* and *Home Builders*. It injects discretionary decision making into the mix, but it is discretion not even being exercised by the city, but by two different levels of government.

B. The city's frozen UGB strategy for commercial and industrial land is premised on redevelopment of existing uses and redesignation of existing vacant land. However, the city may not rely on this strategy without making the plan and zoning changes and demonstrating that the strategy will work.

Chapter 5 of the EOA states the city's assumptions about redesignating land for future uses and redeveloping existing employment land for more intensive uses. Together, these assumptions are the foundation for the city's strategy to accommodate 20 years of Goal 9 growth without expanding the UGB. Here we summarize these policy assumptions from the EOA and then explain what would be needed for the city to support this strategy on appeal to the state.

Commercial: The EOA assumes that 20% of commercial land needed will develop on suitable vacant commercial land (including wetlands). It assumes that the other 80% of the commercial land needed would come from redevelopment of existing uses or redesignation of the land now planned for Professional/Technical. EOA at 55, 66.

Industrial: The EOA assumes that all industrial land needed for sites smaller than 10 acres will be addressed through redevelopment of existing industrial uses.

Both: The EOA assumes that 12% of the job growth for the next 20 years will be located in land uses other than employment designations, such as by allowing home occupations. EOA at 65.

The excerpt of Goal 9 quoted in Part II.A. above shows that the goal requires the city to have an

adequate supply of sites of suitable size, type, location and service level consistent with plan policies. This requires the city, in connection with its UGB decision, to demonstrate that it has the land it will need, with the correct designations. The city, thus far, has not accomplished what the goal requires. The EOA outlines a policy for the city that is based on a series of assumptions. The policy has not been reduced to the requisite plan and code designations. Thus, in order to pass muster on review, the city will need to:

1. Demonstrate that it has in place code language that will allow 12% of all new jobs to be located in other than employment designations, such as in connection with home occupations. It is important to emphasize that these job placements need to be allowed "as of right" in the non-employment zones. That is, if a person needs a discretionary land use approval to locate a home occupation in a residential zone, then that code provision can't be counted as implementing Goal 9. In short, the city needs to demonstrate that its code language actually allows this 12% of new jobs to be located in non-job zones. The current code does not support this high percentage.

2. Demonstrate that it has in place the code provisions that ensure that 80% of the new jobs can be accommodated through redevelopment of existing commercial uses. 80% is an astoundingly high percentage. At this point, the city's support for this assumption is primarily just a policy wish. The EOA has not demonstrated that the 80% target is being met now. It has not explained why it can be met in the future. The city needs to make plan and code changes that would support a straight-faced argument that this percentage really can be achieved, not just wished for.

3. Demonstrate that the P/T Professional Technical acreage has been replanned and rezoned to designations that qualify as part of the Goal 9 BLI. The P/T zoning has operated as a kind of land bank in the city, thus far. The city envisions a makeover of the zone that will allow the P/T acreage west of Oaklea to serve traditional commercial purposes. This will require a complete rewrite of the plan and zone designation. Furthermore, the new language of the zone will need to meet state standards for providing commercial uses that are allowed outright. At this point the city has not attempted a redraft of the rules.

In summary, the policy statements in the EOA propose to keep the UGB frozen for traditional commercial and industrial acreage, with the idea of focusing on redevelopment, redesignation and infilling of vacant land. This policy is intended to protect and revitalize downtown. While this policy statement is laudable, the city needs to make all the plan and code changes that it believes will do the job and also establish the factual basis that redevelopment will meet the 80% standard.

C. The city's frozen UGB strategy needs to be reviewed under Goal 12 – Transportation. The city has not shown that the redevelopment/infill strategy will pass muster under the goal.

The city's strategy, under this draft of the EOA, is to accommodate 20-years' growth inside the existing UGB. It is premised on developing the north end of the city, developing by infill, and handling 80% of growth by redesignating P/T land and densifying existing uses.

Many plan changes and zone changes will be needed to do this. As described in B. above, these changes need to be made in connection with the UGB amendments. When those changes are made, they will have to prove compliance with Goal 12, Transportation, and with the Goal 12 Rule – OAR 660, Division 12. See OAR 660-012-0060; *Woodward v. City of Cottage Grove*, 235 Or App 282, 201 P3d 210 (2009).

The city will have a difficult time proving compliance with Goal 12.

For starters, any land use decision that must demonstrate compliance with Goal 12 and the Goal 12 Transportation Planning Rule (TPR), which includes any UGB expansion, plan changes or zone changes, must demonstrate compliance with the current 2000 Transportation System Plan. As the OR 99 Junction City Refinement Plan explains, the recommended projects for the state transportation facility (Hwy 99) cannot be considered likely to be constructed during the planning period and, therefore, cannot be relied upon to show compliance with the TPR until they are properly funded. While the city may require that future development proposals show that they are consistent with the Refinement Plan, the city cannot rely on that plan to demonstrate compliance with the TPR.

The city will find it difficult to demonstrate that a UGB expansion that concentrates development in the existing downtown area can comply with the requirements of the TPR, given that the 2000 TSP recognizes transportation problems in the downtown area under the existing land uses and traffic facilities. Those existing traffic issues will worsen with denser downtown development. The same cannot be said of a UGB expansion proposal that takes full advantage of the stretch of Hwy 99 between downtown and the prison/hospital/Grain Millers site. Under the approach described in Part 1 above, traffic is dispersed along Hwy 99, more fully utilizing that transportation facility and not worsening the existing downtown transportation problems.

Even if one considers that, at some point, the traffic situation may improve in the downtown area as a result of implementing the Refinement Plan, troubling issues remain with increasing the density of development in the downtown area.

Hwy 99 will remain a state facility under ODOT control. ODOT's concerns are focused on through-put, especially for freight traffic, along the state highway. To that end, the city and state have developed an Access Management Plan that seeks to limit access


points onto the highway and to eliminate them wherever possible so that access points to the facility meet state safe spacing standards for the planned vehicle speeds. The EOA's UGB strategy would concentrate development in a smaller footprint and funnel traffic to fewer and fewer access points. In contrast, expansion of the UGB southward would permit more manageable control over access points and avoid the congested traffic points created by a denser downtown.

While the Ivy/Holly Couplet alternative for Hwy 99 provided for in the OR 99 Junction City Refinement Plan proposes an adequate solution for downtown transportation issues under the present planning conditions, it does not present an ideal or complete solution for even current planned development, nevertheless planning that will intensify development in the downtown area. The detailed analysis section of the Refinement Plan, Chapter 6, identifies a range of problems that will remain even after the preferred development is completed. Despite incorporated measures to lessen the problem, queuing issues will occur in the downtown area, particularly at 10th and 6th Avenues. Refinement Plan, Chapter 6, page 28. Also, signal progression issues will place more traffic movement at odds with pedestrian flows by requiring longer north/south green light times. This requirement, which will be necessary for the highway to function as planned, will result in extended wait times for pedestrians who wish to cross Highway 99. Pedestrians will have to wait at intersections when traveling east-west. Refinement Plan, Chapter 6, page 29. Concentrating development in the downtown core will exacerbate these problem areas.

In summary: We urge the city to move slowly on these issues. Please consider the EOA what it purports to be – a draft. Ask the consultants to revisit their recommendations, based on the points made in this letter. Advise the consultants that the city does not want to pursue a policy that might lead to the big chill on development – not being able to grow much as all because wetlands are not really available for development and, more importantly, Hwy 99, which is the key to concentrating growth inside the UGB, is not really up the task and is not likely to be for the foreseeable future.

Thank you for your consideration.

Sincerely,



Bill Kloos

Cc: Aikon, LLC

Kay Bork, Planning Director
May 20, 2009
Page 10

Mike Reeder, Attorney for "Westsiders"
Jim Spickerman, Attorney for Grain Millers

SCHULZ Stephanie E

ORD. NO.

P.A. NO. PA09-5599

DATE: 10-14-09 EXHIBIT NO. 11

From: Moore, Ed W [ed.w.moore@state.or.us]
Sent: Wednesday, October 14, 2009 1:28 PM
To: MOORE ED (LCOG List); SCHULZ Stephanie E
Cc: Nichols, Darren; CLYNE DAVID (LCOG List); Gardiner, Gloria; Jinings, Jon; BORK Kay; HOWE Kent; NABETA Marguerite (OR); HOGUE Thomas (OR)
Subject: RE: additional testimony re: Junction City UGB

Stephanie,

Thanks for forwarding me Mr. Crum's written testimony. I will address those issues as you requested that relate to the Customized Periodic Review tasks undertaken by Junction City related to Goal 9 (Economic Development) and Goal 14 (UGB analysis). I will also discuss the Goal 11 (Water and sewer outside the city and UGB) issue as well. With regard to those issues raised by Mr. Crum that are not related to Goals 9, 11 and 14, the City would be the appropriate source for response.

Background: The Oregon Department of Corrections (DOC) chose a location for a minimum/medium security prison south of Junction City on Hwy 99 which is partially located inside/outside the existing UGB for Junction City, and entirely outside the city limits. Because the site was partially outside the UGB on resource zoned land, the DOC used its statutory "super siting" authority that exempted it from complying with local land use regulations.

Goal 9:

"Inclusion of Grain Millers [and the state prison] in the UGB."

With the siting of the state prison and hospital on land partially within the Junction City UGB that had been designated as land needed for industrial use, and the impact those two state facilities will have on the community, the city requested the Land Conservation and Development Commission to go into customized periodic review (CPR). As one of their CPR tasks, the city prepared and economic opportunities analysis (EOA) to address its employment land needs for 20 years. Through an extensive public planning process, the city identified a need to expand its UGB to add additional land to accommodate the state prison/hospital, the Grain Millers site, and land for a needed expansion of its waste water treatment facility.

During the adoption process, the city received significant public testimony regarding the perceived need for inclusion of exception parcels located west and immediately adjacent to Hwy 99 into the UGB. As a result of that testimony, the city amended its EOA and chose to pursue a more focused expansion of its UGB in Phase 1 centered on bringing in the remainder of the prison site, Grain Millers, and the water treatment facility into the UGB. In the immediate future, the city will be re-evaluating its assumptions regarding commercial land need to address the concerns of property owners on the west side of Hwy 99. DLCD support this two-step process for Junction City addressing its employment land needs.

Most important to the county, the EOA which has been adopted by Junction City and is proposed for co-adoption by Lane County complies, in our opinion, with the requirements of Goal 9, OAR 660.009.

In his testimony, Mr. Crum state that the Grain Millers site does not need to be in the UGB and their facility could be built on "ag-zoned" land; and that its inclusion in the UGB is economically generated. The site in question is currently zoned EFU-40. In reviewing the Lane County Code, Section 10.100-10 (Exclusive Farm Use District), Table 1, #15 allows a commercial activity in an EFU zone "that are in conjunction with a farm use." Other than this one reference, I could not find where/how Mr. Crum came to this conclusion. Based on our involvement on this issue, we do not believe that the type of facility proposed by Grain Millers could be located on their property which is zoned EFU-40.

"Commercial land inventory and designation for UGB expansion is not only included in the employment lands

10/15/2009

portion of the process, but is given \$B!H (Bfirst ranking \$B!I (B over industrial use."

Mr. Crum is incorrect in his interpretation of OAR 660.009.0025; both commercial and industrial land are not ranked, and the need for each is determined by the local jurisdiction according to the process outlined in the Goal 9 rule.

"Their requests to be considered for inclusion in the UGB expansion occurred with ample time for the process to have included consideration of the 99 properties to meet the inventory needs for the commercial lands in the employment lands (Phase 1) UGB proposal."

I would have to disagree with Mr. Crum on this matter. As grant manager for DLCD for this project, at the time the west side property owners became engaged in the process, there was not sufficient time left in Phase 1 to evaluate their status for inclusion in the Phase 1 UGB expansion; to do so will require re-examination by the city of their commercial land needs which could not be accomplished within the time remaining in the grant. The state is aware, and the city has included in its draft work program for Phase 2 the analysis needed to validate whatever commercial land needs are identified.

"Very late in the process, the City administrator solicited a letter from an DLCD official which supported his contention that DLCD would not approve a UGB which was \$B!H (Breverse engineered \$B!I (B, The administrator had, apparently, characterized any inclusion of the 99 properties as \$B!H (Breverse engineering. \$B!I (B"

DLCD has been involved in this project from the beginning. When the west side property owners voiced their concerns about not being included in the Phase 1 UGB expansion, the methodology proposed by an attorney for the proponents was not consistent with Goal 9. To avert any unnecessary delay due to the potential for appeal, we suggested that the city take a two-step process in addressing their employment land needs.

Goal 11:

"The prison site didn \$B!G (Bt need to be in the UGB to be served by infrastructure provided by Junction City."

Mr. Crum is correct; The prison at Junction City, because it was "super sited" did not have to be inside the city or its UGB to request and receive water and sewer services from the city. How and at what cost would be something the city and DOC would negotiate through an agreement.

To comply with Goal 11, the applicant, in this case the DOC, would have to build a case to allow the city to make findings for an "exception" to Goal 11 to extend water and sewer service outside the UGB. However, unlike the Madras case, cited by Mr. Crum, where the prison is several miles outside the city and its UGB, it made sense, from a planning and financial standpoint, for DOC to request that their entire prison site be brought into the UGB. Also, it should be noted for the record, that Deer Ridge Prison was "super sited". The same rules that apply here applied in Madras.

Goal 14:

"Inclusion of the prison/hospital site in the UGB allows Grain Millers to \$B!H (Bpiggy \$B!> (Bback \$B!I (B on the prison site, get into the UGB and receive access to water and sewer."

Mr. Crum is correct; however, the reasons for including the remaining portion of the prison site and Grain Millers into the UGB has been adequately documented in the EOA as meeting Junction City's employment land needs and targeted industry.

"DLCD has made it very clear they would never \$B!H (Bjump \$B!I (B over the prison/hospital site to include a property which was not otherwise contiguous to the UGB \$B!D!D (Bno prison/hospital inclusion meant no Grain Millers inclusion and that may well have meant Grain Millers wouldn \$B!G (Bt develop the property."

Mr. Crum is correct, to include the Grain Millers without the prison could not be allowed under Goal 14. However, the reasons for including the prison site inside the UGB is well documented in the EOA.

In conclusion, the department believes that both the process and the products of Phase 1 of Junction City's CPR are consistent with all applicable statewide planning goals. I believe that Junction City has taken a very open and deliberative approach in addressing its future employment land needs. In Phase 2 of the CPR process, there will be ample opportunity for the city, along with the involvement of the west side property owners, to engage in a meaningful planning process to address their mutual concern regarding commercial land.

Respectfully,

Ed Moore

Ed Moore, AICP | SWV Regional Representative
 Community Services Division
 Dept. Land Conservation and Development
 644 A Street | Springfield, OR 97478
 Cell: 971.239.9453 | Fax: 541.744.8088
ed.w.moore@state.or.us | www.oregon.gov/LCD/

From: SCHULZ Stephanie E [Stephanie.SCHULZ@co.lane.or.us]
Sent: Tuesday, October 13, 2009 9:50
To: MOORE ED (LCOG List)
Cc: HOWE Kent
Subject: FW: additional testimony re: Junction City UGB

Hi-Ed.

This letter is submitted to the record for PA-09-5599. A comparison is being made to the prison that is located on the east side of the Cascades near city of Madras. I am not familiar with this prison nor the process for it's construction.

What is DLCD's response regarding Mr. Crum's statements? As is stated in the attached LCPC ACM, It is Lane County's understanding the city is not allowed, under Goal 11, to provide urban levels of service to the state facilities.

Thank's.
 Stephanie

From: gary crum [mailto:garycrum@countryvisioncable.com]
Sent: Monday, October 12, 2009 3:22 PM
To: SCHULZ Stephanie E
Subject: additional testimony re: Junction City UGB

← See Exhibit No. 4 for this complete email.

To: Lane County Planning Commission

From: Gary Crum 25534 Hall Road, Junction city, Oregon 97448

I wish to submit additional testimony regarding the proposed UGB expansion brought to you by Junction City.

First, a brief statement regarding my interest in this issue: I have no direct economic interest in the UGB expansion \$B!D (BI neither profit nor lose based on your decision. While virtually everyone involved, from Grain Millers to the \$B!H (BWestiders \$B!! (B has an economic interest in the UGB, I don \$B!G (Bt.

I and my family moved to the Junction City area in 1971 and bought a ten acre farm southwest of Junction City. Our children are grown but my wife and I still live on the farm. I am a retired teacher, having taught twenty-eight years in special programs for disturbed and delinquent adolescents I taught twelve of those years in Junction City from 1971 through 1983. I then served eight years on the Junction City Schools Budget Committee (the last three as chair) and five years on the Junction City

10/15/2009

Junction City UGB Expansion and Comprehensive Plan Co-Adoption - File # PA09-5599
Junction City Rebuttal to Written Comments Submitted to Lane County between October 6th and October 13, 2009

Background

As stated in Junction City's application to Lane County, the City requested Customized Periodic Review as a way to address emerging issues resulting from the siting of the state mental health and prison facilities. The work program approved by the Department of Land Conservation and Development (DLCD) and the City Council included the following work tasks to be completed in two Phases over the 2007-2009 and 2009-2011 bienniums:

1. Project Management.
2. Conduct Public Involvement (PIP) Program.
3. Economic Opportunity Analysis.
4. Local Wetlands Inventory.
5. Residential Buildable Land Inventory and Land Needs Analysis.
6. Urban Growth Boundary (UGB) evaluation for potential Expansion, and Urban Reserves Study.
7. Comprehensive Plan Amendments and Adoption.

Phase I tasks include the completion of: a preliminary local wetlands inventory, commercial/industrial buildable lands inventory and Economic Opportunities Analysis, economic development vision, UGB alternatives analysis for employment land, as well as plan amendments and findings supporting a UGB expansion for employment lands.

Response to Mr. Crum

A portion of Mr. Crum's comments pertain to a supersited Department of Corrections (DOC) facility located outside the City of Madras. Mr. Crum is incorrect on several points: (1) the City of Madras provides only sewer service to this facility; a special district provides water service; and (2) as noted in DLCD Regional Representative Ed Moore's email comments, dated Wednesday, October 14, 2009 and updated Friday, October 16, 2009, the Deer Ridge Prison was supersited.

Further, the fact that Madras extended sewer services beyond its boundaries and/or UGB is irrelevant to Junction City. As Mr. Crum indicates, the matter of service provision never became an issue in Madras. Goal 11 imposes serious and potentially insurmountable hurdles to extraterritorial extensions. Both County Counsel and DLCD opine that the City may not legally extend and provide either water or sewer to the state facilities without complying with Goal 11 – DOC's supersiting authority notwithstanding.

His Madras research and the City's lengthy public process provide the only basis for Mr. Crum's opposition to the City's application. In his oral testimony and within his written comments, Mr. Crum states he has "no quarrel" with extending the City's UGB to encompass not only the prison and hospital sites, but also Grain Millers (pp. 1 and 3). His only quarrel is with the alleged

“tactics” utilized by City staff through the process. Reasonable minds may differ on far clearer issues than the public process required under Goal 1. However here, the question is whether the City has met the requirements of Goals 9 and 14 – an issue not addressed by Mr. Crum’s comments.

Mr. Crum contends in his email comments (page 3, 2nd paragraph) that “*commercial lands seemed not to even be part of the City staff’s agenda*” and “*It became very clear to me that they never intended to include commercial lands in that proposal and worked throughout the process to insure the commercial land portion of the process was not performed and no commercial lands were included in the UGB proposal* (page 4, 5th paragraph).

Contrary to Mr. Crum’s assertions, the EOA identifies both short and long term employment land needs and economic opportunities for Junction City. The short term economic opportunities identified in the EOA include the siting of the State prison and hospital and the opportunity to site Grain Millers in Junction City to take advantage of the surrounding agriculture industry and existing rail.

The EOA also identifies long term commercial and industrial land needs and summarizes these findings in the EOA Executive Summary and in more detail in Chapter 4 (page) and Chapter 5 (page 53).

For a summary see the following tables:

- **Table 4-6.** *Estimated needed sites by site size and building type.* Table 4-6 shows site needed to accommodate growth of 1,189 jobs, which excludes the employees on at the State facilities.
- **Table 5-1.** *Comparison of vacant land supply and site needs, industrial and other employment land, Junction City UGB, 2009-2029.* Table 5-1 shows a summary of suitable employment sites and site needs and compares the supply of sites with the demand for sites to show the need for employment sites in Junction City for the 2009 to 2029 period.
- **Table 5-3.** *Table 5-3. Comparison of employment land supply and site needs, Junction City UGB 2009-2029.* Table 5-3 shows sites needed (from Table 5-1) and land need (based on number of sites needed in Table 5-1 and average site size in Table 5-2).

In summary the EOA finds the following:

- **Industrial land.** Junction City has a **need for 21 acres** of industrial land, including one 10-20 acre site. This need can be met through development of vacant land within the UGB (e.g., on one of the vacant 20 to 50 acre sites or on land designated for Professional Technical uses) or through redevelopment.
- **Commercial sites.** Junction City has a **need for 62 acres** of commercial land and of the 62 acres a need for 20 acres on sites 5 to 10 acres in size and the rest 15 acres or less in size.

Many comments, including Mr. Crum's, pertain to the City's evolving public process. The end result was that the City chose to address the Westsiders concerns by moving its commercial land analysis to Phase II. The CCPC discussed several strategies to meet the City's commercial land needs. One was the potential for redevelopment and infill and the use of efficiency measures (required by Goal 14). Redesignating the Professional Technical site (also referred to as the Oaklea site) to Business Park Zoning to allow even more commercial uses on site could implement this approach. The option of expanding the UGB to include more commercial lands was also discussed.

At its March 4, 2009 meeting, the CCPC ultimately determined that the City's 20 year commercial needs should be met through efficiency measures, precluding the need to look outside the UGB for additional commercial land. The CCPC did note that, during Phase II, the City should look at the west side of Highway 99 for possible inclusion within Urban Reserves. (See, page 3 of the March 4, 2009 CCPC Minutes in Attachment 7 of the Lane County Planning Commission Packet.) A summary of the CCPC recommendation is included in a Memo to the Junction City Council, dated July 14, 2009. (Attachment 2 in the Lane County Planning Commission packet.) The CCPC's recommendation described above is referred to as Option 1.

Notwithstanding the CCPC policy recommendation, the City Planning Commission recommended and the City Council ultimately adopted Option 2, described in the same Memo. Option 2 benefits the "Westsiders," as the City will now re-examine the infill and efficiency measures relating to commercial land in tandem with the residential needs analysis scheduled for Phase II. Most importantly, the City has the opportunity in Phase II to re-examine the future uses of the Professional Technical site as a way to meet some of the City's 20 year residential land needs, as opposed to limiting it to industrial and commercial uses. The corollary to this shift is that the City will again need to assess filling its commercial needs with land currently located outside the City's UGB.¹

As noted in the letter submitted by DLCD Director Richard Whitman, dated July 7, 2009 (page 10 of Attachment 2 in LC Planning Commission packet), DLCD supported Options 1 and 2, as presented by staff. Mr. Whitman expressed serious reservations about "Option 3," as presented by Mr. Kloos and Mr. Reader who represent the "Westsiders."

As Mr. Crum's remaining comments do not provide new evidence, nor address the Lane County criteria of approval in Chapter 12.050 or the statewide planning goals, the City does not address them in this rebuttal. The City has provided a Justification and Findings Report which demonstrates how the proposed UGB Amendment complies with all criteria applicable to the City's proposed UGB Amendment. See Attachment 5 of the Lane County Planning Commission packet.

Response to Mr. Kloos

¹ It is important to note that the owner of the Professional Technical had been working with the City over the last two years to have the PT site certified and marketed by the state as "shovel ready" for industrial development. Therefore, this site had been set aside for future light industrial and associated commercial uses. Later in the process, the owner indicated a willingness to look at the site for potential residential uses. However, the future use of the site will not be known until the Residential Needs analysis is completed during Phase II.

Mr. Kloos requests that the Lane County Planning Commission deny the City's application, but similarly makes no argument that the City has not adequately addressed any applicable approval criteria as set forth in LC 12.050 or the statewide planning goals. Instead, as with all comments received, Mr. Kloos objects to the bifurcated process pursued by the City.

The City's testimony provided at the October 6, 2009 public hearing explained why the City chose to submit a UGB amendment/co-adoption application to Lane County at this time. As the County is aware, the City is working under a DLCD approved work plan (the "homework assignment" referred to by Mr. Kloos), which identified two possible UGB expansions to be undertaken in two phases. Respectfully, any decision to amend the City's work plan is properly a local decision to be debated and exercised by the City Council for Junction City alone, upon approval from DLCD. It is not a decision for the Lane County Planning Commission or Board of Commissioners.

Response to Mr. Reeder

Mr. Reeder alleges that the "*Application submitted to Lane County by the City is incomplete. It does not properly evaluate and analyze Employment land as required by Statewide Planning Goal 9 and the Goal 9 Rule.* Based on this allegation, Mr. Reeder urges the Lane County Planning Commission to recommend denial to the County Board of Commissioners. However, Mr. Reeder fails to provide any legal support showing that the City's EOA does not meet the requirements of Goal 9.

In contrast, the City has provided significant findings showing compliance with Statewide Planning Goal 9, as well as Goals 11 and 14 (Attachment 7 and Exhibit A, Attachment 1 in the LC Planning Commission packet). Specifically, OAR 660-024-0040 allows a local government to "review and amend the UGB in consideration of one category of land needs . . . without a simultaneous review and amendment in consideration of other categories of land need . . ."

The choice to evaluate commercial lands in Phase II, as opposed to Phase I was in direct response to the Westsiders request that the City take a closer look at how it wishes to fulfill its commercial land needs. This approach was supported by DLCD's letter dated July 7, 2009, referenced above and included within the Planning Commission packet.

In his recent comments, Mr. Ed Moore, DLCD Regional Representative reaffirmed DLCD's position, stating:

"In conclusion, the department believes that both the process and the products of Phase 1 of Junction City's CPR are consistent with all applicable statewide planning goals. I believe that Junction City has taken a very open and deliberative approach in addressing its future employment land needs. In Phase 2 of the CPR process, there will be ample opportunity for the city, along with the involvement of the west side property owners, to engage in a meaningful planning process to address their mutual concern regarding commercial land."

Response to Remaining Public Comment

As the remaining comments do not provide new evidence nor address the Lane County criteria of approval in Chapter 12.050 or applicable statewide planning goals, the City does not address them specifically in this rebuttal.

However, all comments indicate general support for inclusion within the UGB of the state facilities and Grain Millers – the objection is to the process used to date. While a single UGB expansion proposal may be preferable to this “opposition,” their request – to have commercial and residential looked at comprehensively is addressed by the City’s decision to postpone any conclusion regarding addressing commercial lands to Phase II. This approach also satisfies the City’s needs, represented by this current application, for a UGB expansion now to meet and plan for its short term employment opportunities.

The City’s current UGB expansion proposal does not preclude consideration of the Westsider’s property and other properties surrounding the UGB for possible inclusion in a Phase II UGB expansion. Rather, it ensures this consideration will occur, as required by the statewide planning goals and the DLCD work tasks.

SCHULZ Stephanie E

ORD. NO. _____
 P.A. NO. 09 - 5599
 DATE 10-16-09 EXHIBIT NO. 13

From: Moore, Ed W [ed.w.moore@state.or.us]
Sent: Friday, October 16, 2009 12:11 PM
To: MOORE ED (LCOG List); SCHULZ Stephanie E
Cc: Nichols, Darren; CLYNE DAVID (LCOG List); Gardiner, Gloria; Jinings, Jon; BORK Kay; HOWE Kent; NABETA Marguerite (OR); HOGUE Thomas (OR)
Subject: RE: additional testimony re: Junction City UGB
Importance: High

Stephanie,

Following the department's comments on the Junction City UGB amendment proposal dated 10.14, it appears that we may need to clarify our response to the Goal 11 portion of the proposal below. There may be differing legal opinions re: the ability of a facility that is "super sited" outside of an Urban Growth Boundary to receive municipal services.

Our initial comments should be amended to read as follows:

Goal 11:

"The prison site, having been "super sited" didn't need to be in the UGB to be served by infrastructure provided by Junction City." However, like other issues associated with the "super sitting" legislation, there is a genuine difference of legal opinions on this issue. It is our understanding that the County Attorney holds the opinion that while Junction City may extend services outside the UGB to ultimately serve a property situated within the City limits, the City cannot provide actual services (i.e. turn on the water) to a property outside the UGB.

While the Attorney General's office holds a different opinion, as with all such differing opinions, only the Courts have the final vote and this matter, and as of this date the matter remains unresolved. For that reason, the City has cited the County Attorney's opinion as part of the basis for the urgency of bringing the facilities within the City; and we would concur with the City and County decision.

Otherwise, to comply with Goal 11, the applicant, in this case the DOC, would have to build a case to allow the city to make findings for an "exception" to Goal 11 to extend water and sewer service outside the UGB. We understand that in this case, unlike the Madras case cited by Mr. Crum where the prison is several miles outside the city and its UGB, it made more sense from a planning and financial standpoint for DOC to request that the entire prison site be brought into the UGB. Also, it should be noted for the record, that Deer Ridge Prison was "super sited". The same rules apply to the DOC facility in Junction City that applied to the Deer Ridge Facility in Madras.

--

Please write or call if you have any questions.

Thanks again for the opportunity to provide comment to the Lane County Planning Commission on this issue.

Ed
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 Dept. Land Conservation and Development
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10/19/2009