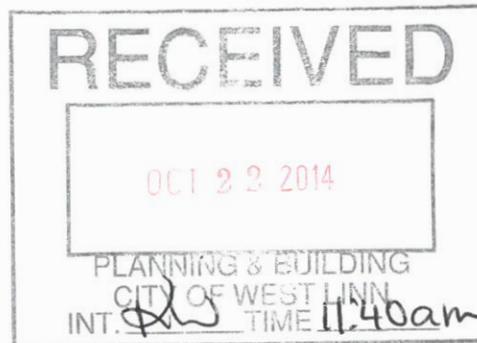


October 22, 2014

**VIA HAND DELIVERY**

Ms. Christine Steel, Chair  
West Linn Planning Commission  
City of West Linn Planning Department  
22500 Salamo Road, Suite 1000  
West Linn, OR 97068



**Re: ConAm Application for Approval of a Concurrent Comprehensive Plan Map and Zoning Map Amendment, ZC-14-01/PLN-14-01**

Dear Chair Steel and Members of the Planning Commission,

This letter is presented by individual public citizens and not by representatives of any Neighborhood Association.

The subject property is currently zoned Office Business Center (OBC). The Applicant (Con-Am) requests approval of a Comprehensive Plan map and zoning map amendment from the current Comprehensive Plan map designation of Commercial to Medium-High Density Residential (R-2.1). This change would allow development in the form of 208 apartment units.

**We oppose these changes and request that the Planning Commission find that the application does not meet the requirements of the Comprehensive Plan and Community Development Code (CDC) for a zoning change or Comprehensive Plan map amendment.**

We would like to respond to the numerous letters submitted by the Applicant's attorney, Mr. Michael Robinson, since the October 1, 2014 Planning Commission meeting. In doing so we will address the primary issues as to why this application should be denied.

**1. The Planning Commission Erred in giving the Applicant two Opportunities for Rebuttal Testimony**

From the "*Planning Commission Policies and Procedures*" document (revised 5-7-14) on the city web site, the rules for conducting quasi-judicial hearings are as follows:

"Conducting Quasi-Judicial Hearings: Conduct of quasi-judicial hearings shall conform to the requirements of ORS 197.763 and the West Linn Community Development Code including, but not limited to the following:

1. The Chair shall announce prior to opening the hearing the nature of the matter to be heard as it is set forth on the agenda and the procedure to be followed for the hearing.
2. The Chair shall give notice that failure to address a criterion or raise any other issue with sufficient specificity precludes an appeal to the Land Use Board of Appeals on that criterion or issue.
3. Discussion of jurisdiction and impartiality of the West Linn City Commission and Commissioners.
3. Staff report on the application (including summary of additional correspondence) and initial Commission questions for staff.
4. Applicant's presentation and initial Commission questions for applicant.

5. Public testimony.
6. Staff response, if necessary.
- 7. Applicant's rebuttal testimony.**
8. Questions from the Commission to staff.
9. Closure of public hearing, no further information from the public.
10. Discussion by Commission, including, but not limited to, polling, making of a motion, deliberation, and decision.
11. The Commission shall adopt findings employing staff and the City Attorney as necessary in the preparation and adoption of the findings. The Commission may, at its discretion, direct the Chair to sign the decision and findings, or it may continue the hearing to consider a draft decision and findings at a subsequent date." (Emphasis added).

Please note that the Applicant is only to be allowed **one opportunity** for rebuttal testimony. In this hearing, however, the Applicant has been given the opportunity for both written and oral rebuttal testimony. Please see the enclosed email from past Planning Commission Chair Michael Babbitt in which he makes this very point (Exhibit 4).

We believe that this is not in keeping with Planning Commission policies and procedures and is not how quasi-judicial hearings have been conducted in the past. **We therefore request that the Applicant be given only one additional opportunity for rebuttal – either written or verbal, but not both.**

## **2. Inability to gain access to the Planning Commission Work Session**

As I (Ed Schwarz) mentioned during my testimony to the Planning Commission on October 1, 2014, a locked door prevented me from gaining access to the Planning Commission's work session preceding the regularly scheduled Planning Commission meeting. I stated that this locked door interfered with my Oregon Goal 1 right as a citizen to attend this work session. On page 5 of his October 8, 2014 letter to the Planning Commission Mr. Robinson states, "Mr. Schwarz complained that the Applicant and his representatives were the only persons to attend the meeting." **Mr. Robinson is incorrect.** If you refer to the tape of the Planning Commission meeting of October 1, 2014, I clearly stated that four members of the public were present of which 3 were from the Applicant. My statement occurs at 1:16:50 of the tape of the meeting. However, just because there was one member of the public present this does not mean that my Goal 1 rights were not interfered with. In fact, there were approximately one dozen members of the public who also tried to gain access to the work session at the same time I did and also encountered the locked door. Thus, I think it is very safe to say that the Goal 1 rights of numerous citizens were interfered with by that locked door.

I believe that this is a valid procedural objection as I was unable to gain access to a public meeting because of a locked door and despite pounding on the door and nearby protective window screen. As well, a member of the public went outside the building to see if he could find other entrance to the room or a window to knock on to gain the attention of the Planning Commission or staff.

I have attached as Exhibit 1 a photo of me trying to gain access through the locked door as well as a photo of several other members of the public who also tried to gain access to the work session meeting but were unable to because of the locked door.

### 3. CDC sections 105.050(B) and 99.110(B) are not met by this application

CDC Sections 105.050(B) and 99.110(B) require that the Applicant demonstrate **“Proof of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or zoning map as it relates to the property which is the subject of the development application.”** Please note that CDC 105 requires “A decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment **shall be based on all of the following standards.**” Thus, the Applicant has the high bar to prove that **all** of CDC 105.050 is met, not just certain parts.

In Mr. Robinson’s letter dated October 10, 2014 he states that the lack of the property to develop is proof that a “mistake” was made.

The Merriam-Webster dictionary defines “mistake” as:

**mis·take** verb \mə-ˈstāk\

: to understand (something or someone) incorrectly

: to make a wrong judgment about (something)

: to identify (someone or something) incorrectly

(<http://www.merriam-webster.com/dictionary/mistake>)

This property was zoned OBC many years ago. Neighboring property, also zoned OBC, has developed over the years without the claim that any mistake was made in the original zoning. The fact that the property owner waited too long to try and develop this particular parcel, mistiming the market for OBC, does not prove that a mistake in zoning was made. In fact, this same property owner recently applied for, and received, approval of a development application allowing him to build on this OBC zoned property. Why didn’t the owner raise the issue of a “mistake” at that time? Simply because no mistake was made.

Similarly, in the absence of a mistake, CDC 105(B) and 99.110(B) require that, “Proof of change in the neighborhood or community” be present in order to allow a Comprehensive Plan map change. The Applicant has presented no evidence whatsoever that there has been a change in the neighborhood or community sufficient to meet this requirement.

Also, please note that the **owner is retaining 1.2 acres of this property for OBC development.** If a mistake was made or a change is present, why has the owner not requested that the **entire property** be rezoned to R2.1? **Obviously, the owner still sees development potential under the existing OBC zoning.**

**The Applicant has not met the burden of proof required by CDC 105.050(B) and 99.110(B) and thus the application should be denied.**

### 4. This Site is Not Appropriate for Multi-Family Development

In his letter of October 10, 2014, Mr. Robinson states that this site is appropriate for multi-family development even though he acknowledges the steepness of the site and the extensive grading that will be required for any development. He provides no proof to his claim that it is “far easier” to develop a steep site with several buildings rather than a large building. It is also important to note that the

previously approved proposal on this site was for several buildings, not one large building so the Applicant has not demonstrated that approving this application makes developing the site any easier.

Also please note that, as we have stated previously, 1.2 acres of this site has been retained by the owner for OBC development. Thus, the proposed apartment building will be immediately adjacent to both the existing OBC office buildings to the west as well as the 1.2 acres of OBC zoned property being retained by the owner. **Being bordered by OBC on two sides makes this property unsuitable for residential development of any kind.**

Finally, there is no other multi-family apartment development in this part of West Linn. This rezoning would make the 208 unit apartment building an "island" of apartments in this area of West Linn. This again emphasizes the fact that this site is not suitable for apartment development.

#### **5. This Application will have an Adverse Effect on Public Schools**

In his letter Mr. Robinson again uses the figure of 44 additional schoolchildren being added to local schools from this 208 apartment unit development. As we have shown before, this figure is too low and does not correctly reflect the actual number of students this development will add to the local schools. Please see Exhibit 2 taken from the West Linn-Wilsonville School District's Long Range Plan document of January 13, 2014. We have added highlighting to the appropriate sections which clearly indicate that a dwelling unit can be expected to add 0.47 of one child to local schools. Multiplying 0.47 by the number of apartments (208) yields 97.76 new schoolchildren from this one development. Given that the school district is near capacity (and, as Mr. Robinson acknowledges some schools are already over capacity) **this apartment building will place an undue burden on the school district.**

We again refer to the November 12, 2012 letter (submitted previously) from the property owner, Mr. Jeff Parker, to the West Linn-Wilsonville School District in which he states that the 208 apartments are expected to send an **additional 91 students** to local schools.

Please think about other apartment complexes in West Linn and the number of children associated with them. **Does it really seem realistic that a 208 unit apartment will only generate 44 new students** (as the Applicant claims)? We have proven, using the school district's own numbers, that there will be at least 98 new schoolchildren from this development and there could well be more than that number.

#### **6. This Site Should Remain Zoned for OBC**

In his letter Mr. Robinson states that the site should not remain vacant.

"Finally, this Application is about whether this property will be allowed to remain vacant in light of un rebutted evidence that office development is likely (*sic*) to occur on this site. Further, the OBC zone is not an effective commercial zone because **so few retail or commercial uses are allowed**. Moreover, it is **not a suitable site for a hotel given the steepness of the slope** (and, as noted above, large buildings are more difficult to accommodate on steep slopes, as testified to by the Applicant in the October 1, 2014 hearing} and **the Arch Bridge and Bolton Town Center Study suggests that a hotel is more appropriately located in that area.**" (Emphasis added).

First, Mr. Robinson wants you to believe that the existing zoning so severely restricts the options for development of this site that it will never be developed unless this application is approved. Let's take a look at the options for development allowed under the current OBC zoning.

Allowable uses of the property as currently zoned [Office Business Center (OBC)] under CDC 21.030 are:

**"21 .030 PERMITTED USES**

The following uses are permitted outright in this zone:

1. Business equipment sales and services.
2. Business support services.
3. Communications services.
4. Cultural exhibits and library services.
5. Family day care.
6. Financial, insurance and real estate services.
7. Hotel/motel, including those operating as extended hour businesses.
8. Medical and dental services.
9. Parking facilities.
10. Participant sports and recreation, indoor.
11. Personal services and facilities.
12. Professional and administrative services.
13. Utilities, minor.
14. Transportation facilities (Type I). (Ord. 1 226, 1988; Ord. 1401, 1997; Ord. 1 590 § 1, 2009; Ord. 1622 § 23, 2014)"

This list contains many options apparently not even considered by the owner of the property. If they were considered, it has not been mentioned in any of the Applicant's testimony. **Thus, there are numerous options for development of this property under the existing zoning besides a single, large office building (which seems to be the only option now being considered by the owner).**

There is nothing in the Arch Bridge and Bolton Town Center Study which precludes the city from developing a hotel on this site. Thus, a hotel is still an allowed use under the existing zoning.

As we have stated above, if OBC is not appropriate for this site, why is the owner retaining 1.2 acres of this property under the current OBC zoning?

**7. Economic Impacts of the Application to the City are Exaggerated**

In his letter of October 10, 2014 Mr. Robinson states that this development will result in "the following economic benefits to the city: \$572,000 in annual property tax revenues." **This misstates the benefit to the city by over \$500,000.** Please refer to the memorandum dated June 27, 2014 from Johnson Economics. Figure 11 on page 25 of this report shows that only \$65,331 of property tax revenue will come directly to the city. The rest will go to other public agencies and entities in the area. **Thus, the economic benefits to the city from property taxes has been greatly overstated.**

The Johnson Economics memorandum also goes on to state other benefits to the city including: "170 jobs created or induced by construction and operation" and "\$12.3 million added through wages and economic activity related to these jobs." Unfortunately, the memorandum does not break down the number of **temporary construction jobs vs. permanent jobs** that will be created. It also does not state

**how many of those construction jobs will come from people residing in West Linn.** It is our belief that most of the job related to this project will be construction jobs (how many people does it take to manage an apartment complex?) and that **most of these construction jobs will go to people residing outside of West Linn.** Thus, we believe that **this report greatly overstates the economic benefits to the city from this project.** In fact, most of these benefits will be **one-time benefits** resulting only from the construction of the apartment buildings.

Mr. Robinson goes on to state that, "In fact, even though the school district received notice of this Application from the city and a personal request from one of the opponents to testify on the Application, the school district did not do so." Mr. Schwarz appeared before the school board to attempt to clarify whether this proposed apartment development had been included in their long-range planning report (it had not). Please see Exhibit 3, an email from School Board Chair Regan Molatore indicating that the district did not include this potential apartment building in their long-range forecast as they do not attempt to predict "future city zoning changes." Thus, the school district does not testify for or against a proposal for a zoning change.

#### **8. OBC Conditions for Multi-family Housing are not "Ambiguous"**

In his October 10, 2014 letter Mr. Robinson states that "The OBC zone permits multi-family housing under specified conditions. Unfortunately, those specified conditions are **ambiguous**. ConAm wishes to develop this site for multi-family development and it would certainly be easier to do so in the OBC zone **but for the ambiguity of the section allowing multi-family development.**" (Emphasis added). Nowhere in his many letters does Mr. Robinson state where or how this ambiguity occurs. To our knowledge no other Applicant for a zoning change has complained that this section of code is ambiguous.

As we have stated, the burden of proof for this application is higher than that for a development review application (this is not denied by Mr. Robinson or the Applicant) and the **Applicant has not met this burden.**

#### **9. Changes to the Comprehensive Plan map are not to be taken lightly.**

The burden of proof on an applicant for a Comprehensive Plan map change and zoning change is a very high one – it has not been met here.

The West Linn Comprehensive Plan, Goal 2: Land Use Policies, Section 1: Residential Development; Policies, paragraph 7. c. states,

"Medium-high density residential lands **will meet all of the following criteria:**

- i. Areas that do not rely solely on local streets for the provision of access;
  - ii. Areas that are not subject to development limitations such as topography, flooding, or poor drainage;
  - iii. Areas where the existing facilities have the capacity for additional development;
- ..." (emphasis added)

**This application does not meet criteria ii or iii and this fact has not been rebutted by the Applicant.**

First, the land to be developed is heavily sloped and does include significant topographical limitations (please see Page 9 of the Staff report which states that "the site exhibits topographical challenges" as

**well as the Applicant's own economic report which continually refers to the site as having significant topographical challenges).**

Second, the existing roads and the closest intersection to this property are already functioning beyond capacity (including an F rated intersection at Blankenship and Tannler). Adding additional traffic would severely impact an already bad situation. Please refer to the Applicant's economic report from Johnson Economics which states in the last paragraph of Page 2 that "The site is unappealing for conditional uses such as retail and hotel due to topography, visibility and **access.**" In the very next paragraph at the top of Page 3 the report states "The subject site is well-suited for residential use, providing **good access**, views, and schools." The Applicant cannot have it both ways, does the site provide poor access or good access? **We contend and the traffic report supports that access is poor, especially for the volumes of traffic that will be generated at peak times by a 208 unit apartment development.**

If you believe the Applicant's own economic analysis, then the owner of the property should not have purchased it in the first place as it is obviously not suitable for OBC development. In reality, of course, the site is well-suited for OBC and should remain so designated.

**This application does not meet Goal 2 for a Comprehensive Plan map amendment and should be denied.**

**10. Goal 9 (Economic Development), Policy 11, of the Comprehensive Plan is Not Met by this Application**

Goal 9 (Economic Development), Policy 11, of the Comprehensive Plan states that the City is to "Encourage the economic vitality of the four existing commercial areas." One of the four existing commercial areas in West Linn is in the Willamette Neighborhood. Changing the zoning of this parcel from OBC to Medium-High Residential does not further the goal of supporting economic development in this area.

**Therefore, Goal 9 of the Comprehensive Plan is not satisfied and the application should be denied.**

**11. The two most affected Neighborhood Associations (NAs) adjoining this property both passed resolutions opposing the changes and supporting continuation of the existing zoning.**

**Willamette NA stated in their resolution (previously submitted) that they request that the existing zoning should be retained.** They also stated that the existing OBC zoning allows for more than 12 uses of the property other than office buildings. Willamette NA also expressed concerns regarding the impacts on the surrounding community, schools, infrastructure, public services, traffic, and pedestrian safety. Willamette NA also requested that this application be considered in the light of what is in the best long-term interest of the neighborhood rather than the short-term most marketable use of a single property.

**Savanna Oaks NA stated in their resolution (previously submitted) that retaining the existing Commercial designation on the Comprehensive Plan map for this property is in the best interests of the West Linn Community and represents the highest and best use of this property.** Savanna Oaks NA also cited CDC 21.010 which states that the purpose of the existing Office Business Center (OBC) zoning is "...to accommodate the location of intermediate uses between residential districts and areas of more intense development, to provide opportunities for employment and for business and professional

services in close proximity to residential neighborhoods and major transportation facilities, to expand the City's economic potential, to provide a range of compatible and supportive uses, and to locate employment where it can support other commercial uses." **If this property is allowed to develop as apartments, doing so would contradict that part of CDC 21.010 which prefers intermediate uses between residential development and areas of more intense development.** The apartments would be located immediately next to the existing Willamette 205 office buildings.

#### **12. Goal 12, Policy 4 (Traffic Safety) is not met**

In **Goal 12, Policy 4**, the City is to **"improve traffic safety through a comprehensive program of engineering, education, and enforcement."** The Tannler Blankenship intersection is already an "F" rated intersection. The no left turn restriction from Tannler onto Blankenship which was approved in the previous application for the OBC development at this site is not even mentioned by the cursory traffic findings in this zoning change application. ODOT has stated previously that they will forbid a traffic light at the intersection of Tannler and Blankenship—true mitigation of this issue is not possible. There are only two on and off ramps from I-205 in West Linn and this rezoning would impede the flow of traffic to and from one of the two on and off ramps. **Thus, Goal 12 is not met and the application should be denied.**

#### **13. The proposal to build apartments on this site contradicts the stated desire of Portland Metro citizens to live in single-family detached housing.**

Page 8 of the city staff report states that West Linn is not meeting the need for single-family attached or multi-family housing. However, a May 2014 report prepared by DHM Research for Portland Metro states that **80 percent of the over 7,300 respondents to a study indicated that they prefer to live in single-family detached housing** (previously submitted). This means that the proposed zoning designation of Medium-High Density Residential does not meet the desires of 80 percent of metro residents. So why are we talking about building housing that only 20 percent of metro residents find desirable?

#### **14. The City Council has made Economic Development a Priority**

Our own **City Councilor, Thomas Frank**, in a letter to the editor published in the June 12, 2014 *West Linn Tidings* stated, **"Economic development has been a city goal for years."** and **"Business retention and recruitment needs to be our priority."** The West Linn Economic Development Department's web site states **"The city is dedicated to the development, expansion and retention of businesses..."** (Previously submitted). In addition, the city has recently appointed an Economic Development Director where, previously, we had none. **Thus it is clear that the city is focusing on increasing business development opportunities in the city.** With this being the case, why are we in the process of converting one of the last large parcels of developable business property into residential housing?

#### **15. The Fire Department has not Given Their Opinion on this Proposal**

Tualatin Valley Fire & Rescue has not yet weighed in on the proposed 208 apartment unit dwelling which is to be built should this Comprehensive Plan map amendment and zoning change be approved. **It is possible that the traffic situation on Tenth Street will endanger the residents of the proposed 208 apartments by delaying the response of the fire department.**

**16. Goal 1 of the Savanna Oaks Neighborhood Association Plan is not met**

Goal 1 of the Savanna Oaks Neighborhood Association plan (aka Tanner Basin Neighborhood Plan) which was written in February 2007 and approved by the City Council in March 2008 is to "Improve traffic flow on 10th Street corridor." (Previously submitted). **Approving this application and the subsequent development application which will surely follow soon thereafter, will only lead to increased traffic congestion in this corridor which directly contradicts the first goal of the neighborhood plan.**

**17. The Vision Statement and Action Plan of the Willamette Neighborhood Association is not met**

The Vision Statement and Action Plan of the Willamette Neighborhood (aka The Willamette Neighborhood Plan) states that Willamette NA is committed to: "Well thought out neighborhood planning which sustains the value of the land." (Previously submitted). Approving this application will reduce the value of the single family housing units already present in the Willamette NA by introducing lower value apartment housing. **Thus, approval of this application contradicts the goals of the Willamette NA Neighborhood Plan.**

**18. Apartments would significantly lower property values**

A local, professional realtor has stated that the apartments proposed to be built after this zoning change is approved would **significantly lower the property values** of the surrounding neighborhood. Lowered property values means less property tax income for the city. Was this fact taken into account in the Applicant's economic analysis?

**19. This Comprehensive Plan Amendment and Zoning Change Conflicts with the City's Position on Growth and Development as Stated in a Memorandum to Metro**

Please see the attached memorandum dated February 3, 2009 from Bryan Brown, former West Linn Planning Director, to Metro (Exhibit 5). We have highlighted a few sections from this memorandum and include them here:

- "There is broad consensus that the City's existing land use pattern is satisfactory and there is little City-wide support for the expansion of, or intensification of, any areas (residential, commercial, or industrial) within the City. It is generally preferred, and the City's planning documents support, that **limited residential infill and the redevelopment of commercial areas will occur, but should be in accordance with our existing Plan and Code provisions.**
- All future growth considerations must consider the existing **quality of life** that the resident's (*sic*) currently enjoy.
- **Improvements to the 10th Street/1-205 interchange are a priority and must be included in any growth related discussions that would further adversely impact its capacity.** City residents have consistently expressed concern about the need for a solution to the traffic on 1-205 and the accompanying negative impacts of that traffic on City streets and our neighborhoods.
- Owing to our existing development pattern, the City strongly supports Title 12 of Metro's Urban Growth Management Plan that includes policies to **protect and respect existing residential neighborhoods from the adverse impacts of growth.**" (Emphasis added).

It is clear from the statements made in this memorandum only five years ago that the intent was for West Linn to remain a community primarily composed of single family homes with “limited residential infill.” It is noted that redevelopment will occur but “should be **in accordance with our existing Plan and Code provisions.**” (Emphasis added).

Please also note the reference to the residents’ quality of life and the desire to “respect existing residential neighborhoods from the adverse impacts of growth.”

Finally, please note that the 10<sup>th</sup> Street/I-205 interchange is specifically noted as a “priority” and how it should be “included in any growth related discussions that would further adversely impact its capacity.”

**Proceeding with the requested Comprehensive Plan Amendment and Zoning Change directly contradicts all of these points. This application should be denied.**

### Summary

As we have proven above, this application for Comprehensive Plan map amendment and Zoning change does not come close to meeting the high bar for such a request. The applicant has fallen far short of the burden of proof for making these changes. **We request that the Planning Commission deny the application and retain the existing Comprehensive Plan map and Zoning.**

Sincerely,

/s/ Edward Schwarz

Edward Schwarz  
2206 Tannler Drive  
West Linn, OR 97068

/s/ Roberta Schwarz

Roberta Schwarz  
2206 Tannler Drive  
West Linn, OR 97068

Exhibit 1

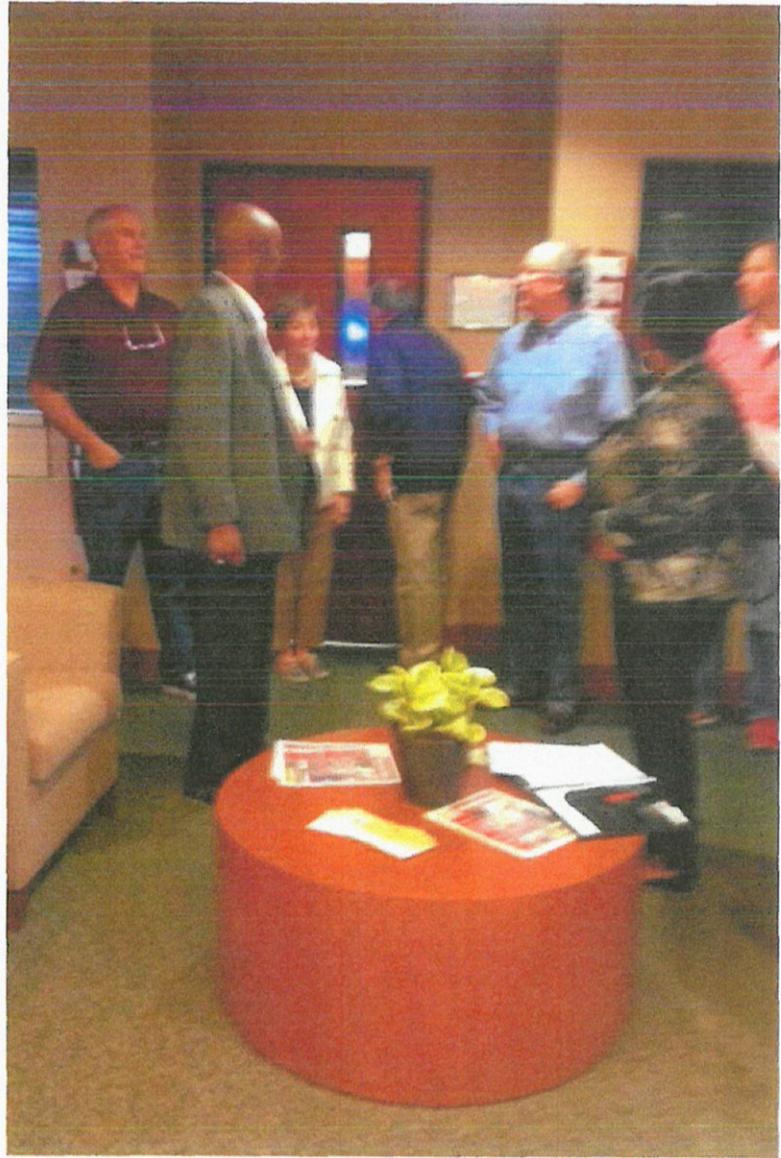
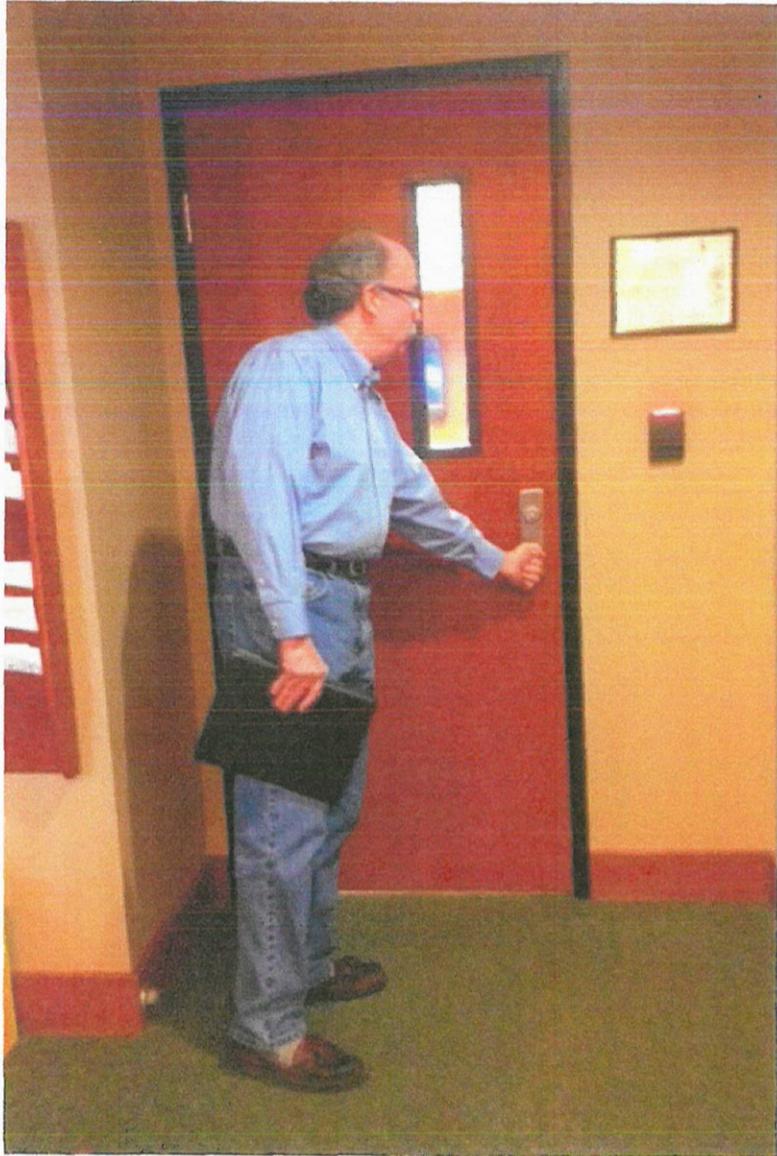
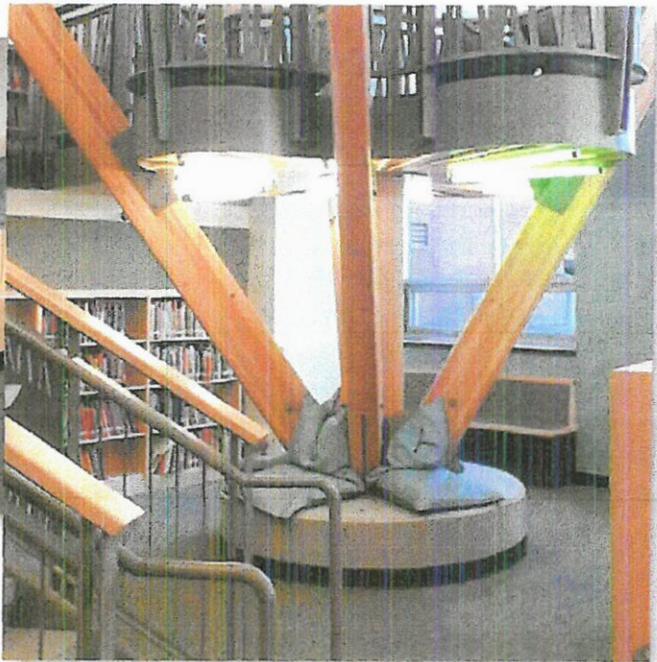
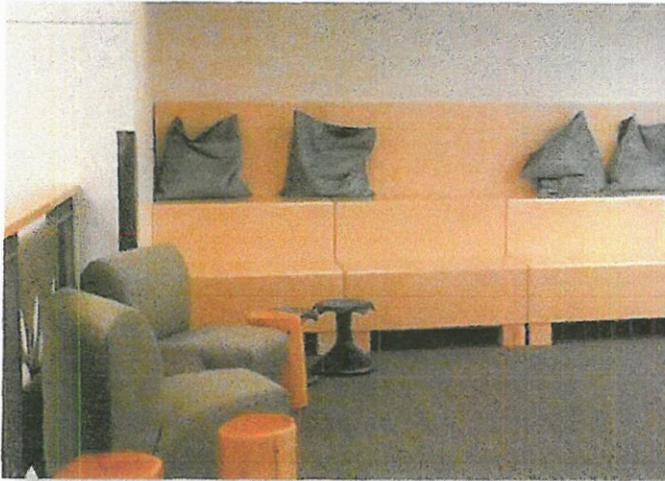




EXHIBIT 2



### LONG TERM ENROLLMENT POTENTIAL

Long-term enrollment forecasts are used by the District to estimate facility needs. They rely on existing regional and local plans to understand what the District enrollment could be once defined areas for future residential development are fully developed. This planning analysis enables the District to anticipate future facility demands and secure necessary school sites and/or financing to continue to provide additional school capacity in a timely manner. The rate of development and enrollment change is very difficult to predict more than a few years ahead. Consequently, the long-term forecast is focused primarily on three elements: number of students per residence; number of potential future residences; and general timing for new residential development.

Understanding the number of students coming from all residences throughout the District is key to estimating the impact of future residential development. Data from 2010 is used because it is the most recent year where US Census data for the number of housing units (single and multiple family) and District enrollment are available. This data is summarized in Table 1.

To create an estimate of students per household, or "student yield", the 2010 District enrollment US Census housing count in Table 1 were compared to calculate student yields. The student yields for 2010 are assumed

to remain constant for the purposes of estimating future enrollment as more residences are built within the District. The student yields for the four sub-areas in the District are summarized in Table 3.

The potential for new residential development within the current Urban Growth Boundary (UGB) and city limits is the second critical element to forecasting future development potential and enrollment. Areas within the UGB, including the cities of West Linn, Wilsonville, and Tualatin are planned for urban development. To provide a greater level of certainty regarding which areas may be eligible for future UGB expansion, Metro completed a process with local governments in 2010 to designate "urban reserves." These lands identify the locations where future UGB expansions can (urban reserves) and cannot (rural reserves) occur. Metro, in coordination with local governments, developed and adopted estimates in November 2012 for the residential development potential of these UGB expansion areas – several of which are located within the District. Any land brought into the UGB will come from areas designated as urban reserves. The estimated enrollment impact of the portions of the urban reserve areas within the District is summarized in Figure 7.

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# EXHIBIT 2

Table 3  
STUDENT YIELD FACTORS - 2010 ALL UNITS BY SUB-AREA

Grade Ranges	K-5	6-8	9-12	K-12
West Linn Sub-Area				
	0.21	0.11	0.15	0.47
Stafford Basin Sub-Area				
	0.17	0.10	0.12	0.39
Clackamas County Sub-Area				
	0.15	0.09	0.12	0.36
Wilsonville Sub-Area				
	0.20	0.10	0.13	0.44
District-wide Average				
	0.20	0.10	0.14	0.44

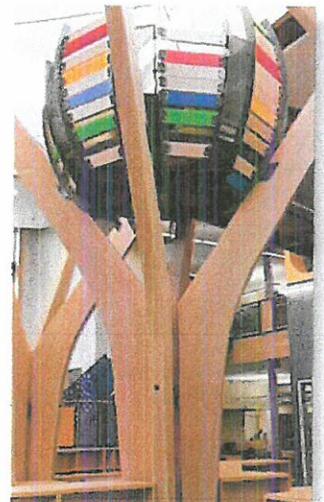
The third element considered is the general timing for expanding the UGB for urbanization. Following designation of urban and rural reserve areas in 2010, Metro considered potential expansion of the UGB. In 2011, Metro completed this review process, and no land in the West Linn-Wilsonville School District was added to the UGB. The next residential UGB evaluation for potential expansion, which is sponsored by Metro, is scheduled to occur in 2014-2016. In 2012, Metro reviewed the timing of when all designated urban reserves will likely be brought into the UGB based on the availability of public infrastructure and anticipated growth rates for the region. The time period considered extends to 2045. The Metro timing estimates for UGB expansion are used to form the District's long-term enrollment forecast and the growth scenarios described in the following section.

## Growth Scenarios

Three long-term scenarios for future growth are considered. They are based upon adopted comprehensive plans and supporting information provided by the cities of West Linn, Wilsonville and Tualatin, Clackamas County, and Metro. The 2010 US Census was used to determine the number and general distribution of existing housing units. These scenarios provide a snapshot of how the District might change as additional development and redevelopment occurs within the current UGB and as urban reserve areas are brought into the UGB and fully urbanized.

Three scenarios are based on the following assumptions:

- The remaining undeveloped residential land within the existing UGB will develop to the maximum current density allowable.
- Primary school capacities will change in 2015 with full-day classes for all kindergarten students.
- The capacity for existing middle and high schools will remain constant. Existing guidelines for future new school sizes will also remain constant. The guidelines for new school sizes are: primary school - 450 to 550 students (or up to 800 with a campus design); middle school - 600 to 800 students; and high school 1,200 to 1,500± students.
- The ratio of school age children per residence will be consistent with 2010 student yield ratios calculated for all housing units by comparing the 2010 US Census for residential units with the 2010 enrollment (Tables 1 and 3). Considering all residences provides a good indicator of how many students to expect in the long-term across the District.
- The urban reserve areas brought into the UGB will be developed at densities assumed by Metro (typically 10 to 15 units per acre).



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**Roberta Schwarz**

EXHIBIT 3

**From:** Regan Molatore <rmolatore@hotmail.com>  
**Sent:** Wednesday, October 08, 2014 5:44 PM  
**To:** roberta.schwarz@comcast.net  
**Subject:** Inquiry at October 6, 2014 School Board Mtg

Ed Schwarz  
2206 Tannler Drive  
West Linn

Dear Mr. Schwarz:

During our October 6, 2014 School Board Meeting, you raised a question concerning the "methodology for generating demographic scenarios" in our school district's long range plan. To respond to your inquiry, we consulted members of our Long Range Planning Committee as to their processes. I was informed the District Long Range Plan is created to contemplate existing and future development across the District such that long term demographic scenarios are understood and tracked. This effort records existing resident locations, as well as future residence possibilities based only on existing zoning. The plan makes no effort to predict future city zoning changes. In the case of the parcel in West Linn referenced at the board meeting, current zoning is OBC-Office/Business/Commercial and the district long range plan recognizes it as such. If zoning changes in the future to Residential, then the long range plan will respond accordingly.

Respectfully submitted,

Regan Molatore  
Chair  
West Linn-Wilsonville School Board

**Ed Schwarz**

EXHIBIT 4

**From:** Roberta Schwarz <roberta.schwarz@comcast.net>  
**Sent:** Saturday, October 18, 2014 3:37 PM  
**To:** 'Ed Schwarz'  
**Subject:** FW: Public Comment

**From:** Michael D. Babbitt [mailto:michael@mdbrealestate.com]  
**Sent:** Thursday, October 16, 2014 5:05 PM  
**To:** Roberta Schwarz; michael@michael-babbitt.com  
**Subject:** RE: Public Comment

Just until they conclude the hearing for the the development. I am also confused why they keep giving the applicant two opportunities for rebuttal. He gets a written rebuttal and then gets to give a oral one at the continued hearing. That is also a first for the PC and in my opinion ridiculous.

Sent on a Sprint Samsung Galaxy Note® 3

----- Original message -----

**From:** Roberta Schwarz <roberta.schwarz@comcast.net>  
**Date:** 10/16/2014 4:56 PM (GMT-08:00)  
**To:** [michael@michael-babbitt.com](mailto:michael@michael-babbitt.com)  
**Cc:**  
**Subject:** RE: Public Comment

Hi Michael,

Ed and I were out of town on a business trip yesterday. Did they eliminate public comment for all meetings in the future or just for last night? Either way it is shocking.

Great Letter to the Editor even with the chopping up.

Thanks so much,  
Roberta

**From:** Michael D. Babbitt [mailto:michael@michael-babbitt.com]  
**Sent:** Thursday, October 16, 2014 1:01 PM  
**To:** Roberta Schwarz  
**Subject:** Public Comment

I don't know about you all, but I was surprised by the PC's move last night to move public comment to the end of the meeting. Then I was pretty much shocked and dismayed when they decided to eliminate it all together. The PC has had many controversial hearings over the years, and public comment has always been allowed with little or no issues. It is pretty easy to keep people from talking about a hearing if you just remind them of the process and hold them to it while they speak.

EXHIBIT 4

As a 12 year past member of the PC I was very disappointed, and am seeing the Council/City Manager influence and they are getting their way.

On another note, the Tidings chopped up my opinion piece letter. They said it was too long and had to remove any reference to supporting a specific candidate, or they would have to cut it even further down to 250 words.

Michael

CITY OF  
**West Linn**

February 3, 2009



Chris Deffebach  
Long Range Planning Manager  
Metro  
600 NE Grand Avenue  
Portland, OR 97232

RE: **City of West Linn Local Community Growth Aspirations Report for Metro**

Dear Ms. Deffebach:

The City of West Linn is pleased to provide this response to your request for "*Local Community Growth Aspirations*", as outlined in your November 24, 2008 Memorandum to the City. The City strongly supports the regional government's recent efforts to include local community aspirations into their larger "*Making the Greatest Places*" effort and looks forward to continuing to collaborate with Metro on the upcoming Urban Growth Report and Urban/Rural Reserves initiative. The City of West Linn is particularly supportive of Metro's regional efforts to preserve natural areas, promote more sustainable development practices, increase transit options to the greatest number of people, and preserving and enhancing existing neighborhoods to create more vibrant communities where people can choose to walk for pleasure and to meet their everyday needs.

This letter provides you with the specific responses in accordance with the "*Local Aspirations for Growth Reporting Sample Format*" that you provided to each City. Additional issues related to the City's long-term growth aspirations/expectations of the City are also included and should be considered within the context of the future growth potential within the City of West Linn.

In determining our responses to your request, City Staff utilized our existing Comprehensive Plan, existing master plans, neighborhood plans, citizen attitude surveys, Residential Unit and Buildable Lands Report, as well as our adopted Vision document ("*Imagine West Linn*") and it must be considered within this specific framework. There was no additional public process utilized in crafting this document. This is due to the limited amount of time allotted to prepare this response; and as was specifically requested in your November 24<sup>th</sup>, 2008 letter initiating the process. Staff did encourage and receive additional feedback directly from our City Council and Planning Commission. Please note that both our Council and Commission expressed apprehension about enunciating the City's growth aspirations, arguably the most important long-term issue facing the City, without completing a substantial public process. It is our intent to continue to evaluate many of these complex and evolving issues and provide feedback to Metro as adjustments outlined herein change.

#### **Growth Aspirations**

The long-range growth vision for the City is primarily outlined in our "*Imagine West Linn*" vision document and within the Goals and Policies of our Comprehensive Plan. The existing development is essentially 'built-out' in the form of a suburban, single-family residential community. Due to

physical attributes and existing development patterns any significant growth within the City limits would result in considerable disruption of the existing preferred character of the City.

Aside from an acknowledgement that the existing paper mill property along the waterfront may ultimately redevelop in the long-term, the City has not identified any significant areas for redevelopment or expected growth. There is broad consensus that the City's existing land use pattern is satisfactory and there is little City-wide support for the expansion of, or intensification of, any areas (residential, commercial, or industrial) within the City. It is generally preferred, and the City's planning documents support, that limited residential infill and the redevelopment of commercial areas will occur, but should be in accordance with our existing Plan and Code provisions.

The greatest growth challenge for our City is to balance our desire to progressively enhance and improve the existing, valued, characteristics of our community while simultaneously addressing the pressures of an increasing population, ensuring property right protections, and the economic ramifications of our growth choices. Metro can most effectively assist the City in achieving our goals by recognizing the unique aspects of our community into its long-term regional planning mission and by continuing to provide us with the tools and support that we need to meet our needs (e.g. increased access to funding opportunities, best management practices, statistical data and mapping support, etc.).

The City is scheduled to undergo its Periodic Review in 2011, which will allow us access to resources to complete an in-depth analysis of our population, housing, and employment needs. This will likely result in a more detailed review of the expectations and aspirations for the City at that time. We look forward to working with Metro and the State to help us 'fine-tune' our growth aspirations in the near future.

### **Population expectations**

It is important to note that the City of West Linn is approaching its ultimate build-out limitations and at the current time there are no expectations to expand our boundaries beyond the existing UGB. The City maintains, and annually updates, a Residential Units and Buildable Lands Report which estimates that, within the existing UGB, the City could theoretically attain a maximum population of 30,436 people by the year 2030. It assumes the maximum number of potential dwelling units that could be built under the existing zoning in the City, with an exception for lands with obvious environmental constraints. This population number can be considered a 'maximum capacity' figure; it theorizes that all possible future residential units occurring that *could* potentially be built in the City, actually *will* be built. These units principally come from the development of vacant buildable lands, infill development, and the construction of accessory units. Our infrastructure Master Plans utilize the 'maximum capacity' number figure, at the time of their completion, to assure that we are adequately prepared for the most impactful alternative.

Using the latest City updated Report, the City's current population is estimated to be 24,771 (which compares to the official certified population estimate of 24,400 made by Portland State's University). Under the existing zoning designations in the City, this additional potential maximum population of the City (5,665 people) could be accommodated within the existing UGB, assuming no additional up-zonings in the City. However, as a practical matter, and more important in terms to our current aspirations, a better estimate of the number of people that are *likely* (or that can be

*reasonably expected*) to be added to the City by the year 2030 would be within a range of 10%-30% of the theoretical maximum. This would result in the likely addition of approximately 566 to 1,700 new residents by the year 2030. The total population of the City at build-out would be in the range of 25,337 to 26,471 people. This assumption is based on the fact that over time, the remaining undeveloped and underdeveloped properties in the City tend to have other factors or restrictions preventing their maximum development potential (or making it cost prohibitive to proceed). These factors include, land valuations, unique environmental constraints, neighborhood opposition, site configuration, etc.

Assuming residential development at 10% (low end) and 30% (high end) of the theoretical maximum, as described above, will result in a compounded annual growth rate between 0.11% to 0.32% by the year 2030 is expected. In terms of new residential units per year, this assumption results in an average of 10 (low end) to 33 (high end) new dwelling units (2.4 persons per household) added annually to the City over the next 21 years.

### **Employment Areas**

West Linn predominantly consists of low density single-family residential neighborhoods. We are generally a suburban bedroom community. The City's largest private employer is the West Linn Paper Company (mill site) which has not shown an indication of either expanding, or reducing its operations in the near future. The existing commercial areas in the City are very important and continued efforts should be made to ensure that they continue to survive and evolve to meet the needs of the community. In addition to our Cascade Commercial Center located at Salamo Road and Parker Road, we have two town centers which are identified on Metro's 2040 Growth Map – the Willamette Old Town incorporating the nearby surrounding 10th Street commercial areas, and the Bolton neighborhood's Central Village and nearby highway corridor areas. We may also seek acknowledgment of our Robinwood commercial area as a Mainstreet, as defined by Metro.

The City is not anticipating expanding these areas in any significant way. However, the City is focused on ensuring that all of our commercial centers remain successful. The city is currently working with the State and Clackamas County to pursue the possibilities under the State's *Main Street* program for our Willamette Historic and the Robinwood commercial areas. The City has also made changes to its Code to permit limited mixed use development within these commercial areas. West Linn has a large number of home-based businesses, which constitute a significant employment base and provides an alternative employment opportunity for our residents. Additionally, the City has a significant number of 'teleworkers' who work from their homes, which has proven to be an effective way to reduce traffic congestion and decrease air pollution.

Broadly speaking, the City has no expectations to expand beyond our existing UGB or increase our existing capacities significantly. It is expected that our growth will be in accordance with our current land use and zoning designations. Annexations in the City of West Linn require a majority vote in a City-wide election. . We do anticipate the eventual annexation and development or partial preservation of the unincorporated areas within our UGB which have not yet been annexed. However, future annexations that would expand the City's boundaries outward would likely receive less support.

### **Important Specific Considerations**

Our City Council identified the following issues as being of particular importance to the City of West Linn when considering the future growth expectations for our City and region as a whole:

- All future growth considerations must consider the existing quality of life that the resident's currently enjoy. The City has not expressed any plans to expand our City boundaries beyond the current UGB. The future of the Stafford area is of keen interest to the residents of the City. Considering its location and the impact its future development will have on this community, the City has expressed a desire to have the area be designated 'Rural Reserve'.
- Any future redevelopment of the area around the mill site must be sensitive to the historic value of the existing buildings . The City is currently pursuing a National Heritage Area designation of this area.
- The City is eager to explore additional transit opportunities, particularly high-capacity transit, in the area. These include increased bus routes and headways, additional park and ride locations, extension of the streetcar to the north, greater connections to the surrounding commercial and employment areas (Beaverton, Tualatin, etc.) via a high capacity transit corridor along I-205, utilizing Rosemont Rd. as a connection, and/or potential water taxi service to Portland on the Willamette River.
- Future growth expectations will likely be limited due to the City's desire to protect and expand our natural and environmentally sensitive areas. As more land area is preserved and development is restricted, the City's ability to increase population capacity or employment areas will be further limited.
- Improvements to the 10<sup>th</sup> Street/I-205 interchange are a priority and must be included in any growth related discussions that would further adversely impact its capacity. City residents have consistently expressed concern about the need for a solution to the traffic on I-205 and the accompanying negative impacts of that traffic on City streets and our neighborhoods.
- Completing the planned improvements along OR 43, as envisioned in the City's "Highway 43 Conceptual Design Plan", are a priority for the City. Any future growth related actions that impact this roadway must be done in accordance with this approved Plan.
- Owing to our existing development pattern, the City strongly supports Title 12 of Metro's Urban Growth Management Plan that includes policies to protect and respect existing residential neighborhoods from the adverse impacts of growth.
- The City has been actively including more sustainable measures into our everyday practices. These have included an adopted Sustainability Plan, new Comprehensive Plan Policies, creation of a standing Sustainability Advisory Committee, and the inclusion of sustainable practices into our engineering and development regulations. Future regional growth considerations should include specific performance measures that ensure long-term sustainability for local communities as well as the region as a whole.

We look forward to working with Metro on this important project.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bryan Brown".

Bryan Brown  
Planning Director

cc: Chris Jordan, City Manager, City of West Linn  
Doug McClain, Planning Director, Clackamas County

*generalp/letters2009/Metro aspirations ltr – final 2-3-09*



## Exhibit E of Ordinance No. 10-1244B

### TITLE 6: CENTERS, CORRIDORS, STATION COMMUNITIES AND MAIN STREETS

#### 3.07.610 Purpose

The Regional Framework Plan (RFP) identifies Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval.

#### 3.07.620 Actions and Investments in Centers, Corridors, Station Communities and Main Streets

- A. In order to be eligible for a regional investment in a Center, Corridor, Station Community or Main Street, or a portion thereof, a city or county shall take the following actions:
1. Establish a boundary for the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection B;
  2. Perform an assessment of the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection C; and
  3. Adopt a plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection D.
- B. The boundary of a Center, Corridor, Station Community or Main Street, or portion thereof, shall:
1. Be consistent with the general location shown in the RFP except, for a proposed new Station Community, be consistent with Metro's land use final order for a light rail transit project;
  2. For a Corridor with existing high-capacity transit service, include at least those segments of the Corridor that pass through a Regional Center or Town Center;
  3. For a Corridor designated for future high-capacity transit in the Regional Transportation Plan (RTP), include the area identified during the system expansion planning process in the RTP; and
  4. Be adopted and may be revised by the city council or county board following notice of the proposed boundary action to the Oregon Department of Transportation and Metro in the manner set forth in subsection A of section 3.07.820 of this chapter.

- C. An assessment of a Center, Corridor, Station Community or Main Street, or portion thereof, shall analyze the following:
1. Physical and market conditions in the area;
  2. Physical and regulatory barriers to mixed-use, pedestrian-friendly and transit-supportive development in the area;
  3. The city or county development code that applies to the area to determine how the code might be revised to encourage mixed-use, pedestrian-friendly and transit-supportive development;
  4. Existing and potential incentives to encourage mixed-use pedestrian-friendly and transit-supportive development in the area; and
  5. For Corridors and Station Communities in areas shown as Industrial Area or Regionally Significant Industrial Area under Title 4 of this chapter, barriers to a mix and intensity of uses sufficient to support public transportation at the level prescribed in the RTP.
- D. A plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street shall consider the assessment completed under subsection C and include at least the following elements:
1. Actions to eliminate, overcome or reduce regulatory and other barriers to mixed-use, pedestrian-friendly and transit-supportive development;
  2. Revisions to its comprehensive plan and land use regulations, if necessary, to allow:
    - a. In Regional Centers, Town Centers, Station Communities and Main Streets, the mix and intensity of uses specified in section 3.07.640; and
    - b. In Corridors and those Station Communities in areas shown as Industrial Area or Regionally Significant Industrial Area in Title 4 of this chapter, a mix and intensity of uses sufficient to support public transportation at the level prescribed in the RTP;
  3. Public investments and incentives to support mixed-use pedestrian-friendly and transit-supportive development; and
  4. A plan to achieve the non-SOV mode share targets, adopted by the city or county pursuant to subsections 3.08.230A and B of the Regional Transportation Functional Plan (RTFP), that includes:
    - a. The transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;

- b. A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; and
  - c. A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with section 3.08.410 of the RTFP.
- E. A city or county that has completed all or some of the requirements of subsections B, C and D may seek recognition of that compliance from Metro by written request to the Chief Operating Officer (COO).
- F. Compliance with the requirements of this section is not a prerequisite to:
- 1. Investments in Centers, Corridors, Station Communities or Main Streets that are not regional investments; or
  - 2. Investments in areas other than Centers, Corridors, Station Communities and Main Streets.

3.07.630 Eligibility Actions for Lower Mobility Standards and Trip Generation Rates

- A. A city or county is eligible to use the higher volume-to-capacity standards in Table 7 of the 1999 Oregon Highway Plan when considering an amendment to its comprehensive plan or land use regulations in a Center, Corridor, Station Community or Main Street, or portion thereof, if it has taken the following actions:
- 1. Established a boundary pursuant to subsection B of section 3.07.620; and
  - 2. Adopted land use regulations to allow the mix and intensity of uses specified in section 3.07.640.
- B. A city or county is eligible for an automatic reduction of 30 percent below the vehicular trip generation rates reported by the Institute of Traffic Engineers when analyzing the traffic impacts, pursuant to OAR 660-012-0060, of a plan amendment in a Center, Corridor, Main Street or Station Community, or portion thereof, if it has taken the following actions:
- 1. Established a boundary pursuant to subsection B of section 3.07.620;
  - 2. Revised its comprehensive plan and land use regulations, if necessary, to allow the mix and intensity of uses specified in section 3.07.640 and to prohibit new auto-dependent uses that rely principally on auto trips, such as gas stations, car washes and auto sales lots; and
  - 3. Adopted a plan to achieve the non-SOV mode share targets adopted by the city or county pursuant to subsections 3.08.230A and B of the Regional Transportation Functional Plan (RTFP), that includes:

- a. Transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;
- b. A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; and
- c. A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with section 3.08.410 of the RTFP.

3.07.640 Activity Levels for Centers, Corridors, Station Communities and Main Streets

A. Centers, Corridors, Station Communities and Main Streets need a critical number of residents and workers to be vibrant and successful. The following average number of residents and workers per acre is recommended for each:

1. Central City - 250 persons
2. Regional Centers - 60 persons
3. Station Communities - 45 persons
4. Corridors - 45 persons
5. Town Centers - 40 persons
6. Main Streets - 39 persons

B. Centers, Corridors, Station Communities and Main Streets need a mix of uses to be vibrant and walkable. The following mix of uses is recommended for each:

1. The land uses listed in *State of the Centers: Investing in Our Communities*, January, 2009, such as grocery stores and restaurants;
2. Institutional uses, including schools, colleges, universities, hospitals, medical offices and facilities;
3. Civic uses, including government offices open to and serving the general public, libraries, city halls and public spaces.

C. Centers, Corridors, Station Communities and Main Streets need a mix of housings types to be vibrant and successful. The following mix of housing types is recommended for each:

1. The types of housing listed in the “needed housing” statute, ORS 197.303(1);
2. The types of housing identified in the city’s or county’s housing need analysis done pursuant to ORS 197.296 or statewide planning Goal 10 (Housing); and
3. Accessory dwellings pursuant to section 3.07.120 of this chapter.

3.07.650 Centers, Corridors, Station Communities and Main Streets Map

- A. The Centers, Corridors, Station Communities and Main Streets Map is incorporated in this title and is Metro's official depiction of their boundaries. The map shows the boundaries established pursuant to this title.
- B. A city or county may revise the boundary of a Center, Corridor, Station Community or Main Street so long as the boundary is consistent with the general location on the 2040 Growth Concept Map in the RFP. The city or county shall provide notice of its proposed revision as prescribed in subsection B of section 3.07.620.
- C. The COO shall revise the Centers, Corridors, Station Communities and Main Streets Map by order to conform the map to establishment or revision of a boundary under this title.

Karie Oakes  
1125 Marylhurst DR  
West Linn, OR 97068

Christine Steel, Chair  
City of West Linn Planning Commission  
22500 Salamo RD, Suite 1000  
West Linn, OR 97068

October 22, 2014

RE: Evidence and arguments for land use application project # ZC-14-01/PLN-14-01

Dear Chair Steele and Commissioners Griffith, King, Knight and Schwark:

I would like to argue that the applicant has not met his burden of proof in the following criterion:

*CDC 105.050 Quasi-Judicial Amendments and Standards for Making Decision*

*A decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:*

*C. The Comprehensive Plan, Plan and Ordinance Revision Process, and Specific Policy No. 4, which provides that the decision shall be based on consideration of the following criteria:*

- 2. There is a public need for the change or the change can be demonstrated to be in the interest of the present and future community.*

The entire 11.4 acres of the subject property is currently zoned Office/Business/Commercial (OBC). Under the existing zoning the applicant may develop his property similarly as under the requested zone change of 10.1 acres R 2.1 and 1.2 acres OBC.

I urge the Planning Commission members to listen to the video minutes of the Planning Commission hearing on October 1, 2014 from time stamp 30:55 to 36:20 of the staff report to which I refer below.

Planning Director Chris Kerr in his presentation of the staff report to the Planning Commission on October 1, 2014 states, "Right now under the existing zoning on that property, you could still develop it residentially with multi-family, if you came up with the right design, you could put the same number of units that you could put on that property under the proposed zone. There's a stipulation that says if you want to put that multi-family on that property under the current OBC that you have to have a commercial component on the first floor. Doesn't mean the whole first floor has to be filled with commercial, but there needs to be a commercial component. And the idea behind that was that the city wanted to allow multi-family vertical mixed use in OBC district. I think it's interesting to note that that could take place today. In fact, I've discussed that exact scenario with different people in the past on this particular property wanting to do multi-family under the current zoning. What this change does is say we want to do the same number of units under the current zoning, but they want to do it in a different layout and a different format. So what this proposal does is it keeps this intersection property as commercial and instead of having this vertical mixed use that you could have, it makes it more of a horizontal mixed use. It says the multi-family will be behind the commercial, which is better situated on the front at the intersection for this OBC use. "

It is evident that the applicant is requesting this zone change in order to develop in a manner that he prefers. Changing the zoning offers the opportunity to the applicant to segregate the housing from the commercial area and move it up the hill. Changing the zoning may also significantly reduce the actual amount of commercial development that may occur in the remaining 1.2 acres of OBC because as Mr. Kerr states, "it doesn't mean that the whole first floor has to be filled with commercial." It would be interesting to know how much would be required.

Mr. Kerr goes on to state, "In fact, within the R-2.1 zoning that is being proposed you can have, there is a whole plethora of different commercial uses that you can have as conditional uses in there." I call the Planning Commission's attention to this because the staff report argues in support of the application because moving the residential uphill closer to the existing residential would make more sense, but as he states, this moot if it may also be developed as mixed-use commercial.

The applicant has not met his burden of proof showing that there is a public need for the change or the change is in the interest of the present or future community. As Mr. Kerr states, the difference that this allows is that it changes this requirement to have this vertical mixed housing that might not be the best location for it, and turning it into a more horizontal mixture of uses on the same property."

Granting the applicant a zone change when he is not denied development of his property similarly in the existing zone makes no sense unless the Commission finds that the applicant's layout and different format is preferential to that of the zoning in the existing Comprehensive Plan.

Regarding the Planning Commission pre-meeting on October 1, 2014, I want to reiterate that I was the only member of the public to attend it. The applicant spelled my name incorrectly in his rebuttal of the Schwarz arguments. I request the audio record of the pre-meeting be added to the record, so the truth of what occurred there is on record.

Sincerely,

Karie Oakes