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March 30, 2004

TO: Land Conservation and Development Commission

FROM: Jim Hinman, Urban Specialist and Eric Jacobson, Transportation Specialist
via Rob Hallyburton, Community Services Manager

SUBJECT: **Agenda Item 7c, April 21-23, 2004, LCDC Meeting**

**REFERRAL OF THE CITY OF McMINNVILLE'S PERIODIC REVIEW TASK 1 AND UGB AMENDMENT**

## I. AGENDA ITEM SUMMARY

### A. Type of Action and Commission Role

The city has amended its urban growth boundary (UGB) to add 394 acres of "exception" lands and 1,144 acres of resource lands to accommodate a projected population growth of 15,545 people in the next twenty years. The city has employed an innovative approach to plan these areas as pedestrian-friendly, transit-oriented "Neighborhood Activity Centers."

This item is before the Commission as a referral from the department of two tasks. Task 1 on the city's periodic review work program is an "Inventory of Commercial Lands." A UGB amendment greater than 50 acres for a city with a population greater than 2,500 is reviewed as a periodic review work task. The department did not act to either approve or remand these tasks because, based on the objections received, an appeal to the Commission was likely. This referral will streamline the process.

The Commission's role is to address the issues raised by the objectors and department staff and either (1) approve the work tasks, or (2) remand one or both of the work tasks to the city.

### B. Staff Contact Information

If you have questions about this agenda item, please contact Kevin Cronin, DLCD Regional Representative at (503) 731-4065 extension 25, Jim Hinman, Urban Planning Specialist, at (503) 373-0050, extension 245, or Eric Jacobson, Transportation Planning Specialist, at (503) 373-0050 extension 265. Mr. Hinman and Mr. Jacobson prepared this report.

## II. SUMMARY OF RECOMMENDED ACTION

The department recommends that the Commission:

- partially approve the city's submittal for the amendment of the UGB to include several exception areas; and
- remand portions of the Task 1 and UGB submittals for reconsideration of (1) the twenty-year land need, (2) the decision of which exception and resource lands to be added to the UGB, and (3) internal consistency of plan policies and implementing regulations and compliance with several specific requirements of the Statewide Planning Goals.

## III. BACKGROUND

### A. History of Action

This is the first time that this UGB amendment has been before the Commission. Task 1 "Inventory of Commercial Lands" was approved as part of the city's periodic review work program on August 26, 1994. The city adopted a housing needs analysis as a post-acknowledgment plan amendment. At the department's request, the Commission approved an appeal of the housing needs analysis to the Land Use Board of Appeals on June 15, 2001. LUBA remanded the housing needs analysis, primarily because the city had applied some, but not all, applicable statutory requirements to its determination of need. The city revised the housing needs analysis in response to that remand.

### B. Major Legal and Policy Issues

1. Whether the city correctly estimated the need for land to be added to the UGB:
   - residential land;
   - commercial land; and
   - park land.

2. Whether the city correctly applied the priorities in Oregon Revised Statute (ORS) 197.298 for including land within the UGB:
   - the city did not include several exception areas, but instead included resource lands;
   - the city did not include some nearby lands with lower agricultural capability, but instead included lands with higher capability.

3. Whether the city's plan and implementing regulations, as amended, are internally consistent and in compliance with all applicable requirements of the Statewide Planning Goals.

## IV. REVIEW CRITERIA AND PROCEDURES

### A. Decision-making Criteria

The criteria applicable to the amendment of an urban growth boundary (UGB) are:

**Statewide Planning Goal 14 "To provide for an orderly and efficient transition from rural to urban land use."** This goal requires cities to have an urban growth boundary (UGB) to separate urbanizable land from rural land. Amendment of a UGB is based on consideration of the following seven factors:
(1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;
(2) Need for housing, employment opportunities, and livability;
(3) Orderly and economic provision for public facilities and services;
(4) Maximum efficiency of land uses within and on the fringe of the existing urban area;
(5) Environmental, energy, economic and social consequences;
(6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,
(7) Compatibility of the proposed urban uses with nearby agricultural activities.

Factors (1) and (2) above are the "need" factors, which are used to determine whether there is sufficient land in a UGB to provide a twenty-year supply of land. The need for housing is further defined in Statewide Planning Goal 10, "Housing," Oregon Administrative Rule (OAR) Chapter 660, Division 8, "Interpretation of Goal 10 Housing," and ORS 197.296 through 197.314 "Needed Housing In Urban Growth Areas." The need for employment opportunities is further defined in Statewide Planning Goal 9 "Economic Development" and OAR 660, Division 9, "Industrial and Commercial Development." The need for "livability" has not been clearly defined but would at least include the need for parks and open space. Further, interpreted more broadly, "livability" could include the need to have a sufficient number of ratepayers or tax payers to support necessary public services.

Factors (3) through (7) above are the "locational" factors, and are used to determine which lands would best meet the identified needs and should be included in the UGB. These factors encompass a wide range of issues such as: which lands can be most efficiently provided with urban services; which lands are most suitable for urban uses due to topography and other development constraints; natural resources which should be protected; energy, economic and social impacts, both positive and negative; and protection of prime farmland.

Specific requirements for farmland protection are set forth in statute, ORS 197.298. This statute establishes priorities for adding various types of land to a UGB. All lands of a higher priority must be brought into a UGB or shown to be unsuitable before lands of lower priority can be used. The priorities, in order, are:

1. Lands designated as an urban reserve;
2. "Nonresource" lands or "exception" lands which have rural residential or other development;
3. "Marginal lands" designated pursuant to ORS 197.247;
4. Lower quality farmlands; and

5. Higher quality farmlands.

**To amend a UGB, a local government must follow the Goal 2 Exceptions process, as set forth in OAR 660-004-0010(1)(C)(b).** This requirement sometimes leads to some confusion. To follow the exceptions process does not mean that a UGB amendment requires an exception to a Statewide Planning Goal; for example, bringing farmland into a UGB does not require an exception to Goal 3. Also, some of the standards to address for an exception may be seen as duplicative of the Goal 14 factors. The exceptions standards are:

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (this factor can be satisfied by compliance with the seven factors of Goal 14);

(ii) Areas which do not require a new exception cannot reasonably accommodate the use;

(iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The first standard (reasons) requires nothing beyond the seven factors of Goal 14. The second (areas not requiring a new exception) has two interpretations although these are not mutually exclusive. A UGB amendment must be justified by showing that the need cannot be accommodated within the existing UGB (this is similar to Goal 14, factors 1 and 2). In addition, this standard can be applied to the priorities in ORS 197.298 to argue that an exception area should not be brought into a UGB because it cannot reasonably accommodate the use. The third requires a comparison of lands outside the UGB to determine which are most suitable for urbanization, similar to the "location" factors (3) through (7) of Goal 14. The last exception standard requires a finding that the uses inside and outside of the new UGB would be compatible; for farm uses, this standard encompasses Goal 14, factor 7.

Other applicable statutes, goals and rules are addressed in response to the objections in Attachment A. The most prominent of these are Goal 9, Economic Development; Goal 10, Housing; and Goal 12, Transportation and their implementing rules.

## B. Procedural Requirements

OAR 660-025-0160(5) provides that no oral argument is allowed unless the Commission, by its own motion, allows it. If the Commission chooses to allow oral argument, only the department, the objectors, and the City of McMinnville may testify. Also, the Commission hears referrals and appeals based on the written record unless the Commission requests new evidence or information at its discretion and allows the parties an opportunity to review and respond to the new evidence or information.

OAR 660-025-0160(7) provides that, in response to an appeal, the Commission shall issue an order that does *one or more* of the following:

(a) Approves the work task;

(b) Remands the work task to the local government, including a date for re-submittal;
(c) Requires specific plan or land use regulation revisions to be completed by a specific date;
(d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b); or
(e) Modifies the schedule for the approved work program in order to accommodate additional work on a remanded work task.

### C. The Written Record For This Proceeding

Task 1 submittal: City Ordinance No. 4795, adopting the "McMinnville Economic Opportunities Analysis."

UGB task submittal:

1. City Ordinance No. 4796
2. County Ordinance No. 730
3. McMinnville Growth Management and Urbanization **Plan (MGMUP)**, May 2003
4. McMinnville Growth Management and Urbanization Plan: **Findings**, October 2003
5. McMinnville Growth Management and Urbanization Plan: **Appendices**, May 2003
6. McMinnville Residential Land Needs Analysis (**RNA**), ECONorthwest, May 2001

Objections:

1. 1000 Friends of Oregon, Friends of Yamhill County and Larry Rucker
2. Community Development Law Center (CDLC)
3. Mr. Mark Davis

This DLCD staff report with responses to objections

Any valid exceptions to the department's report and response from the department

## V. ANALYSIS

### A. Objections

All of the issues raised by the department during the local hearings process were also raised by one or more of the three objectors. Therefore, the department has responded to the objections in Attachment A and has not provided a separate review of the city's submittal. In order for an objection to be valid, it must have been received by the department within 21 days of the notice of decision sent by the city, clearly identify the deficiency in the task, and suggest a remedy. Department staff found the objections valid.

### B. Exception Areas Added to the UGB

Of the four exception areas added to the UGB, only Lawson Lane is within a Neighborhood Activity Center (NAC). Land within an NAC cannot be annexed or developed until a "concept plan" for the NAC is approved. Therefore, the actual development of the Lawson Lane exception area is linked to the Commission's decision on the "Three Mile Lane" NAC, most of which is resource land. Without the balance of land planned in this NAC, the Lawson Lane area would be

a small, isolated area on the far side of the state highway from the balance of the city and may not be suitable for urbanization.

The three remaining exception areas, Riverside South, Redmond Hill Road, and Fox Ridge Road, can be considered separately from the balance of the city's UGB decision, they are not in NACs, they would accommodate only a fraction of the forecast land need (about 217 buildable acres), and there are no specific objections to these areas.

## VI. COMMISSION OPTIONS

The Commission has four options for a decision on a periodic review work task:

- approve the work task;
- partially approve the work task and remand the remainder of the task;
- remand the work task; or
- approve the work task with specific amendments required.

In addition, if the Commission determines that the UGB amendment is justified but the amended plan now fails to comply with all applicable goals, the Commission can require the city to complete additional planning work on remand. At the request of the city, such work could be incorporated into the city's periodic review work program so that, if appropriate, they could be completed and approved sequentially.

The following "decision tree" is recommended to consider the objections in Attachment "A" and reach a decision on the major issues presented. While some objections mention a wide variety of topics, they are separated below according to what the department understands to be the primary issue raised. The objectors should take the opportunity in an exception to point out, if needed, any objections they believe the department has missed or mis-categorized below.

1. Whether to decide this referral on the written record or accept oral argument from the parties, pursuant to OAR 660-025-0160(6).

2. Whether to accept portions of the following publications into the record as new information, pursuant to OAR 660-025-0160(6). This information is attached to this staff report and was made available to the parties prior to the Commission's hearing.

- *Understanding Density and Floor Area Ratio*, City of Boulder, Colorado. This study is discussed in the department's response to 1000 Friends' Objection 4.
- *Planning & Design for Transit*, Tri-Met. This study is discussed in the department's response to 1000 Friends' Objection 8B.
- *The Next American Metropolis*, Peter Calthorp. This study is discussed in the department's response to 1000 Friends' Objection 8B.

3. Whether the city overestimated the need for land to be added to the UGB

- residential land
  - 1000 Friends objections 1, 2, 3, 7, 9 and 10
  - CLDC objections 1 and 2

- commercial land
  - 1000 Friends objections 4, 5 and 7
- park land
  - 1000 Friends objection 6
  - Mark Davis objection

4. Whether the city correctly applied the priorities in ORS 197.298, Goal 14 factors 3 through 7, and the exceptions process to determine which lands to include in the UGB
   - the city did not include several exception areas and instead included resource lands
     - 1000 Friends objection 14
   - the city did not include some class 3 and 4 agricultural lands and instead included class 2 lands
     - 1000 Friends objection 14

5. Whether the plan's policies are internally consistent, whether the implementing regulations are adequate to carry out the plan, and whether the city's plan, as amended, meets all applicable requirements of the Statewide Planning Goals.
   - 1000 Friends objections 8, 11, 12 and 13
   - CDLC objections 3 and 4

6. Whether the inclusion of the three specific exception areas within the UGB complies with the applicable Goals and the priorities in ORS 197.298 and can be approved , separate form the Commission's decision on the balance of the UGB.

## VII. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS

### A. Procedural Issues.

Before accepting testimony, the Commission needs to decide whether to allow oral argument and whether to accept the three items of new information as requested by the department above.

**Motion 1:** . . . move that the Commission accept oral argument, pursuant to OAR 660-025-0160(6).

**Alternative Motion:** . . . move that the Commission hear this matter based on the written record, pursuant to OAR 660-025-0160(6).

**Motion 2:** . . . move that the Commission accept the excerpts from publications by the City of Boulder, Tri-Met and Peter Calthorp, referenced in the department's staff report, into the record of this hearing as new information, pursuant to OAR 660-025-0160(6).

**Alternative Motion:** . . . move that the Commission not accept the new information as requested by the department, pursuant to OAR 660-025-0160(6).

**B. Substantive Issues.**

Based on the analysis and findings contained in Attachment "A", the department recommends the Commission take the following actions.

1. Remand Task 1 and the UGB amendments for reconsideration of the land need for residential, commercial and office uses and to complete the following tasks:

a) Amend the population forecast, based on a constant population for the county unincorporated area, or provide substantial evidence to demonstrate that county unincorporated population can be expected to decline in the next twenty years.

b) Amend the Housing Needs Analysis employ the year 2000 household size of 2.66 persons per household or justify why this factor should be reduced to 2.54.

c) Amend the Housing Needs Analysis to accommodate a portion of the housing need on redeveloped land in the R-2 zone, based on available information on development which has actually occurred.

d) Amend the Housing Needs Analysis to project the type and density of government assisted housing that will be needed, including multifamily; reevaluate the planned ratio of single family to multiple family units; and insure that sufficient land is planned in each residential zone to accommodate the need.

e) Amend the Economic Opportunities Analysis and land need for commercial and office use to substantially increase the planned efficiency in the use of land and to plan for types of development that is pedestrian-friendly and transit oriented development.

f) Reduce the planned need for buildable land for community parks to account for information on the portion of these parks that has actually occurred within the 100-year floodplain.

g) Delete the unbuildable floodplain portions of the Three Mile Lane and Norton Lane areas or justify the need for these lands or urban uses under Goal 14, factors 1 and 2.

2. Remand the UGB amendments for reconsideration of which lands are to be included, including the following tasks:

a) If the revised land need, based on 1) above, results in a decrease in the twenty-year land need, remove a corresponding amount of land from the UGB, starting with resource land according to the priorities in ORS 197.298.

b) If any resource land remains in the UGB after completing 2(a) above, add the Westside Road exception area to the UGB and delete an amount of resource land which is equal to the added buildable landed capacity.

c) Using maps provided by the US Natural Resource Conservation Service and the Oregon Department of Agriculture, identify areas with class 3 and 4 agricultural soils and either (1)

include them in the UGB instead of areas with class 1 and 2 soils, if any, or (2) explain why they should not be included based on the standards in ORS 197.298(3).

3. Remand the plan to amend plan and implementing regulations to make them internally consistent, consistent with the findings used to justify the UGB amendment, and to comply with applicable goal requirements, including the following tasks:

a) Amend Policy 71.13 to indicate high-density housing is a suitable use: (1) within a one-half mile corridor centered on existing or planned public transit routes and modify the transit corridor enhancement analysis and conclusions and (2) within one-quarter mile from neighborhood and general commercial shopping centers or designated activity center.

b) Develop a program that will achieve the 10 dwelling units per acre within transit corridors by identifying additional vacant, underdeveloped, and redevelopable parcels that may be suitable for medium- and high-density housing within this half-mile corridor.

c) Rezone those parcels identified as suitable for medium- and high-density housing in order to implement the plan.

d) Amend the NAC policies to clarify the target of 7.5 dwelling units per net acre is a minimum but that higher overall densities will be allowed.

e) Revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the city.

f) Amend the illustrative plans for the Northwest, Grandhaven and Three Mile Lane NACs in order to make these illustrative plans internally consistent with the plan policies.

g) Conduct an analysis to determine the traffic impacts of the rezonings in Table 73 and include findings to address OAR 660-012-060 or complete such an analysis in a transportation systems plan.

h) Amend Ordinance 4796 to remedy a typographical error and to rezone and apply development restrictions to Parcel 13.

i) Amend all residential zones to clearly state the minimum lot size for a lot with an accessory dwelling unit.

j) Amend the C-1 zone to eliminate or substantially increase the 0.25 commercial floor area ratio limitation.

k) Amend the C-1 zone to substantially reduce or eliminate the required 30-foot front yard setback

l) Amend the R-5 zone to provide clear and objective standards for required design features on exterior elevations of buildings.

m) Amend the R-4 zone to provide clear and objective standards for buffering multiple family from adjacent single family housing.

n) Adopt a policy to (1) complete the "concept planning' process for Neighborhood Activity Centers over the twenty-year planning period and (2) require the concept plans to demonstrate that the increased traffic resulting from the proposed uses can be accommodated. Amend the NAC Planned Development Ordinance to (1) delete the requirement in Section 5.C to apply the PD process to zone changes and land divisions and (2) add a requirement to include a traffic analysis, which may be satisfied through the adoption of a TSP.

**Motion:** . . . move that the Commission remand Task 1 and the UGB amendment submittal to the city for reconsideration of: (1) the twenty-year land need, (2) the exception and resource lands added to the UGB, and (3) consistency of policies and implementing regulations and goal compliance, based on completion of tasks set forth in the department's report and responses to objections.

**Alternative Motion 1:** . . . move that the Commission remand Task 1 and the UGB amendment submittal to the city for reconsideration of:

(1) the twenty-year land need, (2) the exception and resource lands added to the UGB, and (3) consistency of policies and implementing regulations and goal compliance **[delete any of the preceding three items the Commission wants to approve]**, based on completion of tasks set forth in the department's report and responses to objections;

except for subtasks **[list which tasks recommended by the department that are not required]**;

and in addition to address the following issue(s) raised in the objection(s) **[list each issue and the objector who raised it]**.

**Alternative Motion 2:** . . . move that the Commission approve Task 1 and the UGB amendment submittal, based on the city's findings and oral argument; the Commission rejects all of the objections.

**Supplementary Motion:** . . . move that the Commission approve the inclusion into the UGB of the Riverside South, Redmond Hill Road, and Fox Ridge Road exception areas because they contribute towards meeting a demonstrated need for buildable land, no objections to these areas have been submitted, and this partial approval is not inconsistent with any remand.

## Attachments

A. Responses to Objections
B. Applicable statutes and rules
C. Decision making timeline
D. 1000 Friends objection
E. Community Development Law Center objection
F. Mark Davis objection
G. Boulder, Colorado study of commercial developments
H. Tri-Met, Planning and Design for Transit
I. Peter Calthorp, The Next American Metropolis
J. Copies of city's submittal of Task 1 and the UGB amendment (under separate cover).
K. Statement of the record

j:pr\alargecity\McMinnville\T1 & UGB report

# ATTACHMENT "A" RESPONSES TO OBJECTIONS MCMINNVILLE TASK 1 & UGB AMENDMENT

## 1000 FRIENDS OBJECTIONS

**Objection 1. Population projection.** The population projection does not use the correct planning period, is not coordinated and lacks an adequate factual basis.

**DLCD response:** The department agrees with the objection, in part.

***Planning period.*** 1000 Friends argues that the city did not begin the 20-year period for the population projection ". . . on the date initially scheduled for completion of the . . . legislative review. . ." as required by ORS 197.296(2). Further, 1000 Friends states that the review initially commenced in 1995 with the *Urban Growth Boundary Study-Phase I.*

In periodic review, a jurisdiction has an approved work program with a submittal date for each task. The approved submittal date (before any extensions) is the date "initially scheduled for completion" of the UGB amendment. A legislative review of a UGB adopted as a post-acknowledgement plan amendment has no work program. However, a post-acknowledgement plan amendment is initiated by a notice of proposed action to the department, which includes a date for the initial public hearing, pursuant to ORS 197.610(1). In addition, the department's notice Form 1, which is submitted by a city with a proposed plan amendment, includes a "Date of Final Hearing." The city's notice for this plan amendment (DLCD file: McMinnville 001-03) notified the department that the city intended to hold its first evidentiary hearing on July 21, 2003 and a final hearing on August 5, 2003.

While the city may have conducted a legislative review of the UGB in 1995 which was never completed or which resulted in no amendment to the UGB, the department recommends the commission rely on the notice sent by the city to determine when this legislative review of the UGB was initially scheduled for completion. To use 1995 as the beginning date for the city's 20-year planning horizon would lead to an absurd result, a plan with only an eleven year supply of land (or less by the time all objections and appeals are resolved). It would have been possible for the city to specify a date other than that on Form 1, but we have no evidence that the city has done so. The final hearing date of August 5, 2003 is considered to be the date initially scheduled for completion.

*Coordination.* 1000 Friends argues that the population projection is not adequately coordinated under ORS 195.025(1) and 195.036 because the county did not hold public hearings on the projection, the county did not allocate population to all of its constituent jurisdictions, and did not request comments from all the other cities.

ORS 195.025 establishes the overall planning coordination role of the county:

> . . . each county, through its governing body, shall be responsible for coordinating all planning activities affecting land uses within the county, including planning activities of the county, cities, special districts and state agencies, to assure an integrated comprehensive plan for the entire area of the county . . .

ORS 197.036 requires Yamhill County to adopt a population forecast for the county as a whole and to coordinate the forecast with local governments:

> The coordinating body under ORS 195.025 (1) shall establish and maintain a population forecast for the entire area within its boundary for use in maintaining and updating comprehensive plans, and shall coordinate the forecast with the local governments within its boundary.

While the department agrees that the steps advocated by 1000 Friends (resulting in the adoption of a simultaneous forecast for the county and all of its constituent cities) are desirable, there is nothing in either statute above that requires such a process. ORS 195.025 requires that an "integrated comprehensive plan" be assured. The department understands an integrated plan, with respect to population, to be one for which the sum of the populations of all of its cities and the unincorporated area equals the total county population. ORS 195.036 specifically requires the county to adopt a forecast for the county as a whole but only requires the county to coordinate with its constituent cities' forecasts.

The city adequately coordinated with the county by obtaining written comments on the forecast from county staff and by submitting the forecast as a part of the UGB amendment package for county adoption. The county adopted the forecast when it adopted the UGB amendments. Further, the county assured an integrated plan by considering the city's share of total county population. McMinnville population plus the "rest" of the county equals the total county population. This procedure "lumps" all of the other cities and the unincorporated area together but does not fail to consider them. (See Findings, page 10, Table 3 "Coordinated population forecast 2003-2023, Yamhill County and McMinnville . . . Ratio of McMinnville to County.")

***Factual basis.*** 1000 Friends argues that the projection assumes the population in the county's unincorporated areas will decline by 2,300 people between 2003 and 2023, a decline of over 10%, but such a decline is not supported by any factual basis.

The city's population forecast is based on plausible assumptions, based on historical data. The forecasted growth rate is 2.2 percent (Findings, page 10), which is less than the actual growth rate for the periods 1980 to 2002 (3.21 percent) and 1990 to 2000 (3.86 percent; Findings, page 7). Further, the city's share of county population increased by 2 percent in the nine years from 1990 to 1999 (Findings, page 9), an increase of 1 percent every 4.5 years. Extrapolating this rate of increase out to 2023 yields a 35 percent share

of county population. Based on consistency with historical population trends, the city's forecast is reasonable and is supported by an adequate factual base.

However, 1000 Friends' assertion, based on the city's own analysis, that the city's forecast implies a 10 percent decline in county unincorporated population is troubling. On its face, it is an unexpected result that requires an explanation. The city's forecast to 2020 (based on 1997 data) resulted in a nearly constant population in the unincorporated area (HNA, Table C-1, column 6). The extension of the forecast to 2023 (based on 2002 data) produced a result in a large decrease in the unincorporated population (Population Allocation Spreadsheet: Yamhill County and City of McMinnville). If that result cannot be explained or verified as consistent with available population data, the forecast must be revised.

A reduction in the unincorporated population, if true, would most likely result from a high rate of annexations of existing homes and population into cities, which exceeded the rate of new rural home construction. The Portland State University Center for Population Research and Census provides data each year on population annexed into cities. Although this information is readily available, neither the city nor the county used it to provide substantial evidence in support of its decision. Other sources of information are county building permits and the city's inventory of housing units within its UGB.

For the reasons above, the city's population forecast is not supported with an adequate factual base to justify a substantial decrease in unincorporated county population over the planning period.

**Objection 1 Conclusion:** The department recommends the Commission remand the population projection so the city can address the unincorporated population with substantial evidence.

**Objection 2. Housing Needs Analysis.** The housing needs analysis lacks an adequate factual basis and fails to comply with applicable statutes and rules.

a) The city's allocation of 60 percent single-family housing and 40 percent multiple family housing is not consistent with information on housing needs.
b) The city has understated its historical density resulting in an underestimate of multiple family housing need.
c) [Due to a typographical error, there was no part "c)" in 1000 Friends' objection.]
d) Goal 10 requires local jurisdictions to include government-assisted housing in its calculation of need.
e) The city did not address housing needs for special populations

**DLCD response**: The department agrees with this objection, in part.

***Single family and multiple family housing split.*** This issue is addressed below in objection 2 from the Community Development Law Center (CDLC). 1000 Friends makes the argument that since 53 percent of the city's current residents are low, very low or

extremely low income, the housing split should be 54 percent single family and 46 percent multiple family.

***Historical density.*** The department understands this issue to relate to the split between single family and multiple family housing rather than density per se. Therefore, this issue is also addressed below in CDLC objection 2. 1000 Friends argues that since there was very little buildable land zoned for multiple family use after 1995, the historical data on single family and multiple family construction does not represent the actual housing need. The city's data from 1988 represents a longer period which is likely to even out short-term fluctuations in housing construction.

***Government assisted housing.*** This is defined as a needed housing type by statute (ORS 197.303) and rule (OAR 660-008-005(4)), but the city did not determine the number of government assisted housing units that are needed type and density or the number of acres of land needed for this housing type. This issue is addressed below in objection 1 from the Community Development Law Center.

***Special Populations.*** The objection did not demonstrate that the city failed to meet any planning requirement in statute or rule. "Special needs housing" is not a needed housing type as defined by statute or rule. Therefore, the city is not required to address housing for "special populations" as a needed housing type. Nevertheless, the city did consider the housing needs of special populations (HNA, pages 5-28, 5-29). Also, the city allows various types of special needs housing in its residential zones. The objection does not demonstrate that the city has failed to provide for a housing need.

**Objection 2 Conclusion:** See conclusions under CDLC objections 1 and 2 below.

**Objection 3. Residential density.** The revised Buildable Lands Analysis is based on assumptions that future development will occur at lower than historical densities in some residential zones, resulting in an excess of 72 acres.

**DLCD response**: The department does not agree with this objection.

1000 Friends argues that the city's needed (planned) densities by zoning district (Appendix B, Table 8) are less than the actual densities achieved in each zone since 1988 (HNA, Table 4-8). While the facts cited are correct, 1000 Friends has not drawn a correct conclusion. Overall, the city has increased density rather than decreased it as the objection asserts. The city has increased the total gross density for all zones from 4.7 units per acre (Appendix B, Table 8) to 5.7 units per acre (HNA, Table 4-8).

The city's methodology projected density by housing type (Appendix B, Table 7) and allocated all of the projected dwelling units by type to the various zones (Appendix B, Table 8). Then the city calculated what the average density would be for the projected mix of housing types. The city has created a new "R-5" multifamily zone and has reallocated some of the higher density units away from the other zones to this new one.

Therefore the average density in the R-2, 3 and 4 zones has fallen while the average density of all zones has increased.

**Objection 3 Conclusion:** The department recommends the Commission affirm the city's Buildable Lands Analysis as it relates to projected housing density.

**Objection 4. Floor area ratios.** Extremely low floor area ratios are assumed for employment needs, resulting in an excess of 192 acres.

1000 Friends bases its argument on the direction in Goal 14, Factor 4 to "maximize efficiency" and the exceptions standards in ORS 197.732(1)(c)(B) and Goal 2, Part II(c)(2) that the use cannot reasonably be accommodated on lands not requiring an exception. If the city planned for more employees per acre or more building floor space per acre, the need to add more buildable land to the UGB would be reduced. 1000 Friends argues that the planned floor area ratio of .18 for retail and office commercial uses is unreasonably low and does not have a factual basis: (1) "A floor area ratio of .5 is a minimum for pedestrian-friendly, transit supportive, compact neighborhood commercial development" and (2) "office buildings . . . typically have an FAR of .5, were instead projected to need land based on an FAR .177, or nearly triple the amount of land."

**DLCD response**: The department agrees with this objection.

McMinnville based the commercial land need projection on employees per acre and floor area per employee data from the Salem Futures Buildable Lands Analysis (October 2000). From these factors, the city calculated an "implied floor area ratio . . . to indicate the reasonableness of the assumptions for land and built space per employee." (McMinnville Economic Opportunities Analysis, pages 6-3 through 6-7.)

| | Commercial | Office | Industrial | Public |
|---|---|---|---|---|
| Employees per Acre | 22 | 22 | 11 | 35 |
| Floor Area per Employee | 350 | 350 | 650 | 400 |
| Floor Area Ratio | 0.18 | 0.18 | 0.16 | 0.32 |

Source: ECONorthwest

The Salem Futures Buildable Lands Analysis has never been submitted for acknowledgment. Therefore, this study is not a precedent that would require the Commission to accept the factors above. Conversely, approval of these factors for use by McMinnville would be a precedent to signal the Commission's willingness to approve them for Salem as well. The city also cites an aggregate employee per acre ratio of 25 for the Eugene-Springfield area (Ibid, page 6-4). The factors from the Salem study resulted in an average employee per acre ratio of 20 (Ibid, Tables 6-3 and 6-4). As 1000 Friends points out, even a "big box" commercial development such as a Wal-Mart store can exceed a floor area ratio of 0.18. A recent study prepared for the City of Boulder,

Colorado shows various commercial developments from a low floor area ratio of 0.23 for a typical supermarket to three and four story office buildings at 0.61 and above. Overall, floor area ratios of 0.20 to 0.30 are typical of auto-oriented commercial buildings.

The Boulder, Colorado study is not in the local record. This study provides a graphic description of typical commercial developments at various floor area ratios. The department requests that the Commission accept this study into the record as new evidence, pursuant to OAR 660-025-0160(6). A copy of the Boulder Study is attached to this report so that the parties will have an opportunity to respond to it in an exception or at the Commission hearing.

In using a ratio of 0.18, the city has chosen an extremely inefficient assumption and applied it to all commercial and office uses. While some development will doubtless occur at this low intensity, the average should be much higher, particularly in view of the city's commendable policy of locating new development in "neighborhood activity centers." Further, while retail commercial uses are typically one story with large amounts of space devoted to parking and the display of goods, office uses are very different. Office uses can be multi-story and can accommodate more employees in a given floor space than retail uses. Office uses have more in common with public uses, which the city has planned with a floor area ratio of 0.32, than with retail commercial uses.

**Objection 4 Conclusion.** It is reasonable to believe that the city can accommodate the projected commercial and office need on less land and, to comply with Goal 14 and the "exceptions" standards, it is incumbent on the city to do so. The department recommends the Commission remand the commercial land needs analysis to be revised to maximize efficiency as required by Goals 2 and 14.

**Objection 5. Economic Opportunities Analysis.** The city has failed to correct previously acknowledged errors in its Economic Opportunities Analysis through infill, redevelopment and other factors not requiring additional land.

**DLCD response**: The department does not agree with this objection.

1000 Friends cites a study by Metro that concludes that 21 percent of new industrial jobs and 52 percent of other jobs are absorbed on developed land through infill, redevelopment, and adding employees within an existing building. 1000 Friends also cites a survey of local businesses which showed that, for nearly half of the businesses surveyed, new employees could be accommodated without additional floor space. Finally, 1000 Friends cites an inconsistency between the text on page 6-4 of the EOA stating that between seven percent and 10 percent of new employment can be accommodated in existing buildings and Table 6-2 which uses a range of five to seven percent.

The city considered how new jobs can be accommodated without additional land through home occupations, growth of businesses on already developed sites and redevelopment (EOA, pages 6-3 through 6-7). In addition, the city addressed infill development on 80

acres of "partially vacant" land in its inventory of the supply of buildable sites (EOA, page 6-9 and Table 6-7).

The city determined "that about 18% of future employment growth (1,120 jobs) will be accommodated through expansions or redevelopment on existing lands" (EOA, page 6-6). The data in Table 6-3 indicate that the correct value is 15.4 percent (1,120 divided by 7,261 jobs).

This issue involves a number of factors that are difficult to predict due to the lack of reliable data. A wide margin of error in this analysis is acceptable and expected. Metro's estimate for industrial uses, 21 percent, is close enough to the city's (the department calculates this value to be 17 percent based on Table 6-3) to support the city's assumptions rather than refute them. The local survey supports the assumption that the ability to absorb additional employment without additional land is significant. However, the survey is not a complete analysis that refutes the expert opinion of ECONorthwest. Finally, the inconsistency between the ranges of seven to10 percent and five to seven percent is not significant, given the wide margin of error. We assume that the range actually used, five to seven percent is the range the city takes to be correct. Also, the difference between 18 percent and the department's calculated value of 15.4 percent is within an acceptable margin of error.

The value of 52 percent for absorption of non-industrial jobs on developed land is significantly different from the city's assumptions. However, this factor will vary from city to city, based on actual market conditions in each area. A boom in office and retail construction in the Metro area and a lack of such in McMinnville could account for such a difference. The objection provides no rationale why Metro's information should be applicable to McMinnville.

**Objection 5 Conclusion.** DLCD recommends the Commission affirm the city's analysis regarding commercial and industrial infill, redevelopment, and absorption rates.

**Objection 6. Parkland.** The assumption that all Community Parkland and Neighborhood Parkland must be buildable results in an excess of 94 acres. 1000 Friends bases their position on the following arguments:

- Historically, 65 percent of neighborhood and community parks in McMinnville have been located on constrained lands. Based on the direction in Goal 14, Factor 4 to "maximize efficiency" and the exceptions standards in ORS 197.732(1)(c)(B) and Goal 2, Part II(c)(2) that the use cannot reasonably be accommodated on lands not requiring an exception, a portion of the park land need should be satisfied on constrained lands rather than by expanding the UGB to add more buildable lands.
- The city has adopted development standards that would incorporate wetland areas into neighborhood and community parks and would locate a neighborhood park adjacent to the South Yamhill River (Appendix E, pages 12-14).

- The park land inventory did not account for additional acreage added by the Joe Dancer Park expansion.

**DLCD response**: The department agrees with this objection.

The city reduced the need for additional parkland by 60 acres to account for the Joe Dancer Park expansion (Plan, page 7-28). Also, the city reduced the need for "Greenways/Greenspaces/Natural Areas" by 34 percent in recognition of the amount of such lands currently in the floodplain (Appendix B, Tables 22 and 23). However, the city assumed that all of the need for neighborhood and community parks must be met on buildable land.

The city states (HNA, pages 5-32 through 5-33),

> As is shown through local park development, not all park types need to be entirely located on land identified as buildable. Specifically, a portion of future Greenway and Greenspace parks may be located partially within the boundaries of the 100-year floodplain. Analysis of local park locations and topography shows that some 34 percent of all Greeway/Greenspace park acres are so located. . . The city assumes all parkland need will be met on residential land as parks are not permitted in non-residential zones.

In Table 5-31, the city compiles data on 17 greenspace parks which demonstrates that 34 percent of the acreage of these parks is in the floodplain. The city did not provide any such data to support the assumption that neighborhood and community parks would not include any floodplain land.

Mark Davis' letter to the city dated August 4, 2003 included data on community parks:

| | |
|---|---|
| City Park | 31% |
| Joe Dancer Park | 100% |
| Kiwanis Park | 100% |
| Cypress Street Property | 0% |
| Wortman Park | 0% |
| | |
| Average | 65% |

Since the city provided no data on community parks and the data above does not support the city's assumption that no community parkland will be located in the floodplain, the city's decision is not supported with an adequate factual base. Also, the city incorporated the parkland need into the residential buildable land need. As the city stated above, ". . . all parkland need will be met on residential land. . ." The more buildable land that is needed for parks the more residential land will be needed and the lower gross density will be achieved on all residential lands. Because the need for parks is made part of the gross residential land need, ORS 197.296 applies. Paragraph (5) of this statute requires the city to determine "housing capacity and need based on data relating to land within the urban

growth boundary that has been collected since the last periodic review" unless other data "will provide more accurate and reliable data related to housing capacity and need." The information provided by Mr. Davis is such data and the city needs to use it to determine how much buildable land is needed for community parks or justify what other data would be more accurate and reliable.

**Objection 6 Conclusion.** Staff recommends that the Commission remand the city's analysis of land needs to reduce the planned need for buildable land for community parks to account for information on the portion of these parks which has actually occurred within the 100-year floodplain.

**Objection 7. Efficiency measures.** The following efficiency measures could result in a reduction of 303 acres (8 Dwelling units/gross buildable acre vs. 5.7):

a) reduce the minimum lot size;
b) reduce the proportion of land in large lot zones;
c) establish minimum density standards (80%);
d) establish minimum floor area ratios for employment uses (especially commercial); and
e) provide incentives and for infill and redevelopment.

**DLCD response:** The department does not agree with this objection.

1000 Friends argues that Goal 14, Factor 4, "Maximum Efficiency;" ORS 197.732(1)(c)(B); Goal 2, Part II(c)(2); OAR 660-04-020(2)(b)); and ORS 197.296 require the city to adopt measures to increase the efficiency in the use of land and, thereby, reduce the amount of farm or forest land needed for urban use. Also, the objection compares McMinnville with other cities in the area.

While all of these statutes and rules speak to efficiency in the use of land, only ORS 197.296 gives specific direction to local governments on how to plan for the mix and density of residential uses for a UGB amendment. Because this statute provides specific direction, a city is only required to maximize efficiency or accommodate residential uses within the existing UGB to the extent necessary to comply with ORS 197.296.

ORS 197.296 requires a city to compare the residential mix and density that have actually occurred and the mix and density determined in a housing needs analysis. If the actual density is different from that which is needed, the city is required to adopt measures to increase the likelihood that the needed mix and density will be achieved. A comparison with other jurisdictions or a showing that additional measures could increase efficiency are not required to respond to the statute. For residential uses, the analysis need only be based on a comparison of housing needs and the actual mix and density of housing in McMinnville, unless data from a wider geographic area is more accurate, complete and reliable. The objection has not demonstrated that the data the city collected within its own

UGB is not sufficiently accurate, complete and reliable to be used as the basis for the city's decision.

Also, the city has considered measures to maximize efficiency. The city had already adopted nine measures to improve efficiency, including allowing flag lots and "skinny" streets (Plan, pages 5-2 through 5-8). Further, the city has adopted additional efficiency measures to increase planned residential density from 5.9 to 7.2 dwellings per acre (Plan, page 5-24) and reduce gross land need by 225 acres (Plan, page 5-26). These measures include planning for neighborhood activity centers and transit corridors. Based on these efficiency measures, the city has adequately maximized efficiency under Goal 14, Factor 4 and the exceptions standard to show that the uses planned for the expanded UGB cannot reasonably be accommodated within the existing UGB (areas not requiring a new exception).

Planned floor area ratios for commercial uses are discussed under objection 4, above.

The issue of infill and redevelopment is raised in objection 5, above.

**Objection 7 Conclusion.** The department recommends the Commission find that the city's submittal complies with ORS 197.296(5) for residential lands for the issues raised in this objection.

**Objection 8A. Location of Neighborhood Activity Centers (NACs).** 1000 Friends objects that the location and configuration of several of the NACs are undesirable or will result in undesirable consequences.

1. Three Mile Lane. 1000 Friends objects that this NAC is physically isolated from the remainder of the community and will create intense pressure for inappropriate highway-oriented commercial development for parcels zoned C-3 adjacent to Highway 18. 1000 Friends asserts that a better location for this NAC is in the Norton Lane sub-area.

**DLCD Response:** The department does not agree with this objection.

The location and design of NACs are guided by city policy rather than the statewide planning goals. Unless the objector raises an issue with an internal inconsistency of the plan or an inconsistency with the statewide planning goals, rules, or statutes, DLCD's response is to provide the city with considerable discretion in terms of deciding the location and design of the NACs. In general, these issues should to be considered and decided locally rather than by DLCD or LCDC.

The objector has not cited how the location or configuration of the Three Mile Lane NAC is inconsistent with other plan policies or the statewide planning goals, rules, or statutes. We agree that the Three Mile Lane NAC is somewhat physically isolated from the remainder of the city, but expressways like Highway 18 are typical neighborhood boundaries and this NAC is large enough to be a self-contained neighborhood. The city

has an obligation to plan for safe and convenient transportation facilities connecting this neighborhood to the rest of the city and assure planned land uses are consistent with the function, capacity, and performance standards of the existing and planned transportation facilities. As noted in the response to 1000 Friends' Objection 11 below, the city has not yet fulfilled this obligation. In DLCD's letter to the city dated August 4, 2003, we noted our concern that this NAC could potentially increase the amount of local vehicular traffic on the state highway system. This issue will need to be addressed as part of the Transportation Planning Rule (TPR) analysis and findings, which is discussed in more detail in Objection 11 below.

The concern that designating parcels adjacent to Highway 18 for C-3 zoning will create pressure for inappropriate highway-oriented development is addressed by the department under 1000 Friends' Objection 12 below.

As to whether the Norton Lane area is a more suitable location for a NAC than the Three Mile Lane area, as noted above, this is an issue that is best decided locally. We note that the location of the Three Mile Lane NAC is consistent with the locational criteria included in Policy 188.03. The objector has not cited how the location or configuration of this NAC is inconsistent with other plan policies or statewide planning goals, rules, or statutes.

2. Southwest. 1000 Friends objects that this NAC is unlikely to work, is located at the extreme outer-edge of the proposed UGB, the core focus area is separated from existing residential development by floodplain, and it places residential development directly adjacent to commercial agricultural operations, making future conflicts nearly inevitable.

**DLCD Response:** The department does not agree with this objection.

As noted above, the location and design of NACs are guided by city policy rather than the statewide planning goals. The objector has not cited how the location or configuration of this NAC is inconsistent with other plan policies or the statewide planning goals, rules, or statutes. With regard to potential conflicts between residential uses and agricultural operations, such conflicts are always possible at the UGB interface. However, the objector has not raised any specific issues or suggested any specific remedies, and the department is not aware of any intensive or unusual farming operations that may require the adoption of a program to avoid or minimize conflicts.

3. Northwest. 1000 Friends objects that the urban fringe location of this NAC and the included schools will make it less likely students will walk or bike to school, will increase vehicular miles traveled, will create pressure for future urban expansion on to nearby farmland, and will move potential community gathering places to the outskirts of town. In addition, the NAC commercial and residential uses are located directly opposite a commercial farm operation across Hill Road, making future conflicts virtually inevitable.

**DLCD Response:** The department does not agree with this objection.

The objector has not cited how the location or configuration of this NAC is inconsistent with other plan policies or with the statewide planning goals, rules, or statutes. Planning for future school sites as integral part of neighborhoods, either inside the existing UGB or when expanding the UGB, is a good planning practice. There is nothing in the record to indicate the potential high school site reflects moving a community gathering place to the outskirts of town. We interpret the city's action as locating a potential additional new high school site rather than relocating an existing high school to this location. While the proposed elementary school site may be located near the edge of the UGB, it is also located at the approximate center of this neighborhood, thereby increasing the potential for children who live in this neighborhood to walk to this school. As noted above, there are always potential conflicts between urban and rural uses at the UGB interface. However, the objector has not raised any specific issues or suggested any specific remedies, and the department is not aware of any intensive or unusual farming operations that may require the adoption of a program to avoid or minimize conflicts.

4. Grandhaven. 1000 Friends objects that this NAC could be more successfully implemented by shifting the core focus area to vacant land already within the existing UGB just east of the proposed school sites, adjacent to residential development.

**DLCD Response:** The department does not agree with this objection.

We agree with the objector that implementing a successful neighborhood retail center at the location designated in Figure 9 will be extremely difficult to achieve since this proposed site does not meet certain basic retailing locational requirements. Specifically, this site is somewhat buried in the neighborhood and has limited vehicular access and has limited visibility from or access to a street with relatively high volumes of pass by traffic. The proposed neighborhood center is not surrounded by enough high-density housing to be self-supported by the surrounding homes, and therefore requires convenient access to a relatively major street. The city recognizes this to some extent by stating on p. D-22 that the city "should encourage institutional uses (branch library, satellite fire station, or similar uses) to locate here" (Policy 188.16). However, Policies 188.00, 188.01, and 188.05 call for the NAC focus areas to include a mix of commercial, office, and institutional uses. DLCD therefore agrees with the objector that the configuration of this NAC as shown in Figure 9 (p. 7-14) calls into question the ability to achieve the stated goals and policies of the NACs on pp. D-18 – D-20.

However, we note that the illustrative plans for each of the NACs are intended by the city to be examples of the types and arrangements of land uses anticipated, and to illustrate the general policies that apply to all of the NACs (Policies 188.00–188.07) as well as the policies that apply specifically to each NAC (Policies 188.08–188.39). With regard to the Grandhaven NAC, there is no requirement for the neighborhood center to be located where it is shown on Figure 9. Policy 188.16 states that the center should be located adjacent to the existing and planned public schools. This allows the ultimate location to be different than as shown on Figure 9, including a possible location on the vacant land

adjacent to the school sites suggested by the objector. Ultimately, development in the NACs will be guided by the NAC Planned Development Ordinance, which requires the preparation and approval of a Concept Plan that implements the comprehensive plan policies but allows flexibility in terms of the final arrangement of land uses and streets that may differ from those shown in the illustrative plans.

5. Riverside South. 1000 Friends objects that the Riverside South exception area is a logical location for a NAC.

**DLCD Response:** We do not agree with this objection.

We agree with the objector that this subarea appears to meet the city's definition for a potential NAC. The record includes an analysis and consideration of identifying this area for pedestrian-friendly development on pp. C-68 and C-69 and concludes that this area is not a logical location for a NAC due to the surrounding industrial uses and lack of supportive urban services such as schools and stores. Planning for higher-density residential development in this vicinity could reduce overall land needs, as suggested by the objector. However, the city's decision to plan primarily for industrial uses and a limited amount of low-density residential development is based upon compatibility concerns and lack of neighborhood services, and this decision is supported by the factual record. This decision is not inconsistent with the remainder of the plan or with the statewide planning goals, rules, or statutes, and DLCD believes this is a decision best determined locally.

**Objection 8A Conclusion.** The department does not agree with Objection 8A regarding the location and configuration of several of the NACs or suggestions that the city plan an additional NAC for the Riverside South vicinity. The objector has not cited how the location or configuration of the NACs are inconsistent with plan policies or with the statewide planning goals, rules, or statutes.

**Objection 8B. Residential density.** Residential density in NACs is not adequate to achieve compact, pedestrian-friendly, transit supportive development. 1000 Friends objects that the city's overall planned density of 7.5 dwelling units per net acre is too low, and that certain plan policies fail to incorporate meaningful efficiency measures and limit medium and high density residential development in a manner that will inhibit achievement of the stated goals and serve to inflate the size of the proposed UGB expansion. 1000 Friends asserts the city's definitions of low-, medium-, and high-density development are not realistic and, as applied to the NACs, reduce the likelihood that the NACs will achieve their stated goals. In a related objection (Objection 13), 1000 Friends objects that the Proposed Plan Policy 71.13 (p. D-10) unnecessarily restricts the opportunities for higher density housing in proximity to planned transit routes.

**DLCD response**: The department agrees with this objection, in part.

The Transportation Planning Rule (TPR) requires local governments that have existing or planned transit systems to designate types and densities of land uses adequate to support

transit (OAR 660-012-0045(4)(g)). The city's transit system is currently primarily a Dial-A-Ride system. However, the transit system has an initial fixed route component, and the city has expressed the desire and feasibility of expanding the transit system during the planning period. For example, the city has identified planned transit routes (Figure 5-23) and the MGMUP includes policy statements indicating the city desires to create a land use pattern that is transit supportive. Therefore, this requirement applies to the city.

The TPR objective is for local governments to plan for transit-supportive land uses, also known as transit-oriented developments (TODs), along existing and planned transit routes. There is not a single, standard definition of a TOD since the application of TOD principles varies by location, the type of transit system present (heavy rail, light rail, express bus, feeder bus, etc.), and the objectives of the community with regard to encouraging walkable and transit-supportive development patterns. A TOD in a large metropolitan area served by heavy rail will have different characteristics than a TOD in a small- to medium-sized community.

A TOD generally includes medium- to high-density development, a mix of uses, connected local streets with relatively short blocks, and pedestrian-friendly design, all within walking distance of a neighborhood center and transit stop. The targeted density and walking distance depends upon the community's desire to support neighborhood commercial businesses and the level of transit provided. With regard to residential densities, various publications and research have concluded that in a suburban area served by feeder bus service with approximately 30 minute headways, a TOD should have a minimum of eight dwelling units per net acre within one-quarter mile of a transit stop.[1] Other publications state that residential densities within neighborhood TODs "must be a minimum of 7 units per net acre and a minimum average of at least 10 units per net acre" when serving local or feeder bus service.[2]

It is generally understood that higher densities in a compact area are more desirable than lower densities since more households increases the likelihood that neighborhood commercial and transit services can be supported. Even higher densities are required in "urban TODs" such as downtowns and activity centers. In addition, in larger communities, densities much higher than 8-10 dwelling units per net acre are required to support higher levels of transit service, such as express bus service and light rail, and high densities within walking distance of up to one-half mile is considered essential for a light rail or heavy rail TOD.

1000 Friends points out that the TPR includes a definition of a mixed-use, pedestrian-friendly center or neighborhood, and that the definition includes medium- to high-density residential development (12 or more units per acre). 1000 Friends asserts this definition is a more realistic minimum density than the city's targeted density of 7.5 dwelling units per net acre necessary to be considered a pedestrian-friendly center or neighborhood.

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[1] Planning and Design for Transit, Tri-Met, p. 17-18; Parson-Brinckerhoff, Salem Futures Project, 2001.
[2] The Next American Metropolis, Peter Calthorpe, pp. 57 and 83.

We disagree for two reasons. The definition included in the TPR does not apply to MGMUP. The definition cited by 1000 Friends defines when a local government can take credit for a reduction in vehicle trips associated with mixed-use, pedestrian friendly center. This rule provision applies to a variety of development types, and this definition was inserted in order to serve as a "safe harbor" definition of a mixed-use, pedestrian-friendly center or neighborhood. That is, if the area has or is planned to have the characteristics listed in the TPR, then it can be considered to be a mixed-use, pedestrian-friendly center or neighborhood, and the local government can take credit for reduced vehicle trips. The presence of this safe harbor does not preclude other arrangements or densities of development to also be considered pedestrian- and transit-oriented. Second, the definition lists characteristics that are included or planned to be included in the area. The definition does not state that the minimum density or even the average density should be 12 units or more per acre. The definition states that medium to high-density residential development of 12 units or more per acre is an essential component of a mixed-use, pedestrian-friendly center or neighborhood. The definition does not preclude the possibility that less dense residential development can be a component of a pedestrian- and transit-oriented neighborhood. As noted above, the planning literature states that an average of 8-10 dwelling units per acre is generally considered the minimum to support a 30-minute feeder bus system characteristic of a city the size of McMinnville.

The city has appropriately incorporated the planned transit system into the land use planning as part of the MGMUP. The city has incorporated two significant strategies into the MGMUP to promote higher density development that is capable of supporting transit service—the Transit Corridor Enhancement Policy and Neighborhood Activity Centers (NACs). These strategies have the benefit of accomplishing objectives relating to maximizing the efficiency of development inside the UGB as required by Goal 14 and planning for transit-supportive uses as required by Goal 12. The department is highly supportive of the city's overall approach. At issue in these objections is whether these strategies incorporate meaningful efficiency measures and densities necessary to support the planned level of transit service. These two strategies and related issues are discussed below:

***Transit Corridor Enhancement Policy.*** In an effort to maximize the efficiency of planned land uses, the city has recognized there are parcels within walking distance of planned transit routes that can be designated for higher density development. The city has identified these parcels (Figure 3, p. 5-23) and has proposed to "adopt policies that encourage higher density residential development within five-hundred feet of an identified potential transit route (1,000 foot wide corridor)...In general, this policy should seek to realize an average density of ten (10) dwelling units per acre within the transit corridors" (MGMUP Findings, p. 154). The MGMUP includes a policy that states one of the factors to be used to determine areas appropriate for high-density residential development includes "(a)reas within a 1,000-foot wide corridor centered on existing or planned public transit routes" (Policy 71.13, p. D-10). Based upon this analysis and policy, the city has identified parcels that have been proposed for rezoning for higher density residential development (MGMUP Findings, p. 154).

The city's analysis, policies, and findings do not incorporate meaningful efficiency measures with regard to identifying areas that are appropriate locations for higher-density, transit-supportive development. The density target of 10 dwelling units per acre for these parcels is adequate. However, the area within which the city has applied these targets is too restrictive. The city's analysis and Policy 71.13 extends only 500 feet on either side from the planned transit routes (MGMUP Figure 3, pp. 5-22 through 5-24, MGMUP Findings, pp. 153-154). As noted above, the standard in the planning profession for transit supportive bus service is to plan for medium- and high-density residential development within one-quarter mile (1,320 feet), not 500 feet, of a transit route.

Allowing medium and high-density development within 1,320 feet of planned transit routes will increase the likelihood that neighborhood commercial and transit services can be supported. The city's analysis and related policies should be modified to reflect this increased walking distance. This will yield a 2,640 foot wide corridor rather than a 1,000 foot corridor. This revised analysis may, in turn, identify additional parcels beyond those identified in Figure 3 and Table 9 that can be planned and zoned for higher-density development.

In addition, the city's analysis has only evaluated vacant, residentially zoned parcels as potential sites for higher-density development. The city has not identified underdeveloped or redevelopable parcels or parcels that may currently be zoned for commercial or industrial uses. Underdeveloped and redevelopable parcels offer opportunities to plan for higher-density development. In addition, commercial- and industrial-zoned parcels can be incorporated into both residential-based and employment-based TODs in order to both maximize the efficiency of development, encourage mixed uses, and provide densities necessary to support transit service.

The city does not have a program to achieve the 10 dwelling units per acre within the identified transit corridors. As stated in the MGMUP, the city's policy is to "seek to realize an average density of ten (10) dwelling units per acre within the transit corridors" (MGMUP Findings, p. 154). The city has identified only six parcels totaling 15.18 acres within these corridors that are suitable for higher density development, and has sought to achieve 10 dwellings per acre on these parcels.

Given the amount of low-density development that already exists within the corridors, these six zone changes will have an insignificant impact on average densities within the corridors. There is no evidence in the record that indicates how the average of 10 dwelling units per acre will be achieved. The city could identify additional parcels for higher density development as a means to achieve the policy objective. For example, the city could identify parcels that are within one-quarter mile (rather than 500 feet) of a transit route, parcels that are underdeveloped or redeveloped, and parcels that are currently zoned for commercial or industrial uses but may be suitable for mixed-use development.

In addition, the city has not implemented the proposed rezonings. The MGMUP characterizes the six parcels described above as "proposed transit corridor parcel

rezonings" (Table 75, p. 154). The MGMUP redesignates and rezones a total of 20 parcels as a "means of minimizing the amount of land needed to accommodate future land needs" (p. F-1). However, the six parcels identified in Table 75 are not among the parcels that have been redesignated and rezoned in Appendix F. Therefore, the city has not adequately implemented the policies in the plan.

***Neighborhood Activity Centers.*** The city's second strategy to maximize the efficiency of development and support pedestrian-friendly development and transit service is the designation of NACs. The city has incorporated four NACs into the comprehensive plan map (Figures 12 and 13), including: Grandhaven, Northwest, Southwest, and Three Mile Lane. The MGMUP establishes development concepts and benchmarks, defines Focus and Support areas, and includes illustrative plans to guide future development in each NAC. With regard to the size of the NAC and Focus and Support Areas therein, and the density of development, the MGMUP establishes the following:

- Focus area and adjacent support area – 8 to 16 dwelling units (du)/net acre (p. 7-8)
- Support area transition to 4-8 du/net acre at outer edge of support area (p. 7-8).
- Maximum distance from edge of Focus Area that high-density housing should be located – one-eighth mile (p. D-20).
- Maximum distance from edge of Focus Area that medium-density housing should be located – one-quarter mile (p. D-20).
- Overall residential density of Neighborhood Activity Centers is 7.5 du/net acre. (p. D-21, D-22, D-23, D-24).

With regard to NAC planned densities and compliance with the statewide planning goals, the city must plan for transit-supportive uses along transit routes and must demonstrate the planned densities are adequate to meet the city's housing needs. Since the NACs are a creation of the city rather than the statewide planning goals, as long as the city meets the requirements stated above the city must be afforded considerable discretion in terms of deciding the appropriate density the NACs should be targeted to achieve. On an overall basis, however, the city's plan must be internally consistent with regard to definitions provided and densities planned within the NACs.

The department finds that the city's definitions and density targets for the NACs are consistent with the size and density definitions associated with TOD and feeder bus service characteristic for a city the size of McMinnville. We note that the overall residential density of 7.5 dwelling units/net acre is on the low end of the density scale associated with TOD. As discussed above, residential development should generally be a minimum of eight dwelling units per acre within one-quarter mile of a transit route. Allowing residential uses as low as four units per net acre within a NAC is on the extreme low end and will make it difficult for the city to achieve the overall objective of 7.5 dwelling units per net acre. In addition, capping the density of development to no

more than eight dwelling units per acre for properties more than one-eighth mile but less than one-quarter mile from a transit stop seems contrary to planning for a successful TOD. Nevertheless, the targeted density of 7.5 dwelling units per acre is approximately the minimum density necessary to support feeder bus service and some limited neighborhood commercial services.

As mentioned above, the higher the density of residential development, the greater the likelihood the resulting development patterns will be supportive of neighborhood commercial services and transit service. While the city's target of 7.5 dwelling units per net acre is about the minimum needed to accomplish this objective, the city's target could be interpreted as both a floor and a ceiling and, therefore, limit opportunities for higher-density development. For example, should market conditions warrant a mix of higher-density housing types in a particular NAC that would exceed the city's target of 7.5 dwelling units per net acre, the city's policies (for example, Policy 188.10) could be construed to prohibit the approval of a NAC Concept Plan that achieves net residential densities that exceed the target. This would be counterproductive and inefficient. The city's policies should be amended to reflect that the minimum overall residential density that should be achieved in the NACs is 7.5 dwelling units per net acre, but the policies should clearly allow higher overall densities.

With regard to the definitions of low-, medium-, and high-density development, these definitions vary from one community to another. There are no universal definitions since development that is considered medium density in one city may be low density in another. However, the plan must be internally consistent as well as consistent with the development patterns found in the community.

On this basis, the department finds that the city's plan is internally inconsistent with regard to definitions of low-, medium-, and high-density development. For example, the city has defined medium-density development to include densities ranging from four to eight dwelling units per net acre (Policy 71.09, p. D-8). At the low end, dwellings at four units per net acre equal single-family lots approximately 11,000 square feet (SF) in size. At the high end, eight units per net acre equals lots averaging approximately 5,400 square feet. However, this policy defines medium-density development to include "small lot single-family detached uses, single family attached units, duplexes and triplexes, and townhouses." Within McMinnville and other cities in the greater Willamette Valley area, the department's professional judgment is that an 11,000 SF lot is larger than average in an urban area and cannot be considered to be a "small lot." A small lot in this vicinity can be considered to range from 4,500 to 6,000 square feet, which equates to approximately eight dwelling units per net acre.

Similarly, townhouses are commonly provided on lots ranging from 2,000 to 3,000 square feet. This equates to densities ranging from 14 to 22 dwelling units per net acre. Therefore, while the city's definition of medium-density development is stated to range from four to eight dwelling units per acre, the characteristic housing types listed are more commonly found to range from seven to 20 units per net acre. The plan is internally inconsistent.

The city's policies have similar inconsistencies as they relate to high-density development. For example, the Policy 71.11 defines high-density development to range from eight to 30 units per acre. And yet this policy also states that typical uses include townhouses, condominiums, and apartments. These residential dwelling types are typically provided at minimum net densities of approximately 12 to 15 dwelling units per acre.

**Objection 8B Conclusion.** The department recommends the Commission remand the MGMUP to:

1. Revise Policy 71.13 to indicate high-density housing is a suitable use within a one-half mile corridor centered on existing or planned public transit routes and modify the transit corridor enhancement analysis and conclusions;

2. Develop a program that will achieve the 10 dwelling units per acre within transit corridors by identifying additional vacant, underdeveloped, and redevelopable parcels that may be suitable for medium- and high-density housing within this half-mile corridor;

3. Rezone those parcels identified as suitable for medium- and high-density housing in order to implement the plan;

4. Amend the NAC policies to clarify the target of 7.5 dwelling units per net acre is a minimum but that higher overall densities will be allowed;

5. Revise the definitions of low-, medium-, and high-density residential development to ensure the comprehensive plan, policies, and implementing ordinances are internally consistent and consistent with regard to minimum lot sizes and the types of residential products found in the city.

**Objection 8C. NAC plan consistency.** The NAC Illustrative Plans are inconsistent with plan policies. 1000 Friends objects that the illustrative plans for the Northwest and Grandhaven NACs include proposed plan and zone designations for low-density development that are inconsistent with the plan policies.

**DLCD response**: The department agrees with this objection.

When evaluating and responding to this objection, it is important to note the distinction between the illustrative plans (MGMUP Figures 8-11), the plan policies relating to the NACs (Policies 188.00–188.39, pp. D-18–D-24), and the NAC Planned Development Ordinance (Appendix E). Future development in the NACs will be regulated by the NAC Planned Development Ordinance. The Planned Development Ordinance incorporates the adopted policies for each of the NACs. The illustrative plans are included in the plan in order to show how development may occur in a manner that is consistent with the adopted policies. However, the illustrative plans are not binding on future development plans, and the Concept Plans prepared and approved in accordance with the Planned

Development Ordinance may include different land use and street system configurations than those shown in the illustrative plans.

Although the illustrative plans are not binding or regulatory, since they are incorporated into the plan, it is important for the illustrative plans to be internally consistent with the plan policies. We have reviewed each of the NAC illustrative plans for internal consistency with the adopted policies.

*Northwest Activity Center.* The MGMUP Plan Policies state that low-density residential development should be limited to areas immediately adjacent to Michelbook, Baker Creek and Cozine Creek, and opposite farmland (Policy 188.14). The policies state that medium-density residential development should be encouraged outside the activity center adjacent to Hill Road, Baker Creek Road, and to provide transition from multi-family housing to low density residential development (Policy 188.13).

The illustrative map for this NAC includes R-2 designations (defined by the city as "low density" in Policies 71.09 and 71.08, p. D-8) for lands that are not immediately adjacent to Michelbook, Baker Creek, or Cozine Creek, or opposite farmland. These lands have direct access to collector and arterial streets (including lands immediately adjacent to Hill Road), are not subject to development limitations, are within one-half mile of existing or planned public transportation, and are within one-quarter mile from a designated neighborhood commercial center. To be internally consistent with Policies 71.09, 188.13, and 188.14, the illustrative map for this NAC should designate these lands for high- or medium-density residential development.

*Grandhaven.* The MGMUP Plan Policies state that low-density residential development should be limited to areas "immediately adjacent" to Baker Creek and the North Yamhill River (Policy 188.21). The illustrative map for this NAC includes R-2 designations for lands that are approximately 300 to 1000 feet from the identified waterways, are not subject to development limitations, are within one-half mile of existing or planned public transportation, and are within one-quarter mile from a designated neighborhood activity or focus area. The MGMUP does not define the term "immediately adjacent" to the identified waterways, but the department does not construe 300 to 1000 feet to be immediately adjacent. To be internally consistent with Policies 71.09, 188.21, and 188.20, the illustrative map for this NAC should designate these lands for high- or medium-density residential development.

*Three Mile Lane and Southwest Neighborhood Activity Centers.* 1000 Friends does not cite specific concerns with the residential density for the Three Mile Lane and Southwest NACs. The department has reviewed the city's policies for the NACs and has found the illustrative plans to be consistent with the applicable policies. Note that the designation of potential C-3 parcels adjacent to Hwy. 18 in the Three Mile Lane NAC is addressed in Objection 12 below.

**Objection 8C Conclusion.** Although the illustrative plans are not binding or regulatory in nature, since they are included as part of the plan and intended to illustrate the plan

policies, the illustrative plans should be internally consistent with the plan policies. The department recommends the Commission remand the MGMUP for the city to amend the illustrative plans for the Northwest and Grandhaven NACs in order to make these illustrative plans internally consistent with the plan policies.

**Objection 8D. Floor area ratios.** Ratio of employment land projected to accommodate building square footage (low Floor Area Ratios) cause centers to miss density goals.

**DLCD response**: The department agrees with this objection; this issue is addressed under Objection 4, above.

**Objection 9. Household size.** 1000 Friends argues that there is no evidence to support the city's determination of future household size (ORS 197.296(3)). Census data disputes the city's conclusion that future household size will be 2.54 persons per household (a 131 acre difference).

**DLCD response:** The department agrees with this objection.

ORS 197.296 requires the city to plan for the amount of land needed for each needed housing type for the next 20 years. Also, ORS 197.296(5) speaks to the time period of data which should be considered in a housing needs analysis:

> The determination of housing capacity and need . . . must be based on data relating to land within the urban growth boundary that has been collected since the last periodic review or five years, whichever is greater. The data shall include: . . . (C) Demographic and population trends. . .

The city's plan states:

> Increases in persons per household due to the city's growing Hispanic population will be offset by increases in female, heads of household, and an aging population such that it will remain flat from its year 1990 figure of 2.54.

The available US Census information shows a twenty-year trend of increasing household size in McMinnville.

| | |
|---|---|
| 1980 | 2.48 persons per household |
| 1990 | 2.54 |
| 2000 | 2.66 |

The city's assumption that the household size will "remain flat" from the 1990 number is already refuted by the 2000 Census data. The projected 2.54 household size is actually a reduction from current levels. When the city projects into the future, it needs to use the most current data, 2.66 in 2000 or present an adequate factual base to support the lower figure. When the city projects household size, it must at least address the most current number. If household size remains flat from current levels, the number is 2.66.

**Objection 9 Conclusion.** The department recommends the Commission remand the residential land needs analysis based upon the projected household size in order for the city to justify or correct the projection.

**Objection 10. Buildable Lands Analysis (BLA).** 1000 Friends states that the city's BLA applies the law incorrectly and is not supported by evidence.

a) Lots with building permits are excluded from the buildable lands inventory they are counted as developed.
b) The city did not consider the redevelopment potential of any land in the R-1, R-2 or R-3 zones.
c) [Due to a typographical error the objection skipped this heading.]
d) The city's inventory of buildable land assumes residential development will utilize floodplain less efficiently than it has in the past and does not explain why.

**DLCD response:** The department agrees with this objection, in part, with respect to the potential for redevelopment in the R-2 zone.

a) 1000 Friends objects that the city removes vacant lots from the buildable lands inventory when a building permit is issued, even though that new home, when completed, can accommodate some of the twenty-year population growth. Logically, 1000 Friends is correct. However, the city should not be expected to account for every possible factor influencing its land supply when such factors are small in magnitude. The time between the issuance of a building permit is a matter of months, which is small compared to a twenty-year land supply calculation. Within a period of a few months of its issuance, a building permit typically results in a vacant unit and ultimately an occupied unit. Ideally, a plan would freeze a moment in time and account for every possible building site in its inventory, but with limited resources, it may not be practical to achieve such precision.

b) ORS 197.296(4)(a)(D) defines buildable land to include "vacant land and developed land likely to be redeveloped." Also, paragraph (5)(a) of the same statute requires that "the determination of housing capacity and need . . . must be based on data relating to land within the urban growth boundary that has been collected since the last periodic review or five years, whichever is greater."

The city's buildable lands inventory finds there is no potential for redevelopment within the R-1, R-2 and R-3 zones because they are single-family residential zones (HNA, pages A-4 and A-5). That is, if a single family home is demolished, it will be replaced by another single family home.

However, this conclusion is not supported by the data on development that has actually occurred. In the years from 1988 to 2000, fully 40 percent of all units permitted in the R-2 zone (comprising 10 percent of all building permits issued by the city) were for multiple family housing units (Findings, Table 33). During the same period there were no multiple family dwellings approved in the R-1 or R-3 zones. Therefore, the city cannot rule out the potential for redevelopment in the R-2 zone.

d) 1000 Friends argues that the city must consider residential land in the floodplain as buildable land and assign some (low) density to it. The objection points out that while the city does not allow construction in the floodplain, it allows a portion of the required yard to extend into the flood plain. For example, 1000 Friends cites a particular subdivision where eight lots were created with portions extending into the floodplain, but only four lots would be possible otherwise.

The Commission's rule on housing (OAR 660-008-0005(2)) states, ". . . land within the 100-year floodplain is generally considered unbuildable for purposes of density calculations."

The department's interpretation of this rule is that if land in the 100-year floodplain is considered to be unbuildable, it should not be included in the buildable lands inventory and should not be planned for residential use. The city has largely accounted for this issue by prohibiting construction of dwellings within the floodplain. The addition to allowed density by extending the back yards of homes into the floodplain is not large in magnitude and can be accounted for within the overall increase in density (over what has actually occurred, historically) which the city has planned for. Also, the example cited by 1000 Friends shows that a significant increase in density was achieved in one case, but there is no reason to believe that such a result would be typical of all development next to the floodplain.

**Objection 10 Conclusion.** The city did not err when it chose to remove parcels with building permits from the vacant lands inventory. The small development potential of floodplain lands is offset by the increase in density on buildable lands which the city has planned for. The department recommends the Commission remand the Buildable Lands Analysis for the city to consider redevelopment potential in the R-2 zone with multiple family dwellings.

**Objection 11. Adequacy of planned transportation system to support planned land uses.** 1000 Friends of Oregon objects that the City has amended its acknowledged comprehensive plan and land use regulations in a manner that will significantly affect transportation facilities and that the City's decision does not assure that allowed land uses are consistent with the identified function, capacity, and performance standards of transportation facilities.

DLCD Response: We agree with this objection.

There are several issues that must be considered when evaluating this objection.

First, the City does not have an acknowledged transportation system plan (TSP) that complies with the transportation planning rule (TPR). Therefore, the City's acknowledged plan does not include a system of existing and planned transportation facilities and services that complies with Goal 12. The City has an overdue periodic

review task (Task 3) to adopt a TSP. The revised submittal date for this Task 3 is December 31, 1998, which means the task is nearly four-and-a-half years late.

Second, Goal 14 Factor 3 requires that the change in the City's UGB be based upon the orderly and economic provision for public facilities and services, including transportation facilities. With regard to this requirement, the City has conducted an alternative site analysis for each of the exception and rural areas included in the amended UGB and has demonstrated that it is feasible to provide transportation facilities to these areas in an orderly and economic manner (Appendix C). Therefore, the City has complied with Goal 14 Factor 3 as it relates to transportation facilities.

Third, Goal 12 requires the City to demonstrate that amendments to the acknowledged comprehensive plan and land use regulations that significantly affect transportation facilities assure that allowed land uses are consistent with the identified function, capacity, and performance standards of transportation facilities. OAR 660-012-0060. This planning requirement applies to two aspects of the MGMUP: (1) the designation of Neighborhood Activity Centers (NACs) on the comprehensive plan map (Figure 13) and the associated policies guiding development in the NACs; and (2) rezoning certain parcels to more intensive uses (Figure 12, and Table 73, p. 147 in the Findings document, and Appendix F). In order to comply with the TPR, the City needs to assess and adopt findings that the allowed land uses are consistent with the function, capacity, and performance standards of transportation facilities.

The City has completed some of this work in the locally-adopted Transportation Master Plan and the McMinnville Corridor Highway Plan. However, these plans have not been acknowledged or submitted for acknowledgement as part of this plan.

The City's decision relies upon general, conclusionary findings that do not form an adequate factual base for demonstrating consistency with the TPR (see pp. 157-158 in the Findings document). The findings cite a study completed by Transpo Group to conclude that the City's streets "generally have sufficient capacity to accommodate long-term growth, regardless of location within and around the City's current urban growth boundary, without significant capacity improvement." However, the Transpo Group study acknowledges that their analysis was limited to evaluation of 24-hour average daily traffic (ADT) counts and forecasts to the year 2011 that are "outdated, and in many cases inconsistent with traffic patterns that have developed since the plan's adoption in 1994." The TPR requires an evaluation of a 20-year planning horizon [OAR 660-012-0030(3)(a)] and the analysis must demonstrate consistency with the transportation service provider's performance standards. The Oregon Highway Plan (OHP), for example, requires evaluation of peak hour volume to capacity ratios for state highways such as Hwy. 18. This analysis is not included in the Transpo Group study. In addition, the Transpo study identifies street segments that are expected to exceed the city's or ODOT's performance standards. With regard to state highways, the study acknowledges that the City and ODOT will need to "(1) agree to adopt a relaxed, peak hour LOS standard (e.g. 'E' or 'F' rather than 'D'), and (2) implement more aggressive traffic and access control

measures." The adopted amendments do not address or include either of these conditions.

**Objection 11 Conclusion.** The department agrees with this objection. The City has completed sufficient analysis to support the acknowledgement of the UGB amendments as required by Goal 14 Factor 3. However, the City has not adopted adequate findings to support the redesignation of the NACs and adoption of the associated land development regulations, or rezoning of lands listed in Table 73. Since the City does not have an acknowledged TSP, the department believes it is important to link the City's land use decisions on these matters with the City's TSP. Therefore, approval of the NAC designations will be subject to completion of an analysis of traffic impacts in the city's transportation systems plan (TSP), a subsequent work task, or adoption of a policy and implementing land development regulations which require this analysis to be completed through the adoption of NAC concept plans. The TSP is already a task on the city's periodic review work program. The department recommends that the Commission require the city to adopt a policy and implementing regulations to include a transportation analysis in the NAC concept plans unless the requirement is already satisfied through the adoption of a TSP. The department also recommends the Commission remand the rezonings in Table 73 for the City to either complete a transportation analysis specific to these parcels or for this analysis to be completed through the City's subsequent periodic review TSP work task.

**Objection 12. Designation of commercial lands.** 1000 Friends of Oregon object that the city has designated parcels for commercial development that are inconsistent with the city's stated commitment to avoid auto-oriented, strip commercial development, that these parcels are inappropriate locations for commercial uses, and that the city must demonstrate compliance with OAR 660-012-0060. The parcels cited by the objector include rezoning 20.6 acres on Hwy. 18 at Cruikshank and Loop Roads for commercial uses, and designating two parcels in the Three Mile Lane Activity Center Illustrative Plan adjacent to Highway 18 as General Commercial.

**DLCD Response:** We agree with this objection in part.

The city has a comprehensive plan goal and policy to discourage auto-oriented strip commercial development (Goal IV 3 and policy 24.00 on p. D-2 of Appendix D). The term "auto-oriented strip commercial development" is not defined in the plan, although it usually is composed of three key elements: (1) commercial zoning that allows a wide range of retail uses that cater to the motoring public, including large stores with large areas of surface parking and smaller retail uses with drive-through windows; (2) commercial development that is linear in nature along relatively high-speed arterial streets and designed with few pedestrian amenities; and (3) dependence on private driveway and street connections for vehicular access from the arterial, with private driveways spaced relatively frequently, and public street connections spaced relatively infrequently. With regard to the commercially designated parcels questioned by the

objector, it is necessary to determine whether the city's plan will allow development with strip development characteristics in these areas.

*Cruikshank and Loop Road Parcels.* With regard to Parcels 11-14 identified on p. F-15 in the vicinity of Hwy. 18 and Loop and Cruikshank Roads, the city has redesigned the plan from Mixed Use to Commercial (Ordinance No. 4796(f)(5)). In addition, the city has amended the zone map from Agricultural Holding (AH) to General Commercial (C-3) for Parcels 11, 12, and 14 (Ordinance No. 4796(f)(13)).[3]

The city's C-3 zone allows uses that can generally be considered consistent with strip commercial development. However, in this instance, the city has applied conditions of approval to Parcel 12 that limit the range of allowed uses to farming, sewage pump station, public service and public utility buildings, and public safety facilities. These limitations are intended to ensure consistency with Goal IV 3, Policy 24.00, and with the airport overlay zone. Conditions have not been placed on the rezoning of Parcels 11 and 14. However, these parcels are 0.8 and 1.9 acres in size, respectively, and do not front on Hwy. 18, and do not contribute to or extend adjacent strip commercial development.

With regard to vehicular access, neither a private driveway nor public street connection will be allowed to access Parcel 13 from Highway 18 since the Parcel 13 frontage is not long enough to meet ODOT's access management spacing standards for driveway connections to expressways and this parcel has alternate means of access. In addition, and in the long run, the city has developed the McMinnville Corridor Highway Plan for Hwy. 18 in coordination with ODOT. The Corridor Plan includes disconnecting the Loop Road intersection with Hwy. 18, and running Loop Road westward as a frontage road.[4]

The city's redesignation and rezoning of Parcels 11, 12, and 14 is consistent with the city's goals and policies discouraging strip development. The location and size of these parcels, access limitations, and development conditions will severely limit the features typical of automobile-oriented strip commercial development for these parcels.

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[3] Due to a typographical error, Ordinance No. 4796 does not specifically rezone Parcel 13, which is the largest of the parcels in question and also the only parcel of the four that actually fronts on Hwy. 18. Planning Director Doug Montgomery has indicated that it was an oversight by the city and that the intent was for the ordinance to rezone the property to C-3 and to apply the same conditions to Property 13 as were applied to Property 12. This is logical since, for example, the conditions placed on Parcel 12 include a prohibition on access onto Hwy. 18. Parcel 12 does not front on Hwy. 18, while Parcel 13 does. In addition, this explanation is consistent with the Proposed Redesignations map (Figure 5, page F-15) which shows the proposed zone designations for Parcels 12 and 13 as C-3PD, where "PD" stands for "Planned Development" to reflect the conditions in Ordinance No. 4796(f)(13)(i-iv). It was clearly the city's intent to apply the conditions of development approval that have been applied to Parcel 12 also to Parcel 13.

[4] The McMinnville Corridor Highway Plan has not been adopted as part of the city's acknowledged comprehensive plan. Therefore, the facility plan is not binding on the city. Nonetheless, we believe the condition of development applied to Parcel 12 (and that the city intended to apply to Parcel 13) to prohibit direct access onto Hwy. 18 is consistent with the facility plan that provides vehicular access to Parcels 11-14 from Loop Road and a frontage road rather than through driveways onto Hwy. 18. The city's intent to prohibit auto-oriented strip commercial development in this vicinity is clear, although this intent was not executed properly due to an oversight in the adoption process.

It is apparent to the department that the city inadvertently erred by not rezoning Parcel 13 and applying the development conditions to Parcel 13 that have also been applied to Parcel 12. The result is that the city has designated Parcel 13 for commercial development on the comprehensive plan map without adequate conditions to prohibit auto-oriented commercial uses. We are of the understanding that this was an oversight by the city. We agree with the objector that this error could contribute to potential strip commercial development. The city should correct this error and make the zoning designation consistent with the proposed designation (and development conditions) as shown on Figure 5 (p. F-15) in order to demonstrate consistency with the comprehensive plan Goal IV 3 and policy 24.00.

***Three Mile Lane Parcels.*** A key distinction exists between the Parcels 11-14 discussed above and the two parcels "designated" for General Commercial uses adjacent to Hwy. 18 in the Three Mile Lane Neighborhood Activity Center: the city has not actually redesignated or rezoned these parcels for commercial use. The city has amended the comprehensive plan map to designate each of the Neighborhood Activity Centers, including the Three Mile Lane NAC. In addition, the city has adopted policies to guide development in each of the NACs (Policies 188.00–188.39), and the city has adopted an NAC Planned Development Ordinance regulating the preparation of Concept Plans and the ultimate development within each NAC (Appendix E). These policies do not state that the two parcels adjacent to Hwy. 18 should be designated for commercial uses. The city has not amended the zoning for the Activity Centers. The city has included the illustrative plans for each of the NACs in the MGMUP in order to illustrate and reflect how future development could be configured consistent with the adopted policies.

The Three Mile Lane Neighborhood Activity Center Illustrative Plan (Figure 10) identifies the two parcels for potential C-3 zoning adjacent to Hwy. 18 and east interchange road. In addition, the plan text states, "(a)dditional commercial development should be encouraged adjacent to Stratus Lane and existing commercial businesses to provide additional services to the nearby residents and traveling public" (p. 7-15 and 7-16).

With regard to the street network, the plan text states, "all development must be done in a manner that provides for full implementation of the circulation concepts and plans articulated in the approved "McMinnville Corridor Refinement Plan" (p. 7-15). The illustrative plan for the Three Mile Lane Activity Center reflects these circulation concepts and includes a connected network of local streets consistent with plan policies that will provide safe and direct circulation between land uses and will avoid "superblocks" that inhibit pedestrian circulation. The plan also includes a local street/frontage road running parallel and adjacent to Hwy. 18 so that the proposed C-3 parcels will not require direct access to Hwy. 18.

On the whole, we do not believe that identifying the two parcels for potential C-3 designations as part of the Three Mile Lane Activity Center is inconsistent with the city's policies that discourage automobile-oriented strip commercial development. The city has adopted policies to guide future development in the Three Mile Lane Neighborhood

Activity Center that limit both the size and arrangement of uses and will provide a connected local street network so that the C-3 parcels are not excessively large, will be served by a system of public streets rather than private driveways, and will not require direct access to Hwy. 18.

Although the proposed C-3 designations do not appear to be inconsistent with the city's policies discouraging automobile-oriented strip commercial development, we agree with the objector that the proposed C-3 parcels in the illustrative plan appear to be inconsistent with the plan's policies relating to the NACs and are, therefore, inappropriate locations for commercially zoned land. Specifically, Policy 188.03 states that nonresidential uses should be located a maximum of 600-700 feet from the center of the activity center. Both of these parcels are located more than 600-700 feet from the center of the activity center. Therefore, both of these parcels are more suitable for high- or medium-density residential development. Although the illustrative plans and the statement on pp. 7-15 and 7-16 of the MGMUP are not binding on future development, the illustrative plan is inconsistent with the adopted policies and should be modified to avoid confusion and to make the plan internally consistent.

We agree with the objector's statement that the city must demonstrate compliance with OAR 660-012-0060 when designating parcels for commercial uses. This objection is addressed in more detail in Objection 11 above. Limitations on the range and amount of development permitted (such as the development conditions the city has applied to Parcel 12, for example) can be considered by the city when making those findings.

**Objection 12 Conclusion.** As a general matter, the redesignation of parcels in the vicinity of Cruikshank and Loop Road and the Three Mile Lane NAC is not inconsistent with the City's policy to discourage auto-oriented strip commercial development. However, the department recommends the Commission remand the references in the MGMUP relating to the rezoning of Parcel 13 so that the City can remedy a typographical error in Ordinance 4796 in order to rezone and apply development restrictions to Parcel 13 that avoid the potential for automobile-oriented strip commercial development. With regard to the Three Mile Lane NAC, the department recommends the Commission remand the illustrative plan for this NAC so that the City can revise the map and adopted policies to be internally consistent.

**Objection 13. Specific Amendments to Plan and Code Text.** 1000 Friends argues that the following changes to plan policies are required to maximize efficient use of land, reduce auto dependency, make the plan internally consistent, and to adequately carry out the plan.

**Objection 13A. Plan Policies**

1. Proposed Plan Policy 49.02 (page D-5). Amend M-L and M-2 zones to delete "Leisure time activities."

**DLCD Response:** The department does not agree with this objection. The city has adopted a policy to protect industrial land. 1000 Friends has not raised any objection to this policy but objects to the city's implementing regulations, below.

2. Existing Plan Policy 71.01 (page D-6). The city unnecessarily restricts development on west side to six units per acre because of sewer constraints, which limit density, may have been remedied.

**DLCD Response:** The department does not agree with this objection. This policy limits density on the west side of the city to six units per acre, except for neighborhood activity centers and existing transit corridors (500 feet on either side of the route). Since the city has planned to meet the identified need for medium- and high-density housing in neighborhood activity centers and transit corridors, there is no requirement for the city to allow higher density in other areas.

3. Proposed Plan Policy 71.01 and 71.08 (Pages D-6, D-8). These policies mistakenly refer to land in neighborhood activity centers (NACs) zoned for higher density as low density areas.

**DLCD Response:** The department does not agree with this objection. Policy 71.01 does not apply to NACs. Policy 71.08 does not refer to NACs at all.

4. Proposed Plan Policy 71.07(5) (Page D-8). This policy calls for large lot residential next to industrial areas. It should require multi-family zoning instead.

**DLCD Response:** The department does not agree with this objection. The city has adopted a policy to locate higher density housing in neighborhood activity centers and transit corridors. Also, lower density provides an opportunity of buffering the industrial use by locating the dwellings farther away from the lot line on a larger lot. A planned development approach would allow designation of common open space as a buffer.

5. Proposed Plan Policy 71.09 (page D-8). This policy defines a low density (4 to 8 dwellings per acre) as medium density.

**DLCD Response:** The department agrees with this objection. This issue is addressed in 1000 Friends' objection 8, above.

6. Proposed Plan Policy 71.13 (Page D-10). This policy unnecessarily restricts opportunities for higher-density housing. The city should increase the standard for locating higher density housing from one-eighth mile to one-quarter mile from NACs and transit corridors.

**DLCD Response:** The department agrees with this objection. This issue is addressed in 1000 Friends' objection 8.B, above.

7. Proposed Plan Policy 86.00 (page D-11). Because the NAC's are located on the fringe they may concentrate lower incomes contrary to policy 84.00.

**DLCD Response:** The department does not agree with this objection. The objection does not show how this policy violates any statute, rule or goal requirement. This policy encourages dispersal of new multiple-family housing throughout the community except to allow concentrations near the downtown core, in activity centers and near Linfield College. The city has planned areas brought into the UGB to be developed as pedestrian and transit-friendly neighborhoods.

8. Proposed Plan Policy 89.00 (page D-12) requires landscaped grounds for all multiple-family housing, which may be inappropriate for zero lot-line activity centers.

**DLCD Response:** The department does not agree with this objection. This policy requires "landscaped grounds" in all multiple family housing but does not set any minimum standard. Even a zero lot line development would typically have a yard area on at least one side of the building. Also, the city deleted language formerly included in this policy that required "large open spaces."

9. Proposed Plan Policy 92.01 and existing plan policy 98.00 (pages D-12 and D-13). The city should delete restrictions on high density and manufactured housing near railroads, which are possible future location for transit.

**DLCD Response:** The department does not agree with this objection. The city has planned for higher density housing in proximity to future bus routes in compliance with the transportation planning rule (see 1000 Friends' objection 8, above). Since the provision of rail transit is unlikely, the city is not required to plan for it.

10. Proposed Plan Policy 188.00(4) (page D-18). Individual NAC illustrative plans show density that is not consistent with policies that support higher density.

**DLCD Response:** The department does not agree with this objection. As described in the department's response to 1000 Friends' objection 8, the designation of some R-2 land in the support area of an NAC does not defeat its purpose. As long as the city provides sufficient land to meet the need for medium and high density housing, it is not required to designate all land in the support area for higher density housing.

11. Proposed Plan Policy 188.3 (page D-20). This policy restricts density near center of NACs effectively inflating the need for UGB expansion.

**DLCD Response:** The department does not agree with this objection. This policy contains guidelines for the location of activity centers and the arrangement of uses within activity centers. The amount of land within the UGB was determined by an analysis of need for residential, commercial, public and other lands. This policy has little, if any, effect on the amount of land brought into the UGB.

12. Proposed Plan Policy 188.04 (page D-20). NACs should not be limited to vacant parcels of land.

**DLCD Response:** The department does not agree with this objection. This policy reflects the reality that the city has an opportunity to guide the development of lands just brought into the UGB into functioning neighborhoods. There is no requirement that the city also designate existing neighborhoods as activity centers.

13. Proposed Plan Policy 188.05 (page D-20). Too much land is proposed for retail and commercial uses and too little for open space. Maximum non-grocery retail should be capped at 10,000 sq. ft. The city has planned for non-residential uses with very low floor area ratios which are inconsistent with the stated purposes of the NACs.

**DLCD Response:** The department does not agree with this objection. These issues are addressed in 1000 Friends' objections 4 and 8, above. This policy contains standards for the size and arrangement of uses within NACs. The city limits groceries to 50,000 sq. ft., other retail to 30,000 sq. ft., and total retail to 100,000 sq. ft. These thresholds are well below the size of "big box" stores. The question should not be whether the city has planned for too much commercial use in NACs, but how they can get enough mixed-uses to make these centers thrive.

14. Proposed Plan Policies 188.10, 188.18, 188.26, 188.26,188.34 (pages D-21 to D-24). Planned policies target density in NAC's at 7.5 du/acre net, which is barely more than the 7.2 projected for the city but the planned densities (found in MGMUP) are too low to achieve these goals.

**DLCD Response:** The department does not agree with this objection. This issue is discussed in 1000 Friends' objection 8, above. The city has planned for a mix and density of housing to meet the needs identified in the Housing Needs Analysis. The city has planned for higher densities in the "focus" areas of NACs, the "support" areas of NACs, and along transit corridors.

**Objection 13A Conclusion.** Objections 5 and 6 contained in this section above, that the department recommends the Commission affirm, have also been addressed in other objections. Therefore, no further planning work is required to address the objections in this section.

**Objection 13B. Appendix E Code Amendments**

1. Proposed Accessory Dwelling Unit provisions (pages E-1 and E-2). The requirements are too stringent as adopted. The following language is suggested:
   a) Proposed 17.12.010.D.2. Strike minimum area or lower it to 200 sq. ft.
   b) Proposed 17.12.010.D.5. Provide a parking exception.
   c) Proposed 17.12.010.D.6. Strike the need for separate utilities.
   d) Proposed 17.12.010.D.8. Strike the word "completely."

e) Proposed 17.12.010.D.9. Provide an exception for high quality manufactured homes.
f) Existing code provisions 17.12.060, 17.15.060, 17.18.060 and 17.21.060. Density limitation in R-1, R-2, R-3, and R-4 should not count against density limitations. Strike the word "family" from "lot area per family."

**DLCD response:** The department agrees with this objection, in part. The objection does not cite any statute, rule or goal that would require the city to adopt suggestions a) through e), above. However, 1000 Friends is correct that the code is ambiguous as to whether the minimum lot size increases when an accessory dwelling is present. In the R-1 zone the minimum lot size is 9,000 square feet per family except for corner lots (Sec 17.12.060). The definition of "Accessory Dwelling Unit" (Appendix E, Sec 17.06.028) states that an accessory dwelling is "a secondary, self-contained single-family dwelling that may be allowed only in conjunction with a detached single-family dwelling." Based on this definition, a lot with an accessory dwelling has two families and must be at least 18,000 square feet. Such a requirement would severely limit the opportunities for accessory dwellings and unreasonably increase the cost. Therefore, the code needs to clarify that an accessory unit is not considered to be a second family on a lot for purposes of determining the required minimum lot size.

2. Neighborhood Commercial Center (C-1) Existing Code provision 17.27.050. The limitation on floor area ratio (FAR) of 0.25 is auto-oriented and mandates inefficient use of land and development that is inconsistent with the City's stated goals.

**DLCD Response:** The department agrees with this objection. A FAR of 0.25 is typical of automobile-oriented development. A maximum FAR of 0.25 is inconsistent with the objectives of encouraging compact, pedestrian-friendly development in the NACs. This issue is addressed in 1000 Friends objection 4, above.

3. Neighborhood Commercial Center (C-1) Existing Code provision 17.27.030. The existing 30 foot front yard set back is inconsistent with pedestrian-friendly development.

**DLCD Response:** The department agrees with this objection. Requiring a 30-foot front yard setback requirement is inconsistent with compact, pedestrian-friendly development. Although the NAC Planned Development Ordinance appears to allow or encourage commercial buildings to have at least one primary entrance abutting a public street (p. E-8), read together the existing ordinance and the NAC Planned Development Ordinance will require a 30-foot setback in C-1 areas. We also note that the NAC Planned Development Ordinance includes a typographical error in the form of an incomplete sentence on p. E-8 ("i. Guidelines: 1. Commercial building(s) shall have at least one primary entrance facing abutting streets, or the primary entrance is directly accessed by a public..."

4a. Proposed Neighborhood Activity Center code language (pages E-14 to E-15). A NAC should be planned for the Riverside South area and the NAC planned for south of Highway 18 should be located in the Norton Lane area.

**DLCD Response:** The department does not agree with this objection. This objection is discussed in detail under objection 8A above.

4b. Proposed Neighborhood Activity Center code language (pages E-14 to E-15). The purpose of the NACs cannot be achieved without relocating NACs away from the edge of the UGB, and without concept planning and design standards.

**DLCD Response:** The department does not agree with this objection. The NACs can reduce automobile reliance by placing high- and medium-density housing within walking distance of neighborhood serving commercial services, schools, and transit. The city's policies preclude locating large destination retail uses in the NACs, therefore, the NACs are unlikely to draw vehicular traffic from outside the immediate neighborhoods. The adopted NAC Planned Development Ordinance requires the preparation and approval of Concept Plans for each NAC, and also includes design standards to encourage pedestrian-friendly development.

4c. Proposed Neighborhood Activity Center code language (pages E-14 to E-15). The design "guidelines" should be changes to design criteria/standards; language should be inserted regarding building entrances and window treatments; minimum off-street parking standards should be reduced or waived; and special populations such as elderly or disabled hosing should be included as a factor to waive minimum off-street parking.

**DLCD Response:** The department does not agree with this objection. The adopted guidelines are intended to guide the preparation of the Concept Plans for each NAC. Ultimately, the approved Concept Plans must be adequate to carry out the purposes of the plan. Approval of the Concept Plans will be a land use decision, and the city will need to adopt findings indicating how the adopted Concept Plan implements and is consistent with the plan.

With regard to the suggested design standards or guidelines, the city has adopted guidelines that address each of these issues to some degree. The changes proposed by the objector could enhance the standards adopted by the city. However, the objector has not cited how the guidelines adopted by the city are inconsistent with the statewide planning goals, rules, or statutes.

5. Proposed Code R-5 zone provision 17.22 020 (p. E-18): Emergency Shelters should be added to the list of conditional uses (for homeless, natural disaster, etc).

**DLCD response:** The department does not agree. The objection does not cite any statute, rule or goal which would require the city to allow emergency shelters in the R-5 zone.

6. Proposed R-5 zone code provision 17.22.040 (p. E-19): A minimum front yard setback of 15 feet in the R-5 zone is too stringent for a medium-density zone and may be unnecessary in the downtown core and in NACs.

**DLCD Response:** The department does not agree with this objection. A minimum front-yard setback of 15 feet is reasonable for residential uses such as apartment buildings and townhomes that have residential uses on the first floor. It is atypical in most communities for residential buildings with first-floor residential uses to be built up to the sidewalk due to a lack of privacy. We agree with the objector that it would be appropriate for mixed-use buildings with first floor commercial uses to be built without any front yard setbacks in the downtown core and NAC focus areas. However, these parcels are not likely to be zoned R-5.

While the department does not agree with this objection, the city could improve upon this regulation by allowing a front yard setback of less than 15 feet for buildings that have front porches and/or first floors that are elevated above street level by at least 4 feet.

7. Proposed Code R-5 zone provision 17.22.0055 Exterior Elevations (page E-20). Add language to provide quantifiable criteria to achieve façade design relief.

**DLCD response:** The department agrees with this objection.

The city is required by both rule and statute to provide clear and objective standards for needed housing (OAR 660-008-0015, ORS 197.307(3)(b)). The following standard applies to multiple family housing in the R-5 zone:

> The exterior elevations of buildings shall incorporate design features such as offsets, balconies, projections, or similar elements to preclude large expanses of uninterrupted building surfaces. In the event of a question of interpretation of application, the Director may refer the proposal to the Planning Commission."

This standard is not clear and objective because it does not say what combination of design features would be approved. A clear and objective standard would not require interpretation by the planning director, much less the planning commission.

8. Existing Code provisions 17.36.030(5) and 17.42.020(F). Strike leisure time activities from the list of conditional uses allowed in industrial zones.

**DLCD response:** The department does not agree with this objection. Task 1 on the city's periodic review work program is to inventory commercial (not industrial) lands. The city's land needs analysis did not determine that there was a need for additional industrial land within the UGB. The code sections cited above are acknowledged. Therefore, there is nothing to require the city to address this issue at this time.

**Objection 13b Conclusion.** The department recommends the Commission remand the following sections of the code for the stated correction:

1. All residential zones – to make clear the minimum lot size for a lot with an accessory dwelling unit.
2. C-1 zone – to eliminate or substantially increase the 0.25 commercial floor area ratio limitation.
3. C-1 zone – to substantially reduce or eliminate the required 30 foot front yard setback
4. R-5 zone – to provide clear and objective standards for required design features on exterior elevations of buildings..

**Objection 14. Lands added to the UGB.** McMinnville's proposed UGB amendment does not comply with ORS 197.298, Goal 14, ORS 197.732(1)(c)(B) and Goal 2, Part II(c)(2). The department understands this objection to be that the city should have included all of the exception areas listed below within the UGB before bringing in resource land and that exception lands should be planned at a higher density so that less additional land will be needed. Further, 1000 Friends objects that the city should have considered resource lands of lower agricultural capability (higher priority under ORS 197.298) before bringing class 1 and 2 lands into the UGB. A summary of 1000 Friends' arguments follows.

***Exception Areas.*** Of the nine exception areas adjacent to the city, only four have been included in the UGB. The record does not contain an adequate explanation why the four areas designated for inclusion cannot be planned for higher density (more than 4 du/acre gross).

Westside Road – The evidence in the record does not support its exclusion (it contains 14 gross vacant buildable acres). It is adjacent to UGB, a park and a school and it is serviced. The city claims the owner does not want to be annexed.

Bunn's Village – The evidence in the record does not support its exclusion (it contains 126 gross vacant buildable acres). The MGMUP concludes: "urban services can be extended to this area…at a higher cost relative to other urbanizable areas." Yet, the record contains no actual cost estimates. The city's findings include tables comparing cost of service for exception areas and ranks those for Bunn's Village as high but those ranking are based on raw dollar amounts not on cost per acre.

There are two bridges serving this area and ODOT has classified one as functionally obsolete and stated that improvements are not planned for before 2007 (the planning period runs through 2023). The record contains no evidence that construction of a new or replacement bridge is unfeasible.

The city's findings also point out the public streets are not up to standards; there maybe some difficulty urbanizing the leg of Hawn Creek (yet fails to consider the effects of excluding that area); there may not be property owner interest in annexation, and; discusses concerns about urban form.

Riverside North – The evidence in the record does not support its exclusion (it contains 36 gross vacant buildable acres). The MGMUP concludes urban service necessary to support [urban densities]...can be extended to it.

The city contends that this area is too close to a steel mill to be considered for residential use yet over a 20 year period these conflicts may cease to exist; the city has other areas where residential uses exist next to industrial land; the city has not adequately addressed bringing this property into the UGB as industrial land and then rezoning other industrial land within the UGB for residential and commercial uses. It is also pointed out that there may not be property owner interest in being included in the UGB.

Booth Bend Road – The evidence in the record does not support its exclusion (it contains 13 gross vacant buildable acres). Services are not an issue; adjacent areas are developed as residential; a future school site is 1,000 ft. away; there may be some urban form concerns.

Old Sheridan Road – The evidence in the record does not support its exclusion (it contains 36.5 gross vacant buildable acres). City services are not an issue except for providing sewer service to a portion of the area, yet the city did not consider excluding that section; urban form is mentioned as a concern. It is adjacent to property planned for or developed for residential use.

***Resource Areas.*** 1000 Friends argues that the proposed UGB amendment fails to comply with ORS 197.298 and Goal 14. Most of the resource land proposed for inclusion is classified as prime farmland with class 1 or 2 soils and the city failed to analyze any other resource areas adjacent to the UGB particularly those west of Hill Rd. as well as smaller areas north and east of the airport and between the two Riverside exception sub-areas. Despite legal requirements, the city never determined whether these higher priority lands could be used and no evidence was ever included in the record supporting their exclusion.

The city has failed to follow legal requirements to exclude high value soils and has included large areas that cannot be urbanized because the city classifies all land in flood plains as unbuildable.

**DLCD response:** The department agrees with this objection, in part.

***Applicable standards.*** The objection states that the city fails to comply with ORS 197.298, Goal 14, ORS 197.732(1)(c)(B) and Goal 2, Part(II(c)(2). For the reasons below, the department will only address compliance with ORS 197.298 in response to this objection.

ORS 197.298 establishes the following priority of lands to be included in a UGB:

1. urban reserves
2. exception lands
3. marginal lands

4. farm or forest land, with higher priority given to land of lower capability as measured by the capability classification system or by cubic foot site class

Urban reserves and marginal lands are not applicable to McMinnville because they have not been designated in the city or county comprehensive plans. The city has identified nine exception areas that are adjacent to the "old" UGB. Also, there are prime agricultural lands in the vicinity, which range from class 4 (lowest capability) to class 1 (highest capability).

This statute requires the city to include exception lands in the UGB before farm or forest lands and to include lands with class 3 or 4 agricultural soils before class 1 or 2 soils. All of the higher priority lands must be "used up" before any lands of lower priority can be brought into the UGB, except for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.

In addition, the Commission has approved a fourth reason for excluding an exception area, that the area could not reasonably accommodate the planned use (North Plains approval order 03-WKTASK001534). An exception area was located on the south side of a state highway. The city argued that a small, isolated development separated by a major highway would not contribute to the economic viability of main street businesses and would not contribute to the development of a compact, walkable community. The very small size of North Plains argued that a "critical mass" for a successful community could only be assembled if all new development were focused on the north side of the highway.

ORS 197.298 applies to this objection because the city has included some, but not all, adjacent exception areas in the expanded UGB and has included some resource lands that are lower priority while excluding some of higher priority. For each of the exception areas not included, the city is required to explain the decision, based on one or more of the reasons quoted above. Also, if the city included land with class 1 or 2 agricultural soils instead of land with class 3 or 4 soils, the city must explain why, based on the same three reasons.

1000 Friends argues that, for each of these areas, the city's decision is not supported with substantial evidence. The substantial evidence test requires the city to cite what facts it used to make its decision and to explain the reasoning by which those facts led to its decision. As a corollary, the city needs to state what legal standard those facts and reasoning apply to.

In this case, the legal standard for the city's decision to include areas of "lower priority" is one or more of the three reasons in ORS 197.296(3) or a finding that the "higher priority" land cannot reasonably accommodate the planned uses, cited above. The department understands that the city is not basing its decision on either a specific need which cannot be accommodated or the need to include resource lands to serve an exception area (ORS 197.296(3)(a) or (c)). To address the remaining standard (part (3)(b) of the statute) the city's evidence needs to demonstrate that one or more urban services cannot reasonably be provided due to topographical or other physical constraints. This standard does not require the city to show that it is impossible to serve an exception area. Rather, the city needs to show, for residential uses for example, that the costs of serving new homes would too high to allow the development of housing at the price ranges and rent levels which are needed.

ORS 197.732(1)(c)(B) and Goal 2, Part II(c)(2) set forth the same standard that "areas which do not require a new exception cannot reasonably accommodate the use." The objection does not explain how this standard applies to the issues raised. It is not clear that this standard distinguishes between Goals 3 exception lands and resource lands outside of a UGB. Both require that the city follow the exceptions process for a UGB amendment and can be said to "require a new exception." The department understands this standard to mean that a UGB amendment is needed only if lands inside a UGB or rural lands for which an exception to Goal 14 has been taken cannot reasonably accommodate the use.

Also, as noted in the objection, Goal 14, Factor 6 "Retention of farm land . . ." is addressed when a jurisdiction follows the priorities in ORS 197.298. Therefore, when the statute is satisfied, the goal is also met. Also, Goal 14, Factor 7 on the compatibility with adjacent farm uses only applies when considering lands of equal priority under the statute.

***Exception areas included in the UGB.*** Exception areas are the higher priority of lands to include in the UGB, based on ORS 197.298. The following exception areas have been included in the UGB (MGMUP, Figure 6):

- Fox Ridge Road
- Redmond Hill Road
- Lawson Lane
- Riverside South

Friends have not objected to the inclusion of these areas. The department agrees that the city's decision to include them is consistent with the priorities in ORS 197.298.

***Exception areas not included in the UGB.*** The city did not include these areas in the UGB because it determined that they could not accommodate the identified land need based on (MUGMP, pp. 6-5 to 6-10):

- physical constraints, location relative to existing and planned facilities;

- location relative to surrounding uses;
- location relative to market demand; and
- existing development patterns and other factors affecting urbanization.

These areas are mapped on Findings, Map 1 and the city provides additional information about each area in Appendix "C."

- Westside Road
- Bunn's Village
- Riverside North
- Booth Bend Road
- Old Sheridan Road

Westside Road. The department does not agree with the city that this area cannot accommodate any of the residential need. The priorities in ORS 197.298 direct the city to urbanize rural residential areas, even though the overall efficiency in the development of these areas is less than would be obtained by urbanizing larger tracts of resource land.

The city's findings state that the area has about 14 acres of gross buildable land to accommodate residential use. Baker Creek is a "natural" boundary that separates this exception area from the remainder of the urbanizable area, but the city has not demonstrated that it is a barrier such that it is unreasonable to extend urban services across. The need to replace the bridge over Baker Creek is only sufficient to disqualify the area if (1) the bridge would not need to be replaced if the area is not included in the UGB and (2) the portion of the bridge cost that can be allocated to these 14 acres is too high to be incorporated into the sales prices of new homes. Also, the city has not established that a "dead end" water system would not provide an acceptable level of service or that water lines could not be looped to connect with lands across the creek to the east.

Bunn's Village. The city's reasons for excluding this area are documented in Appendix C, pages C-19 through C-40. The department agrees with the city that this area should be excluded from the UGB for two reasons.

First, this area cannot reasonably accommodate the need for pedestrian and transit oriented development in a neighborhood activity center. Although the area has 126 gross acres of buildable land, it extends in a linear fashion, across the North Yamhill River, along Highway 99W, and then along Hawn Creek (Appendix C, Figure 10). The linear configuration of this area does not lend itself to development of a walkable community without bringing in adjacent resource land. The commercial area of Bunn's Village is located in the middle of two halves of the state highway that form a couplet. The highway makes this commercial area virtually inaccessible for pedestrians. To make this area pedestrian-friendly would require that speeds on the highway be reduced and stoplights be installed, severely impacting the function of the highway.

Second, the department agrees that this area cannot reasonably be served with streets, water and sewers because of the separation from the remainder of the city caused by a floodplain and the negative impact of the state highway. Extensive development in this area would require major upgrades to Highway 99. ODOT has stated its opposition to the inclusion of this area in the UGB. Allowing development to occur in an area that is wholly dependent on the state highway for access to the remainder of the city is not a good planning practice or precedent. If this area were to develop, the city would need to provide alternate local street connections to the remainder of the city rather than rely on just the state highway. Providing alternate street connections is not reasonable since each connection would require a bridge crossing of the river and floodplain. Also, there are already traffic problems where Highway 99 splits into a couplet; these problems would only be magnified should additional development occur.

For these reasons, services cannot reasonably be provided to this area and it fails the test under ORS 197.298(3)(b). In addition to the cost of extending water and sewer lines up to 2.8 miles, the cost of crossing the river and the highway makes this area unreasonable to serve, when compared to other areas.

Riverside North. The department agrees with the city that this area cannot reasonably accommodate residential use because of the noise and odor associated with the adjacent sewage treatment plant, industrial use and railroad. This location is not suitable for residential use. The area could accommodate industrial use when the city has a need.

Booth Bend Road. The department agrees with the city's decision to exclude this area from the UGB. Service can be provided to this area since the extension of Booth Bend Road across Highway 18 already exists and would not need to be upgraded to a large extent to support a relatively minor amount of infill development (or at least the findings do not state otherwise). However, this area is problematic since it would be an isolated extension of the UGB across the highway, making walking to nearby destinations extremely difficult. North Plains was not required to cross a state highway to urbanize a small exception area, McMinnville should not be required to urbanize this area. This exception area cannot reasonable accommodate the need for a compact, pedestrian-friendly urban area.

Old Sheridan Road. The department agrees with the city's findings that transportation facilities cannot reasonably be provided to this area under ORS 197.298(3)(b). This area extends in a linear fashion southwest along Highway 99W. Portions of the area on the south and east side of the highway should be excluded for the same reasons as the Booth Bend Road area, above. The long, narrow shape of this area fronting on the highway would extend urban traffic out past the present UGB. Since the highway is the most direct way to reach almost all other destinations in the city, the additional traffic would necessarily use the highway for most trips rather than any local streets.

***Planned density in exception areas.*** 1000 Friends argues that the city should achieve a density of residential development in exception areas greater than the planned four dwellings per gross acre (Plan, page C-145). The department does not agree. It is to be

expected that the density achieved in exception areas will be less than what would be achieved on large parcels of flat land. The city has shown the pattern of lots and dwellings for each exception area in Appendix C. In many of these areas, the pattern of small lots means that future development will occur through partitions rather than the more efficient subdivision process which is possible where there are larger parcels to divide. Also, the placement of dwellings may make it difficult to locate an efficient pattern of residential streets (see Westside Road exception area, Appendix C-6, for example).

***Resource lands included in the UGB.*** The following resource areas were included in the UGB (MGMUP, Figure 6):

- Grandhaven
- Northwest
- Southwest
- Three Mile Lane
- Norton Lane

The city did not consider all class 3 and 4 lands adjacent to the prior UGB which are a higher priority for urbanization than the areas above which are primarily land of higher agricultural capability. The city only considered lands that met the following criteria (Findings, page 50):

- Lands surrounded by the UGB and rivers or creeks;
- Lands surrounded on three sides by the UGB;
- Lands needed for the extension of public facilities; and
- Resource lands in public ownership.

These criteria are not consistent with the standards in ORS 197.298. Resource land that is not surrounded, for example may be of "higher priority", may be serviceable and able to accommodate the identified need. The statute would require that such land be included in the UGB before any lands of lower priority (class 1 or 2 lands).

The city finds that "Lands not meeting these criteria were assumed to be less appropriate for meeting the city's identified land needs . . ." (Findings, page 50.) The city further states:

> The other areas referenced are located farther to the west and southwest and are not included for reasons related to the cost and feasibility of providing services . . . and housing need . . . Also, lands east of the airport and weapons training facility were not given consideration due to their location adjacent to the airport and weapons training facility and their land use incompatibilities with urban residential development (Findings, page 52).

A letter to the city from the Oregon Department of Agriculture dated August 1, 2003 states:

We note that lands located directly to the west of the current UGB and directly north of Fox Ridge Road and south of Redmond Hill Road contain poorer soils classified as Class III or poorer agricultural soils.

A map of agricultural soils provided by the Department of Agriculture shows an area north of the airport with a mixture of class 2 and 3 soils and an area east of the airport with class 2 and 4 soils. At a minimum the city needs to address these areas and demonstrate with substantial evidence that these lands of higher priority (than the class 1 and 2 lands) either (1) cannot reasonably accommodate the identified need or (2) that they cannot be reasonably provided with services due to topographical or geographical constraints.

1000 Friends also argues that the city should have addressed an area between Riverside North and Riverside South. Based on the soils map from the Department of Agriculture, this area has primarily class 2 soils and is a low priority for urbanization. The incompatible uses in the area, the limitations on access imposed by the railroad and the Yamhill River, and what appears to be a sewage plant and "Water Reclamation Facility" on the site (Findings, Map 1) are sufficient reasons to select other areas of equal or lower priority for urbanization.

***Floodplain Areas.*** 1000 Friends objects to the inclusion of large areas of land that are within the 100-year floodplain in the UGB on the basis that there is no need for such lands, as they are not suitable for urban uses. In both the Three Mile Lane area and the Norton Lane area, the amount of floodplain and buildable land are about equal (Appendix C, pages C-49 and C-160). From the point of view of Goal 14, Factor 4 (maximum efficiency) and Factor 6 (protection of farmland), these areas should rate low for urbanization because about two acres of farmland are lost for every acre of buildable land gained. To address this issue the city needs to either delete the unbuildable floodplain portions of these sites from the UGB or justify a need for these lands for urban use under Goal 14, Factors 1 and 2.

**Objection 14 Conclusion.** The city has adequately justified excluding some of the exception areas that were not included in the UGB, and inadequately justified others. The city used the wrong criteria for assessing which areas of resource land should be brought in to the UGB. The department recommends the Commission remand (1) the exclusion of the Westside Road exception area to include it in the boundary or develop an adequate justification for its exclusion, (2) resource lands included in the UGB (including those in the floodplain) in order for the city to either develop findings based on the appropriate criteria or remove them from the UGB.

## COMMUNITY DEVELOPMENT LAW CENTER OBJECTIONS (CDLC)

**Objection 1. Government assisted housing.** The required analysis of government assisted housing is lacking.

Neither the need nor the expected level of development of government assisted housing or other needed affordable housing is included in the report as required by Goal 10. An analysis of population by household income and a comparison to types of units and their price levels is required and it has not been provided. In addition, the lack of data on the number and characteristics of those residents qualifying for government assisted housing fails to meet the requirements of ORS 197.296.

**DLCD Response:** The department agrees with this objection.

"Government assisted housing" is defined as a type of "needed housing" by statute (ORS 197.303(1)(b)). State policy on needed housing is set forth in ORS 197.307:

> (1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern.
> (2) Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable decent, safe and sanitary housing.
> (3)(a) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing, including housing for farmworkers, shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need. . .

The city addresses government assisted housing in Appendix B, page B-11:

> ORS 197.303 includes government-assisted housing as a needed housing type. McMinnville allows government-assisted housing outright in all of its residential zones. Moreover, the City of McMinnville does not have a program to construct or finance government-assisted housing. From a land use perspective, there is little more McMinnville can do to facilitate government-assisted housing development.

Also, the city cites information from the Yamhill County Housing Authority that there is a need for approximately 200 to 400 new assisted dwelling units in McMinnville in the next twenty years. According to the Housing Authority, it is unlikely that there will be an expansion of the Section 8 voucher program (Appendix B, page 11).

Allowing government assisted housing in all zones is a good first step. However, without knowing how many of what types of government assisted housing are needed, it is impossible to determine whether the city has planned for a sufficient amount of land in each zone to meet the need. For example, the R-1and R-2 zones have a minimum lot size of 9,000 and 7,000 square feet, respectively (Zoning Ordinance, Sec. 17.12.060 and Sec. 17.15.030). While government assisted housing is allowed in these zone, the minimum lot sizes may discourage government assisted housing in these zones by increasing the cost. Also, we find no discussion in the plan whether there is a need to accommodate

single family government-assisted housing and what zoning and development standards would allow for development of these units at suitable price ranges and rent levels.

There is no information in the plan on what types of housing the Housing Authority plans to build (up to 400 new units). If they are all multiple family units, the Housing Authority alone could use up about 25 percent off all multiple family land planned in the R-4 and R-5 zones. The city projects a need for 1,346 new apartment units on 91 acres of land (HNA, Tables 5-26 and 5-27). The 400 new units anticipated by the Housing Authority alone could use about 25 acres of the 91 acres available in the R-3 and R-4 zones.

The McMinnville Housing Needs Analysis (HNA), Table 5-22, shows a need for "Used Housing: Apartments; government assisted housing" for 1,556 "very low income" households with an income less than $16,000 per year. That the units are "used" implies that no buildable land is needed for government assisted housing and all the need is met as other households "move up" to more expensive housing or new housing. However, this assumption is clearly inconsistent with the information from both the Housing Authority and CDLC that housing providers want to build new government assisted housing in the city. Since, based on the information in Table 5-22, the city may have assumed a need for no buildable land for government assisted housing, the city needs to demonstrate that it has planned for sufficient land in its various zones to meet the need for government assisted housing.

**Objection 1 Conclusion.** The department does not agree that the city's plan "contains no such analysis" of government assisted housing as the objection asserts. However, the city has not demonstrated that the need for government-assisted housing has been met. The department recommends the Commission remand the city's housing needs analysis in order for the city to:

(1) coordinate with local housing providers to determine what government assistance programs and their associated types of units are likely to be employed by housing providers in McMinnville;
(2) determine how many units by type at various price ranges and rent levels are needed;
(3) determine which plan designations and zones allow the various housing types at the "needed" price ranges and rent levels; and
(4) determine how many acres of land are needed in each zone.

**Objection 2. Single family, multiple family housing "split."** CDLC argues that the allocation between single family and multifamily units is insufficient to meet housing needs. The city has projected a housing type allocation of 60 percent single family and 40 percent multifamily, which is insufficient to meet the housing needs of city residents.

**DLCD response:** The department agrees with this objection.

The city determined the allocation between housing types based on the following requirements in ORS 197.296 and 197.303:

- An analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years(ORS 197.296(3)(b));
- The number, density and average mix of housing types of urban residential development that have actually occurred (ORS 197.296(5)(a)(A));
- Trends in density and average mix of housing types of urban residential development (ORS 197.296(5)(a)(B));
- The number, density and average mix of housing types that have occurred on buildable lands (ORS 197.296(5)(a)(E)); and
- The need for housing at particular price ranges and rent levels, including attached and detached single-family housing and multiple family housing for both owner and renter occupancy (ORS 197.303).

Historical Data on Housing Mix

| | 1980 Census | 1990 Census | 2000 Census | Permits Issued 9/88 to 7/2000 | Permits Issued 7/2000 to 12/2002 |
|---|---|---|---|---|---|
| Single Family Detached Housing | 73% | 72% | 67% | 66% | 74% |
| Multiple Family Housing | 26% | 28% | 33% | 34% | 26% |

Sources: US Census; Findings, Tables 31 and 33

"Needed" Housing Mix

| | City "Baseline"[1] | City "Needed"[2] | CDLC "Needed"[3] |
|---|---|---|---|
| Single Family Detached Housing | 66% | 60% | 54% |
| All Multiple Family Housing | 34% | 40% | 46% |
| - apartments only | 22% | 28% | 35% |

[1] HNA, Table 5-15, "Attached/Duplex" considered to be "Multi-family"
[2] Plan, Table 2
[3] CLDC objection, page 3

The city's "baseline" forecast for housing mix corresponds with the actual housing mix from 1988 to 2000, shown in the table above. However, the statutes cited above require the city to plan for housing at various price ranges and rent levels. The city compared the forecast ability to pay for housing with housing costs to determine the needed housing mix (HNA, Chapter 5, Tables 5-19 and 5-22).

The fact that 34 percent of households are low income does not lead to the conclusion that at least 34 percent of housing must be multiple family. The city identified several housing types in addition to apartments that are financially attainable to low and very low income households: manufactured dwellings in parks, duplexes and government assisted housing (HNA, Table 5-22). About seven percent of the existing housing stock in the year 2000 had a value less than $75,000 and was, roughly, affordable to low income households (HNA, Tables 5-19 and 5-20). Also, the wealth effect of people who have paid off their mortgages would allow them to own their home even though their incomes would not seem to allow it.

Both the historical data and the Housing Needs Analysis by ECONorthwest support the city's planned housing mix of 60 percent single family and 40 percent multiple family. The city has actually increased the planned share of multiple family and apartments over the recent historical amounts. However, as discussed under CDLC objection 1, above, the city's housing needs analysis is inconsistent in regard to the needs for new government assisted housing. The information in Table 5-22, which classifies all government assisted housing as "Used Housing," is inconsistent with the information form CDLC and the Yamhill County Housing Authority that housing providers want to build a substantial number of new dwellings. If these are primarily multiple family dwellings, the need for government assisted housing may increase the adopted percentage of 40% multiple family housing.

**Objection 2 Conclusion.** The department finds the objection is correct, but only as it pertains to government assisted housing, which was addressed in objection 1. No additional action by the Commission is required to address this objection.

**Objection 3. Implementing measures.** Zoning measures do not adequately promote density and efficient utilization of residential lands.

CDLC argues that under the city's current zoning system and the historical performance of the local housing market it is unlikely that lands designated for denser housing will be developed as such, therefore limiting affordable housing opportunities for residents. Also, residential lands are currently being developed at an average of 5.9 units per acre. The city's plan calls for 7.2 units and CDLC suggests a target of 8 units per acre.

Specifically CDLC suggests that the city:

- Reduce minimum lot size in R-2 zone to 6,000 sq. ft.; allow duplexes on corner lots of 7,000 sq. ft.
- Reduce minimum lot size in R-3 zone to 5,000 sq. ft.; allow townhouses on lots of 4,000 sq. ft.
- Reduce minimum lot size in R-4 zone to 4,000 sq. ft.; only permit detached single-family units through the PUD process providing it requires a density equal to or greater than 80 percent of permitted density.

**DLCD Response:** The department agrees with this objection with respect to the standards for siting multiple-family uses in the R-4 zone.

The issue of residential density and the efficient use of land for the development of pedestrian and transit friendly development is addressed in response to 1000 Friends' objection 8, above.

The city has addressed the issue of "underbuild" in its residential zones by adopting an R-5 zone that does not allow single family development (Appendix E-17), and by planning for a sufficient amount of land within each zone to accommodate the "needed" mix of housing types (Plan, Table 3).

In the R-4 zone, for example, the city has determined that 40 acres are needed for apartments, but the zone has a total of 158 acres. The new R-4 zone includes the following siting standards for multiple family uses (Appendix E-16):

- direct access to a major collector or arterial street;
- within one-quarter mile of a planned or existing transit route;
- within one-quarter mile of a planned or existing neighborhood or commercial shopping area; and
- "Adjacent lower density residential development can be adequately buffered from the multiple-family dwelling(s) in order to maximize the privacy of established low-density neighborhoods."

The last standard above is not clear and objective as required by OAR 660-008-0015, which states:

> Local approval standards, special conditions and procedures regulating the development of needed housing must be clear and objective, and must not have the effect, either of themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

It is unclear what buffering would be adequate and it is unreasonable require any development to "maximize" privacy since such a standard has no limit. To be clear and objective, the city must either delete this standard or adopt specific standards to buffer adjacent multiple family and single family uses. Such standards must not unreasonably increase the cost of multiple family housing.

The objection did not demonstrate a need to reduce the minimum lot sizes in the R-2, R-3 and R-4 zones. The city conducted a housing needs analysis to determine the planned mix and density of housing at various price ranges and rent levels (HNA, 5-1 through 5-30). The city determined that, considering both new and used housing, the city can provide a mix of housing types which are financially attainable for all income levels (HNA, Table 5-22).

**Objection 3 Conclusion.** The city has considered measures to promote higher density and efficient utilization of residential lands. However, the code includes a standard that violates OAR 660-008-0015 because it is not clear and objective. The department recommends the Commission remand the multiple family siting standards in the R-4 zone to remove standards that are not clear and objective.

**Objection 4. Land annexed to the city.** The plan lacks policy direction and mechanisms to insure that land annexed to the city will provide affordable housing opportunities.

CDLC argues that the city has not considered how newly annexed lands will help meet the city's affordable housing needs. CDLC suggests a certain portion of the land annexed be reserved for affordable housing. The lands could be transferred to a public body, a non-profit affordable housing developer or be developed by the property owner.

**DLCD Response:** The department agrees with this objection, in part.

The Commission's Goal 10 Housing rule, OAR 660, Division 8, contains requirements for the planning and zoning of land (see 660-08-0010 through -0025), but contains no requirements that go as far towards the actual production of affordable housing as CDLC suggests. The city has planned for a variety of housing types in its five residential zones. This objection has not demonstrated that the city has failed to meet a statutory, rule or goal requirement.

Framed differently, however, this objection raises the question whether the city's process for development of land in the neighborhood activity centers satisfies the Goal 10 requirement that standards for needed housing be clear and objective and not discourage housing through unreasonable cost or delay. Further, Goal 2 requires that the plan make ultimate policy choices and have implementing measures that are adequate to carry out the plan. The city's plan map designates most of the land brought into the UGB as "Neighborhood Activity Centers" (Plan, Fig. 13, page 7-30). The city has adopted an ordinance that requires all land in NACs to be developed as a planned development (Neighborhood Activity Center Planned Development Ordinance, Appendix E-5). This ordinance requires that a "concept plan" be approved for each NAC or for each "quadrant" of an NAC. Further, annexations must be accompanied by a concept plan (Sec 5.A, page E-15) and zone changes and subdivisions must be processed as a planned development (Sec 5.C, page E-15).

The Commission recently decided the City of Corvallis could not apply a planned development (PD) overlay to land upon annexation to the city (Orders 02-WKTASK-001412 and 03-WKTASK-001601). While McMinnville can use a PD process in what amounts to the development of a refinement plan for each NAC, it cannot apply this process in a way that either fails to make ultimate policy choices about what uses will be allowed or imposes discretionary standards, unreasonable cost, or unreasonable delay on needed housing.

The city's process does not meet the Goal 2 and Goal 10 requirements cited above for several reasons:

- It is not clear whether the city intends to prepare and adopt the concept plans legislatively or whether the burden will fall on individual property owners. A small property owner does not have the resources to prepare such a plan and such a requirement would discourage needed housing. While we agree that a concept plan should be a prerequisite for annexation of land within an NAC, the burden of preparing the plan should not fall on the property owner who wants to annex.
- It is not clear how a plan for a "quadrant" within an NAC could address the plan policies and design guidelines without preparing a plan for the whole NAC. If the city had adopted the illustrative plans as approved land use plans for the NACs, then a plan for a quadrant could be reviewed for consistency with the illustrative plan for the whole center.
- The requirement for a planned development application in conjunction with a zone change or subdivision is an unnecessary step which duplicates the PD approval inherent in the concept planning requirement. The concept plan is already a planned development, and must contain ultimate policy choices and clear and objective standards for needed housing. The concept plan needs to designate where, for example R-5 zoning is planned, so that a property owner can apply of a rezoning based on a demonstration of conformance with the plan.

**Objection 4 Conclusion.** To address these issues, the city needs to adopt a policy to complete the concept planning process over the twenty-year planning period. Such a policy need not preclude a property owner from submitting a concept plan as a post acknowledgment plan amendment. Also, the city needs to delete the requirement in Sec. 5.C to apply the PD process to zone changes and land divisions. Staff recommends the Commission remand the Neighborhood Activity Center Planned Development Ordinance in order for the city to correct these defects.

j:pr\alargecity\McMinnville\T1 & UGB rpt-Attachment A

The following Statutes and Rules are included in this Attachment B:

- Goal 14 Urbanization, OAR 660-015-0000(14) "Seven Factors"
- 660-004-0010(1)(c) Application of the Goal 2 Exception Process to Certain Goals
- ORS 197.296 Factors to establish sufficiency of buildable lands . . .
- ORS 197.298 Priority of land to be included within UGB
- OAR 660-Division 8 Interpretation of Goal 10 Housing
- OAR 660-012-0045(4) Implementation of the Transportation System Plan (part) (Transportation Planning Rule)
- OAR 660-012-0060 Plan and Land Use Regulation Amendments (Transportation Planning Rule)

**Goal 14: Urbanization, OAR 660-015-0000(14)**
(Please Note: Amended 09/28/00; Effective 10/04/00)
**To provide for an orderly and efficient transition from rural to urban land use.**

Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. Establishment and change of the boundaries shall be based upon considerations of the following factors:

(1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;

(2) Need for housing, employment opportunities, and livability;

(3) Orderly and economic provision for public facilities and services;

(4) Maximum efficiency of land uses within and on the fringe of the existing urban area;

(5) Environmental, energy, economic and social consequences;

(6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,

(7) Compatibility of the proposed urban uses with nearby agricultural activities.

The results of the above considerations shall be included in the comprehensive plan. In the case of a change of a boundary, a governing body proposing such change in the boundary separating urbanizable lands from rural land, shall follow the procedures and requirements as set forth in the Land Use Planning goal (Goal 2) for goal exceptions.

**660-004-0010**

**Application of the Goal 2 Exception Process to Certain Goals**

(1) (c) Goal 14 "Urbanization" except as provided for in paragraphs (l)(c)(A) and (B) of this rule, and OAR 660-014-0000 through 660-014-0040:

(A) An exception is not required to an applicable goal(s) for the establishment of an urban growth boundary around or including portions of an incorporated city when resource lands are included within that boundary. Adequate findings on the seven Goal 14 factors, accompanied by an explanation of how they were considered and applied during boundary establishment, provide the same information as required by the exceptions process findings;

(B) When a local government changes an established urban growth boundary it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning," Part II, Exceptions. An established urban growth boundary is one which has been acknowledged by the Commission under ORS 197.251. Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14.);

(ii) Areas which do not require a new exception cannot reasonably accommodate the use;

(iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

**197.296 Factors to establish sufficiency of buildable lands within urban growth boundary; analysis and determination of residential housing patterns. (1)**(a) The provisions of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of ORS 197.295 to 197.314. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

**(2)** At periodic review pursuant to ORS 197.628 to 197.650 or at any other legislative review of the comprehensive plan or regional plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, comprehensive plans or regional plans shall provide sufficient buildable lands within urban growth boundaries established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the periodic or legislative review.

**(3)** In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

**(4)**(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable lands" includes:

(A) Vacant lands planned or zoned for residential use;

(B) Partially vacant lands planned or zoned for residential use;

(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

(D) Lands that may be used for residential infill or redevelopment.

(ORS 197.296 cont.)

(b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:

(A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and

(C) The presence of a single family dwelling or other structure on a lot or parcel.

(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity and need pursuant to subsection (3) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last periodic review or five years, whichever is greater. The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) Demographic and population trends;

(D) Economic trends and cycles; and

(E) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity and need. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The

(ORS 197.296 cont.)

local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or more of the following actions to accommodate the additional housing need:

(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary;

(b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures; or

(c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

(7) Using the analysis conducted under subsection (3)(b) of this section, the local government shall determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 20 years. If that density is greater than the actual density of development determined under subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall adopt measures that demonstrably increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next 20 years.

(ORS 197.296 cont.)

**(8)**(a) A local government outside a metropolitan service district that takes any actions under subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to 197.314.

(b) The local government shall determine the density and mix of housing types anticipated as a result of actions taken under subsections (6) and (7) of this section and monitor and record the actual density and mix of housing types achieved. The local government shall compare actual and anticipated density and mix. The local government shall submit its comparison to the commission at the next periodic review or at the next legislative review of its urban growth boundary, whichever comes first.

**(9)** In establishing that actions and measures adopted under subsections (6) or (7) of this section demonstrably increase the likelihood of higher density residential development, the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section and is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section. Actions or measures, or both, may include but are not limited to:

(a) Increases in the permitted density on existing residential land;
(b) Financial incentives for higher density housing;
(c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
(d) Removal or easing of approval standards or procedures;
(e) Minimum density ranges;
(f) Redevelopment and infill strategies;
(g) Authorization of housing types not previously allowed by the plan or regulations;
(h) Adoption of an average residential density standard; and
(i) Rezoning or redesignation of nonresidential land. [1995 c.547 §3; 2001 c.908 §1]

Note: Sections 5 and 6, chapter 908, Oregon Laws 2001, provide:

Sec. 5. The amendments to ORS 197.296 and 197.637 by sections 1 and 4 of this 2001 Act apply to a periodic review or legislative review by a local government, except a metropolitan service district organized under ORS chapter 268, begun on or after the effective date of this 2001 Act [January 1, 2002]. [2001 c.908 §5]

Sec. 6. The amendments to ORS 197.296, 197.299, 197.302 and 197.637 by sections 1 to 4 of this 2001 Act apply to a periodic review or legislative review by a metropolitan service district organized under ORS chapter 268 begun on or after January 1, 2000. [2001 c.908 §6]

**197.298 Priority of land to be included within urban growth boundary.** (1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands. [1995 c.547 §5; 1999 c.59 §56]

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# LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

## DIVISION 8

## INTERPRETATION OF GOAL 10 HOUSING

### 660-008-0000

### Purpose

(1) The purpose of this rule is to assure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries, and to provide greater certainty in the development process so as to reduce housing costs. This rule is intended to define standards for compliance with Goal 10"Housing" and to implement ORS 197.303 through 197.307.

(2) OAR 660-007-0000 et seq., Metropolitan Housing, are intended to complement and be consistent with OAR 660-008-0000 et seq., Goal 10 Housing. Public facilities and services are planned for buildable land as defined in OAR 660-007-0140 within the Metropolitan Portland urban growth boundary. Should differences in interpretation between OAR 660-008-0000 and OAR 660-007-0000 arise, the provisions of OAR 660-007-0000 shall prevail for cities and counties within the Metro urban growth boundary.

Stat. Auth.: ORS 197
Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490
Hist.: LCDC 3-1982, f. & ef. 7-21-82

### 660-008-0005

### Definitions

For the purpose of this rule, the definitions in ORS 197.015, 197.295, and 197.303 shall apply. In addition, the following definitions shall apply:

(1) "Attached Single Family Housing" means common-wall dwellings or rowhouses where each dwelling unit occupies a separate lot.

(2) "Buildable Land" means residentially designated vacant and, at the option of the local jurisdiction,

redevelopable land within the Metro urban growth boundary that is not severely constrained by natural hazards (Statewide Planning Goal 7) or subject to natural resource protection measures (Statewide Planning Goals 5 and 15). Publicly owned land is generally not considered available for residential use. Land with slopes of 25 percent or greater unless otherwise provided for at the time of acknowledgment and land within the 100-year floodplain is generally considered unbuildable for purposes of density calculations.

(3) "Detached Single Family Housing" means a housing unit that is free standing and separate from other housing units.

(4) "Government Assisted Housing" means housing that is financed in whole or part by either a federal or state housing agency or a local housing authority as defined in ORS 456.005 to 456.720, or housing that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided by either a federal or state housing agency or a local housing authority.

(5) "Housing Needs Projection" refers to a local determination, justified in the plan, of the mix of housing types and densities that will be:

(a) Commensurate with the financial capabilities of present and future area residents of all income levels during the planning period;

(b) Consistent with any adopted regional housing standards, state statutes and Land Conservation and Development Commission administrative rules; and

(c) Consistent with Goal 14 requirements.

(6) "Manufactured Dwelling" means:

(a) Residential trailer, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962;

(b) Mobile home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction;

(c) Manufactured home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction;

(d) Does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

(7) "Manufactured Dwelling Park" means any place where four or more manufactured dwellings as defined in ORS 446.003 are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a

lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

(8) "Manufactured Homes" means structures with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with National Manufactured Housing Construction and Safety Standards Act of 1974 (**42 U.S.C. Sections 5401 et seq.**), as amended on August 22, 1981.

(9) "Mobile Home Park" means any place where four or more manufactured dwellings as defined in ORS 446.003 are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Mobile home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

(10) "Multiple Family Housing" means attached housing where each dwelling unit is not located on a separate lot.

(11) "Needed Housing" defined. Until the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

(a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and

(e) Subsections (12)(a) and (d) of this rule shall not apply to:

(A) A city with a population of less than 2,500;

(B) A county with a population of less than 15,000.

(12) "Redevelopable Land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive residential uses during the planning period.

(13) "Suitable and Available Land" means residentially designated vacant and redevelopable land within an urban growth boundary that is not constrained by natural hazards, or subject to natural resource protection measures, and for which public facilities are planned or to which public facilities can be made

available. Publicly owned land generally is not considered available for residential use.

Stat. Auth.: ORS 183, ORS 196 & ORS 197
Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490
Hist.: LCDC 3-1982, f. & ef. 7-21-82; LCDC 3-1990, f. & cert. ef. 6-6-90

**660-008-0010**

**Allocation of Buildable Land**

The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.

Stat. Auth.: ORS 197
Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490
Hist.: LCDC 3-1982, f. & ef. 7-21-82

**660-008-0015**

**Clear and Objective Approval Standards Required**

Local approval standards, special conditions and procedures regulating the development of needed housing must be clear and objective, and must not have the effect, either of themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

Stat. Auth.: ORS 197
Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490
Hist.: LCDC 3-1982, f. & ef. 7-21-82

**660-008-0020**

**Specific Plan Designations Required**

(1) Plan designations that allow or require residential uses shall be assigned to all buildable land. Such designations may allow nonresidential uses as well as residential uses. Such designations may be considered to be "residential plan designations" for the purposes of this division. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.

(2) A local government may defer the assignment of specific residential plan designations only when the following conditions have been met:

(a) Uncertainties concerning the funding, location and timing of public facilities have been identified in the local comprehensive plan;

(b) The decision not to assign specific residential plan designations is specifically related to identified public facilities constraints and is so justified in the plan; and

(c) The plan includes a time-specific strategy for resolution of identified public facilities uncertainties

and a policy commitment to assign specific residential plan designations when identified public facilities uncertainties are resolved.

Stat. Auth.: ORS 197
Stats. Implemented:ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490
Hist.: LCDC 3-1982, f. & ef. 7-21-82; LCDD 5-1999, f. & cert. ef. 7-2-99

**660-008-0025**

**The Rezoning Process**

A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified. If such is the case, then:

(1) The plan shall contain a justification for the rezoning process and policies which explain how this process will be used to provide for needed housing.

(2) Standards and procedures governing the process for future rezoning shall be based on the rezoning justification and policy statement, and must be clear and objective.

Stat. Auth.: ORS 197
Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490
Hist.: LCDC 3-1982, f. & ef. 7-21-82

**660-008-0030**

**Regional Coordination**

(1) Each local government shall consider the needs of the relevant region in arriving at a fair allocation of housing types and densities.

(2) The local coordination body shall be responsible for ensuring that the regional housing impacts of restrictive or expansive local government programs are considered. The local coordination body shall ensure that needed housing is provided for on a regional basis through coordinated comprehensive plans.

Stat. Auth.: ORS 197
Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490
Hist.: LCDC 3-1982, f. & ef. 7-21-82

**660-008-0035**

**Substantive Standards for Taking a Goal 2, Part II Exception Pursuant to ORS 197.303(3)**

(1) A local government may satisfy the substantive standards for exceptions contained in Goal 2, Part II, upon a demonstration in the local housing needs projection, supported by compelling reasons and facts, that:

(a) The needed housing type is being provided for elsewhere in the region in sufficient numbers to meet regional needs;

(b) Sufficient buildable land has been allocated within the local jurisdiction for other types of housing which can meet the need for shelter at the particular price ranges and rent levels that would have been met by the excluded housing type; and

(c) The decision to substitute other housing types for the excluded needed housing type furthers the policies and objectives of the local comprehensive plan, and has been coordinated with other affected units of government.

(2) The substantive standards listed in section (1) of this rule shall apply to the ORS 197.303(3) exceptions process in lieu of the substantive standards in Goal 2, Part II. The standards listed in section (1) of this rule shall not apply to the exceptions process authorized by OAR 660-007-0360.

Stat. Auth.: ORS 197
Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490
Hist.: LCDC 3-1982, f. & ef. 7-21-82

**660-008-0040**

**Restrictions on Housing Tenure**

Any local government that restricts the construction of either rental or owner occupied housing on or after its first periodic review shall include a determination of housing need according to tenure as part of the local housing needs projection.

Stat. Auth.: ORS 197
Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490
Hist.: LCDC 3-1982, f. & ef. 7-21-82

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## OAR 660-012-0045 Implementation of the Transportation System Plan (part)

(4) To support transit in urban areas containing a population greater than 25,000, where the area is already served by a public transit system or where a determination has been made that a public transit system is feasible, local governments shall adopt land use and subdivision regulations as provided in (a)–(f) below:

(a) Transit routes and transit facilities shall be designed to support transit use through provision of bus stops, pullouts and shelters, optimum road geometrics, on-road parking restrictions and similar facilities, as appropriate;

(b) New retail, office and institutional buildings at or near major transit stops shall provide for convenient pedestrian access to transit through the measures listed in (A) and (B) below.

(A) Walkways shall be provided connecting building entrances and streets adjoining the site;

(B) Pedestrian connections to adjoining properties shall be provided except where such a connection is impracticable as provided for in OAR 660-012-0045(3)(b)(E). Pedestrian connections shall connect the on site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where adjacent properties are undeveloped or have potential for redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension to the adjoining property;

(C) In addition to (A) and (B) above, on sites at major transit stops provide the following:

(i) Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza at the transit stop or a street intersection;

(ii) A reasonably direct pedestrian connection between the transit stop and building entrances on the site;

(iii) A transit passenger landing pad accessible to disabled persons;

(iv) An easement or dedication for a passenger shelter if requested by the transit provider; and

(v) Lighting at the transit stop.

(c) Local governments may implement (4)(b)(A) and (B) above through the designation of pedestrian districts and adoption of appropriate implementing measures regulating development within pedestrian districts. Pedestrian districts must comply with the requirement of (4)(b)(C) above;

(d) Designated employee parking areas in new developments shall provide preferential parking for carpools and vanpools;

(e) Existing development shall be allowed to redevelop a portion of existing parking areas for transit-oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, transit-oriented developments, and similar facilities, where appropriate;

(f) Road systems for new development shall be provided that can be adequately served by transit, including provision of pedestrian access to existing and identified future transit routes. This shall include, where appropriate, separate accessways to minimize travel distances;

(g) Along existing or planned transit routes, designation of types and densities of land uses adequate to support transit.

**Transportation Planning Rule, 660-012-0060**

**Plan and Land Use Regulation Amendments**

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. This shall be accomplished by either:

(a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;

(b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division;

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

(d) Amending the TSP to modify the planned function, capacity and performance standards, as needed, to accept greater motor vehicle congestion to promote mixed use, pedestrian friendly development where multimodal travel choices are provided.

(2) A plan or land use regulation amendment significantly affects a transportation facility if it:

(a) Changes the functional classification of an existing or planned transportation facility;

(b) Changes standards implementing a functional classification system;

(c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or

(d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.

(3) Determinations under subsections (1) and (2) of this section shall be coordinated with affected transportation facility and service providers and other affected local governments.

(4) The presence of a transportation facility or improvement shall not be a basis for an exception to allow residential, commercial, institutional or industrial development on rural lands under this division or OAR 660-004-0022 and 660-004-0028.

(5) In determining whether proposed land uses would affect or be consistent with planned transportation facilities as provided in 0060(1) and (2), local governments shall give full credit for potential reduction in vehicle trips for uses located in mixed-use, pedestrian-friendly centers, and neighborhoods as provided in (a)–(d) below;

(a) Absent adopted local standards or detailed information about the vehicle trip reduction benefits of mixed-use, pedestrian-friendly development, local governments shall assume that uses located within a mixed-use, pedestrian-friendly center, or neighborhood, will generate 10% fewer daily and peak hour trips than are specified in available published estimates, such as those provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual that do not specifically account for the effects of mixed-use, pedestrian-friendly development. The 10% reduction allowed for by this section shall be available only if uses which rely solely on auto trips, such as gas stations, car washes, storage facilities, and motels are prohibited;

(b) Local governments shall use detailed or local information about the trip reduction benefits of mixed-use, pedestrian-friendly development where such information is available and presented to the local government. Local governments may, based on such information, allow reductions greater than the 10% reduction required in (a);

(c) Where a local government assumes or estimates lower vehicle trip generation as provided in (a) or (b) above, it shall assure through conditions of approval, site plans, or approval standards that subsequent development approvals support the development of a mixed-use, pedestrian-friendly center or neighborhood and provide for on-site bike and pedestrian connectivity and access to transit as provided for in 0045(3) and (4). The provision of on-site bike and pedestrian connectivity and access to transit may be accomplished through application of acknowledged ordinance provisions which comply with 0045(3) and (4) or through conditions of approval or findings adopted with the plan amendment that assure compliance with these rule requirements at the time of development approval; and

(d) The purpose of this section is to provide an incentive for the designation and implementation of pedestrian-friendly, mixed-use centers and neighborhoods by lowering the regulatory barriers to plan amendments which accomplish this type of development. The actual trip reduction benefits of mixed-use, pedestrian- friendly development will vary from case to case and may be somewhat higher or lower than presumed pursuant to (a) above. The Commission concludes that this assumption is warranted given general information about the expected effects of mixed-use, pedestrian- friendly development and its intent to encourage changes to plans and development patterns. Nothing in this section is intended to affect the application of provisions in local plans or ordinances which provide for the calculation or assessment of systems development charges or in preparing conformity determinations required under the federal Clean Air Act.

(6) Amendments to acknowledged comprehensive plans and land use regulations which meet all of the criteria listed in (a)-(c) below shall include an amendment to the comprehensive plan, transportation system plan the adoption of a local street plan, access management plan, future street plan or other binding local transportation plan to provide for on-site alignment of streets or accessways with existing and planned arterial, collector, and local streets surrounding the site as necessary to implement the requirements in Section 0020(2)(b) and Section 0045(3) of this division:

(a) The plan or land use regulation amendment results in designation of two or more acres of land for commercial use;

(b) The local government has not adopted a TSP or local street plan which complies with Section 0020(2)(b) or, in the Portland Metropolitan Area, has not complied with Metro's requirement for street connectivity as contained in Title 6, Section 3 of the Urban Growth Management Functional Plan; and

(c) The proposed amendment would significantly affect a transportation facility as provided in 0060(2).

(7) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:

(a) Any one of the following:

(A) An existing central business district or downtown;

(B) An area designated as a central city, regional center, town center or main street in the *Portland Metro 2040 Regional Growth Concept;*

(C) An area designated in an acknowledged comprehensive plan as a transit oriented development or a pedestrian district; or

(D) An area designated as a special transportation area as provided for in the Oregon Highway Plan.

(b) An area other than those listed in (a) which includes or is planned to include the following characteristics:

(A) A concentration of a variety of land uses in a well-defined area, including the following:

(i) Medium to high density residential development (12 or more units per acre);

(ii) Offices or office buildings;

(iii) Retail stores and services;

(iv) Restaurants; and

(v) Public open space or private open space which is available for public use, such as a park or plaza.

(B) Generally include civic or cultural uses;

(C) A core commercial area where multi-story buildings are permitted;

(D) Buildings and building entrances oriented to streets;

(E) Street connections and crossings that make the center safe and conveniently accessible from adjacent areas;

(F) A network of streets and, where appropriate, accessways and major driveways that make it attractive and highly convenient for people to walk between uses within the

center or neighborhood, including streets and major driveways within the center with wide sidewalks and other features, including pedestrian-oriented street crossings, street trees, pedestrian-scale lighting and on-street parking;

(G) One or more transit stops (in urban areas with fixed route transit service); and

(H) Limit or do not allow low-intensity or land extensive uses, such as most industrial uses, automobile sales and services, and drive-through services.

Stat. Auth.: ORS 183 & ORS 197.040
Stats. Implemented: ORS 195.025, ORS 197.040, ORS 197.230, ORS 197.245, ORS 197.610 - ORS 197.625, ORS 197.628 - ORS 197.646, ORS 197.712, ORS 197.717 & ORS 197.732
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDD 6-1998, f. & cert. ef. 10-30-98; LCDD 6-1999, f. & cert. ef. 8-6-99

## Decision Making Timeline

- October 17, 2003 Submittal of Task 1 and UGB amendment received
- February 16, 2004 Referral of city's submittal to the Commission (Action required within 120 days of the city's submittal)
- March 30, 2004 Staff report and recommendation to the Commission (Required at least 21 days prior to the Commission hearing)
- April 22, 2004 LCDC hearing and decision scheduled (Required within 90 days of referral to the Commission, but this date may be extended, based on the complexity of the issues involved.)
- May 6, 2004 Issuance of the Commission's order (It is department policy to issue orders within two weeks of the Commission's decision, but this date may be extended, based on the complexity of the issues involved.)
- 60 days from the issuance of the Commission's order, any appeal must be filed with the Oregon Court of Appeals

# Understanding Density and Floor Area Ratio

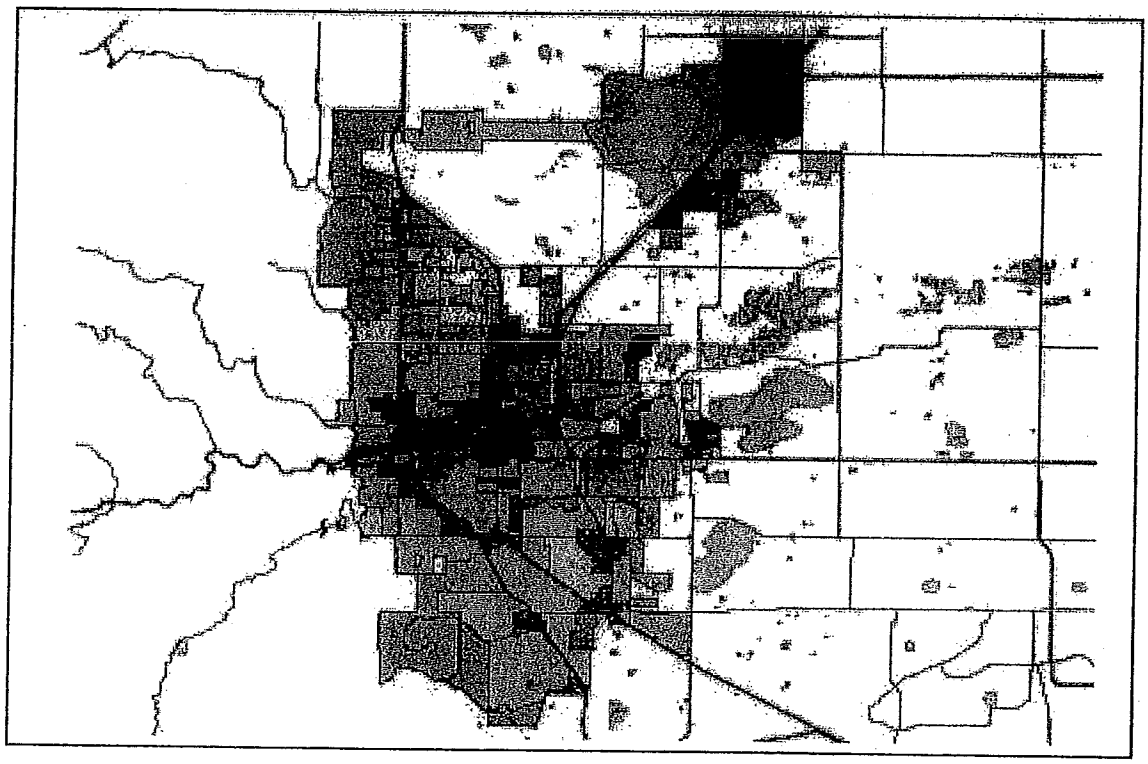
City of Boulder, Colorado

The following excerpts from the report are included:

- Introduction
- Definitions
- Section 3, Examples of Commercial Floor Area Ratios

# *Understanding Density and Floor Area Ratio*

## *Examples of Residential, Mixed-Use, Commercial and Industrial Developments in Boulder*



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# *Introduction*

New development can impact traffic, the environment, and the character of our neighborhoods. Understanding these impacts is sometimes complicated by the difficulty of understanding the rules that regulate development in the city. It can be difficult to relate the numbers and projections in our zoning and land use regulations to actual buildings on the ground.

This document is divided into three sections: residential, mixed use, and commercial and industrial development. Each section highlights existing examples of development in the city of Boulder with the intent to help readers understand the relationships between city regulations, actual development in Boulder, and the effects on the surrounding community.

Examples in the residential section represent a range of densities. Residential density classifications are based on the Boulder Valley Comprehensive Plan's definition of density levels and are arranged in this document from low density to high density:

- Low density: 2-6 dwelling units per acre
- Medium density: 6-14 dwelling units per acre
- High density: 14+ dwelling units per acre

Examples in the commercial and industrial section are organized by ascending Floor Area Ratios (FARs – the ratio between building size and lot size).

Mixed-use development includes both residential and commercial development; thus, this section offers information on both.

It should be noted that no two projects are exactly alike. Buildings of equal FAR, for example, can have significant differences in appearance depending on the site, landscaping and architecture. The same is true of projects with an equal number of dwelling units per acre. For that reason, the example photos are supplemented by site plans and aerial photos to help convey a sense of how these buildings occupy their sites, relate to surrounding sites, and look and feel to the pedestrian on the street. Also included are maps to assist with the identification of the example properties. Hopefully, this information will assist in understanding projected development and the future impacts on Boulder.

# Definitions

- **Existing Zoning:**

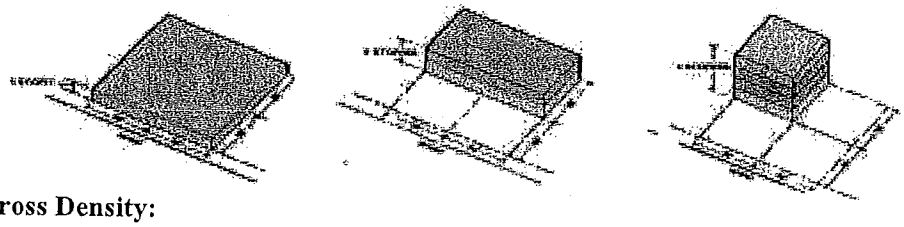
  This is the designated zoning district applied to the site as shown on the City of Boulder's official zoning map. Zoning districts have different density standards that correspond to that district.

- **Floor Area**

  The total square footage of all levels measured to the outside surface of a building or a portion of the building. This includes stairways, elevators, storage and mechanical rooms, whether internal or external to the structure. It does not include an atrium on the interior of a building where no floor exists above, a courtyard, or uninhabitable space.

- **Floor Area Ratio (FAR)**

  FAR is the ratio of the floor area of a building to the area of the lot on which the building is located. The diagram below illustrates three simple ways that a 1:1 FAR might be reached: one story covering the entire lot, 2 stories covering half of the lot, or 4 stories covering a quarter of the lot all result in the same FAR.



- **Gross Density:**

  The number of dwelling units per acre based on the gross site acreage.

- **Gross Site Area:**

  The entire area of the site found inside the parcel boundary, measured in square feet. This includes the building lots, parking and driving areas, sidewalks, public and private right-of-ways, and public and private open space areas.

- **Gross Site Acreage:**

  The entire acreage of the site found inside the parcel boundary. This includes the building lots, parking and driving areas, sidewalks, public and private right-of-ways, and public and private open space areas. *(Note: one acre equals 43,560 sf)*

- **Net Density:**

  The number of dwelling units per acre based on the net site acreage.

- **Net Site Acreage:**
  This is the site acreage located inside the parcel boundary, excluding dedicated public right-of-ways.

# Definitions

- **Number of Dwellings:**

  This is the number of dwelling units that are located on the site. A dwelling unit consists of one or more rooms, and includes both bathroom and kitchen facilities. Multiple dwellings exist when there are more than one utility meter, address to the property, or kitchen; or if there are separate entrances to rooms which could be used as separate dwelling units. An attached dwelling unit occurs when there are two or more dwelling units within a structure. A detached dwelling unit means there is no more than one dwelling unit within a structure.

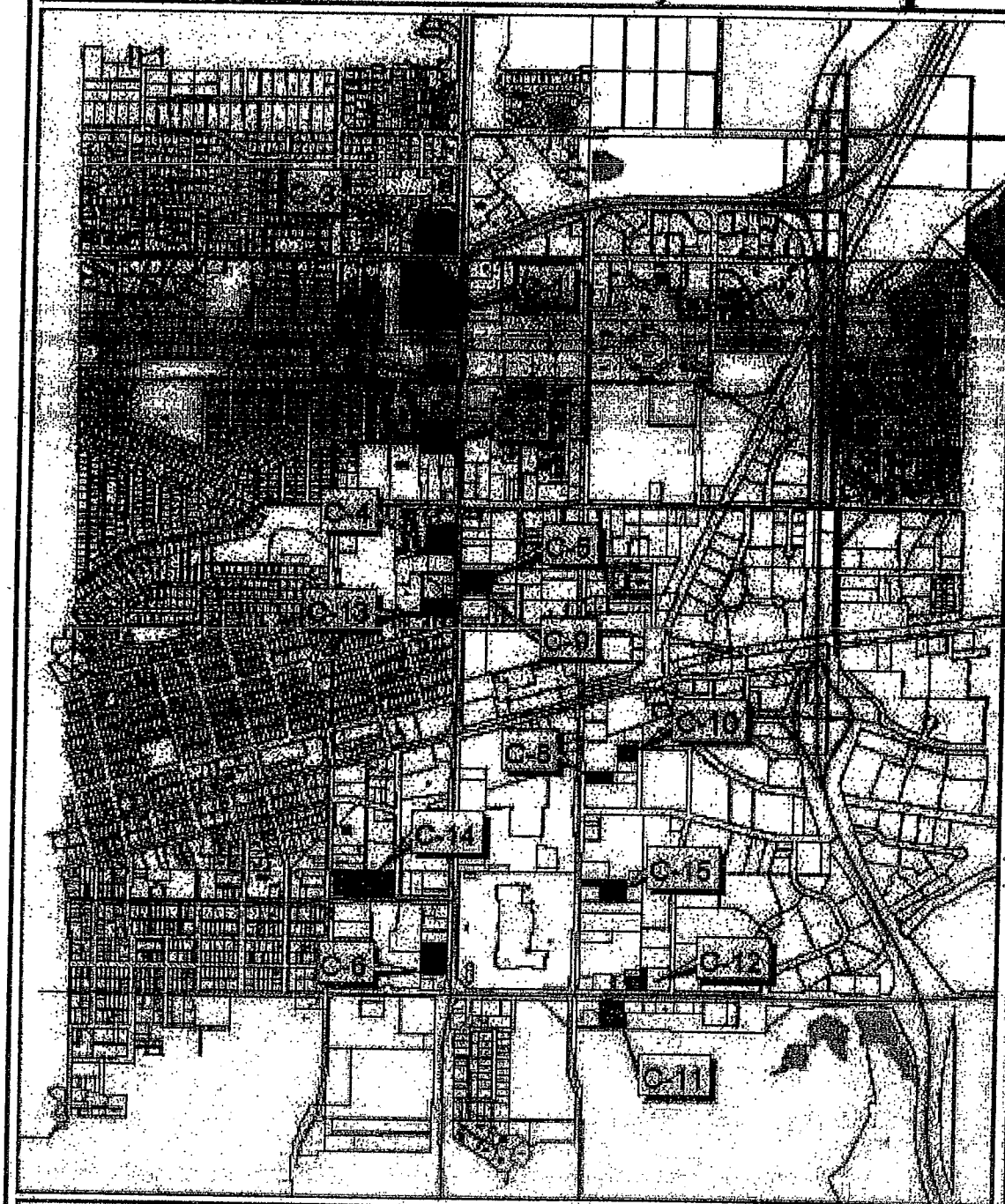
- **Open Space Provided:**

  This is the amount of useable open space provided for each of the dwelling units, and includes landscaped areas, uncovered outdoor activity areas, unenclosed balconies, decks and patio areas, pedestrian ways or plazas designed to be used by the tenants, uncovered parking areas and drive ways that serve one dwelling unit, approved public rights-of-ways, and wetlands.

# Section 3

## Examples of Commercial Floor Area Ratios

# Map of Commercial Project Examples




Commercial

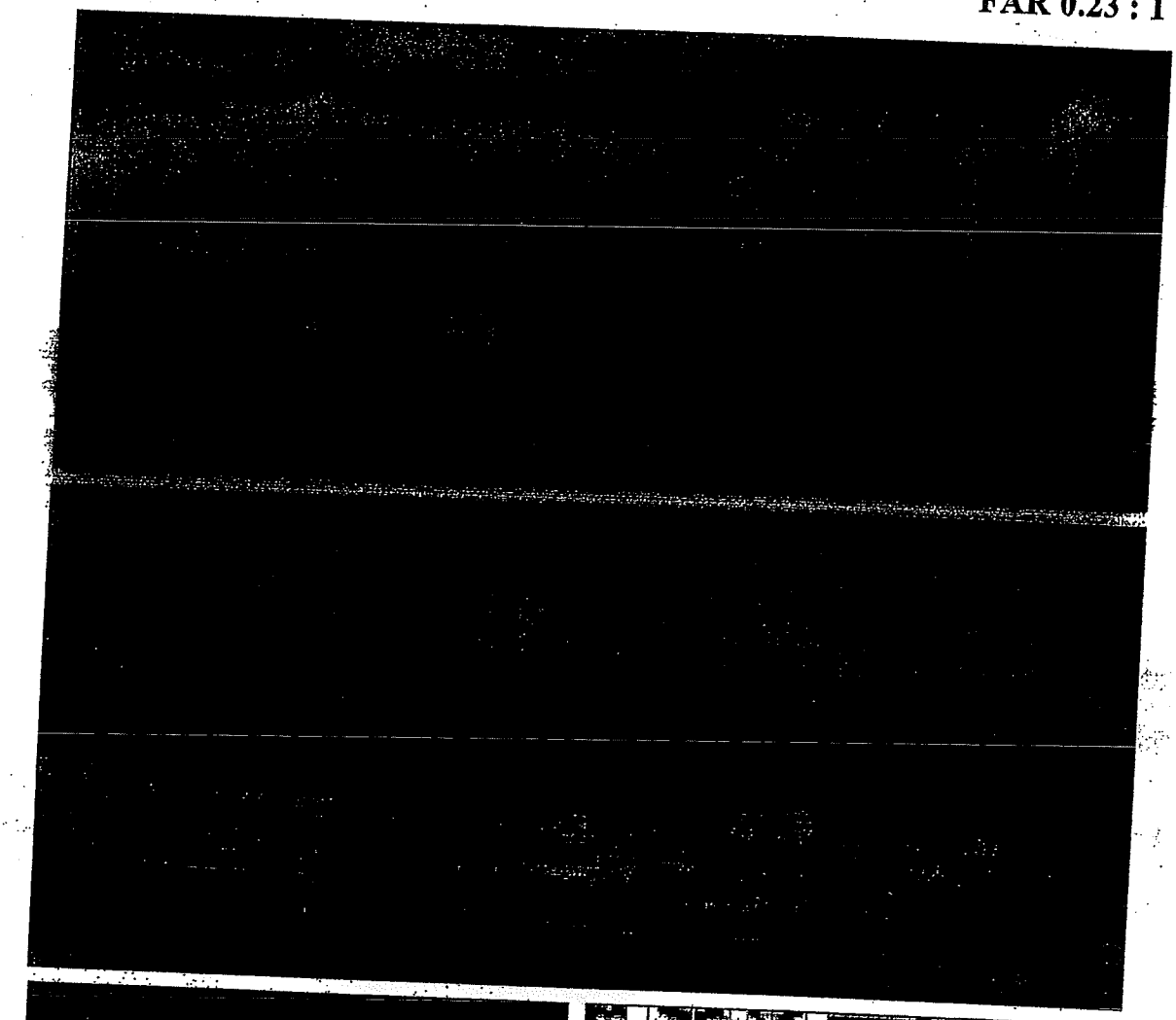
C-1: 3325 28th St
C-2: 3215 28th St
C-3: 2701-2795 Iris Ave
C-4: 2825-2885 28th St
C-5: 2590 28th St
C-6: 1657 28th St
C-7: 3101-3133 28th St
C-8: 2000 30th St
C-9: 2560 28th St
C-10: 2125 32nd St
C-11: 3100 Arapahoe
C-12: 3223 Arapahoe
C-13: 2525 28th St
C-14: 2425-2595 Canyon
C-15: 1790 30th St
C-16: 1200 26th St

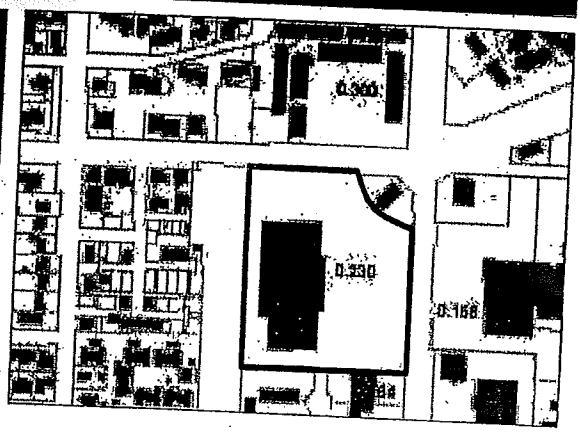
MapLink
City of Boulder

# Commercial

## C-1: 3325 28th St

**FAR 0.23 : 1**





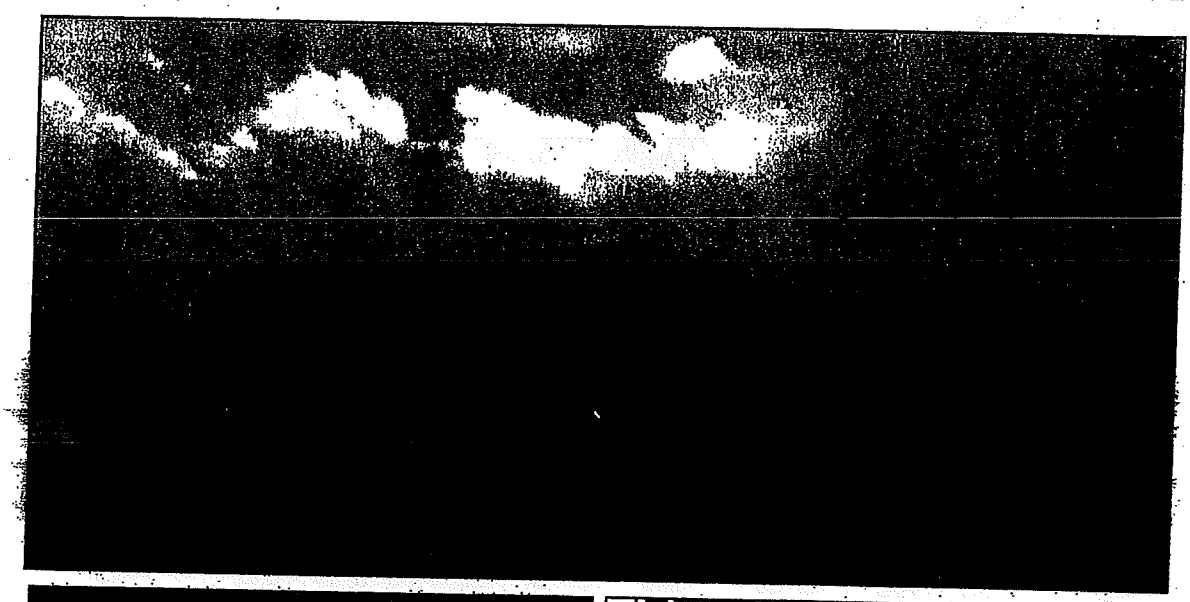
**Site Information**

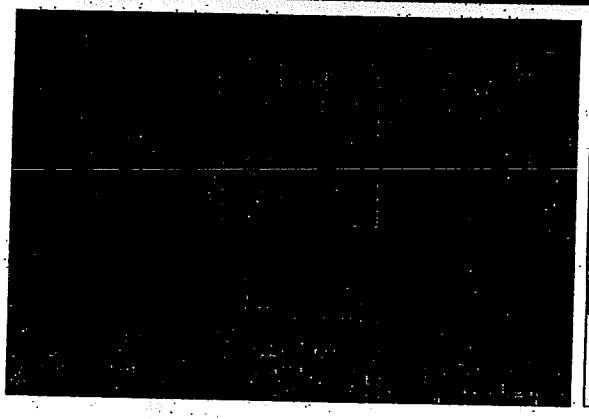
| | | | |
|---|---|---|---|
| Existing Zoning: | CB-D | FAR: | 0.23 : 1 |
| Year Built: | 1966 | Gross Site Area: | 431,994 sf |
| | | Floor Area: | 99,235 sf |

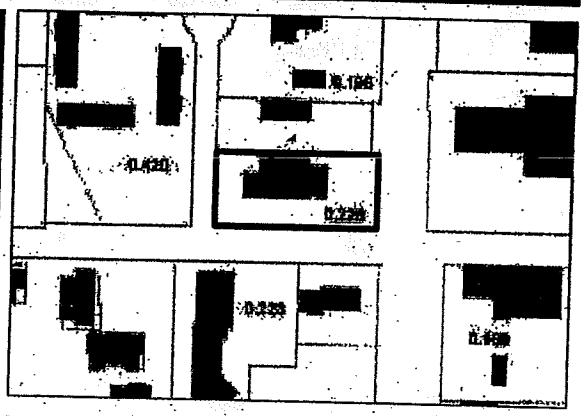
# Commercial

## C-2: 3215 28th St

**FAR 0.23 : 1**

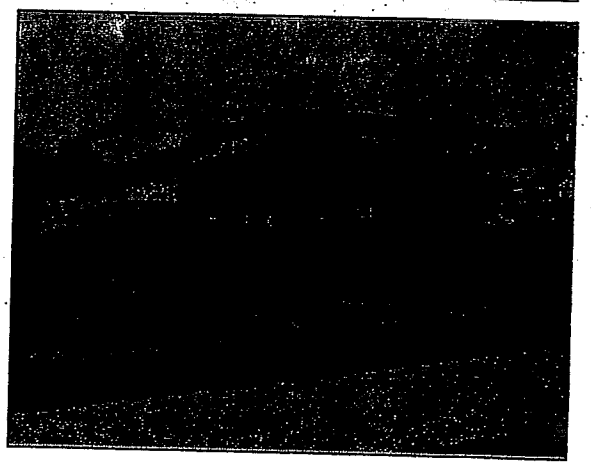






### Site Information

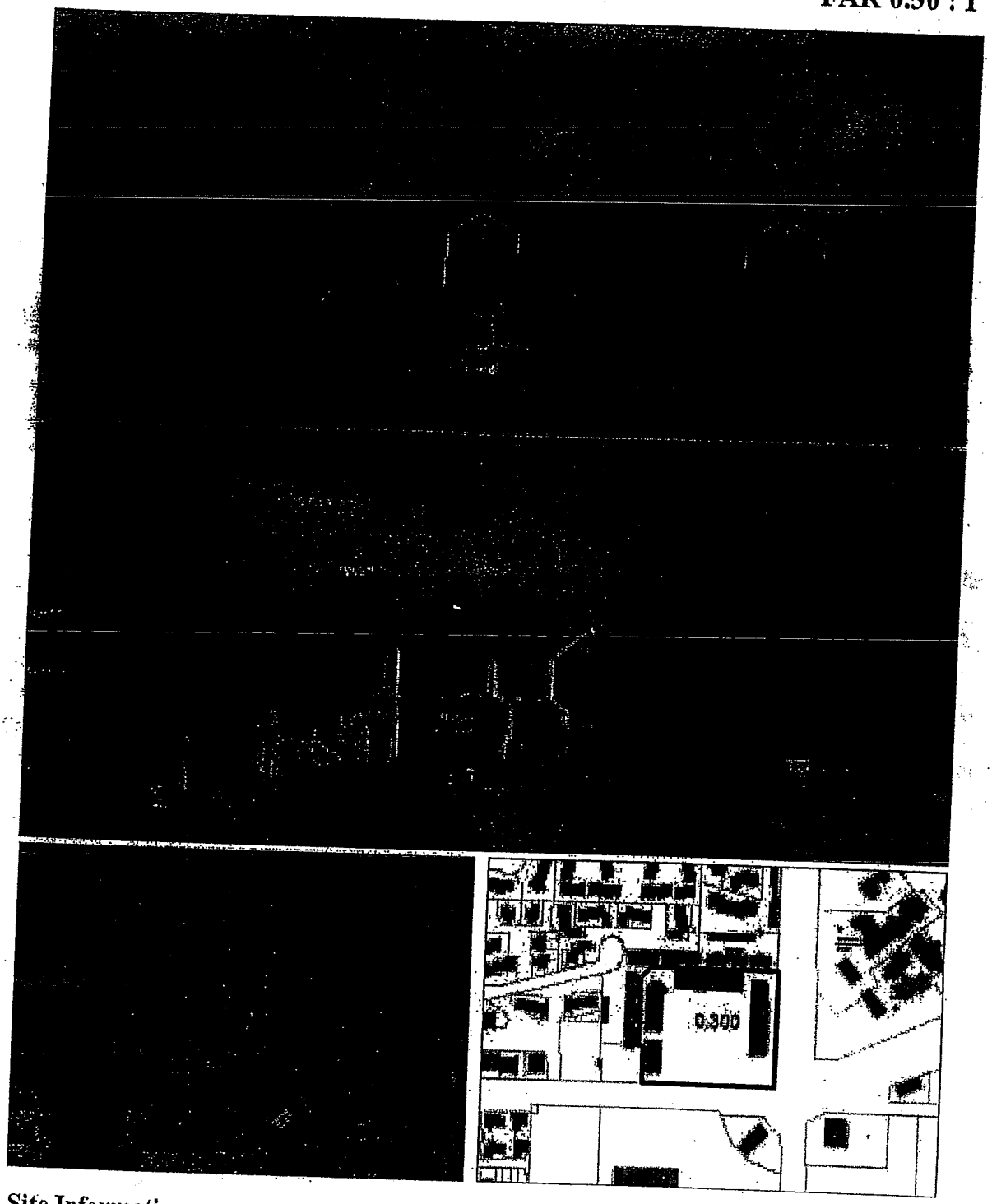
| | |
|---|---|
| **Existing Zoning:** | **CB-D** |
| **Gross Site Area:** | **41,557 sf** |
| **Floor Area:** | **9,385 sf** |
| **Year Built:** | **1970** |
| **FAR:** | **0.23 : 1** |



# Commercial

## C-3: 2701 - 2795 Iris Av

**FAR 0.30 : 1**



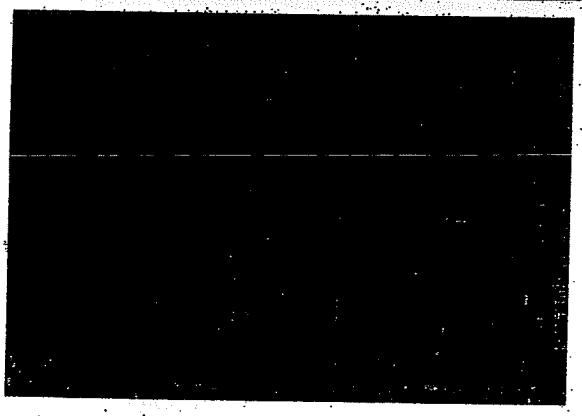

**Site Information**

| | | | |
|---|---|---|---|
| Existing Zoning: | CB-D | FAR: | 0.30 : 1 |
| Year Built: | 1981 | Gross Site Area: | 192,822 sf |
| | | Floor Area: | 57,846 sf |

# Commercial

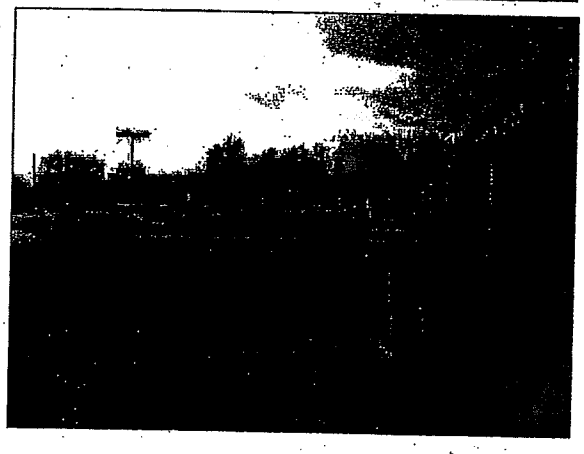
## C-4: 2825 - 2885 28TH St

**FAR 0.30 : 1**



**Site Information**

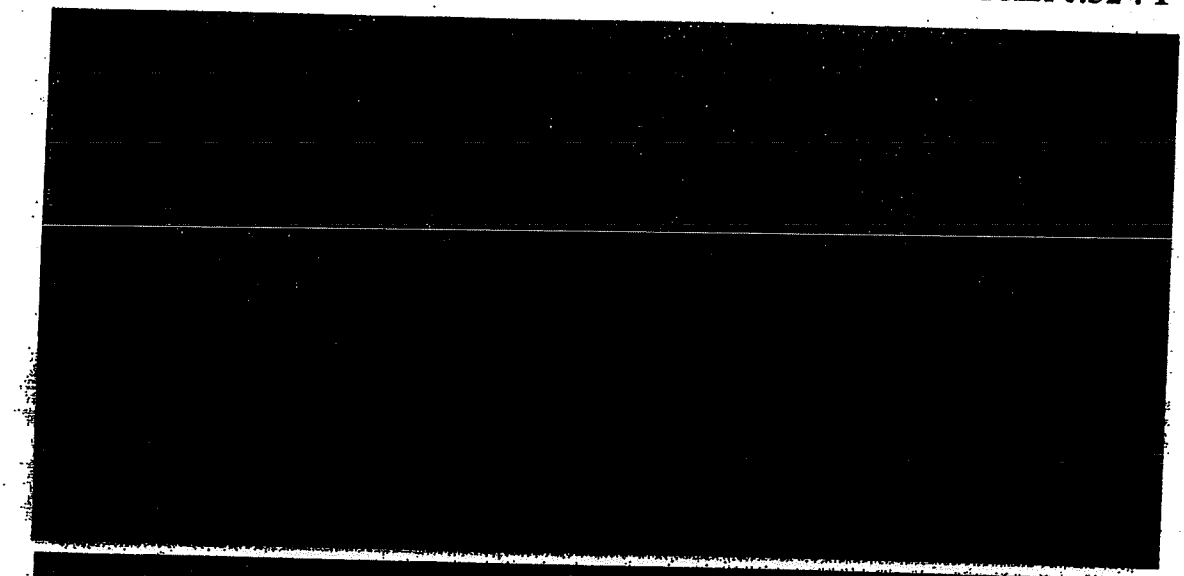
| | |
|---|---|
| **Existing Zoning:** | **CB-E** |
| **Gross Site Area:** | **95,543 sf** |
| **Floor Area:** | **28,616 sf** |
| **Year Built:** | **1978** |
| **FAR:** | **0.30 : 1** |

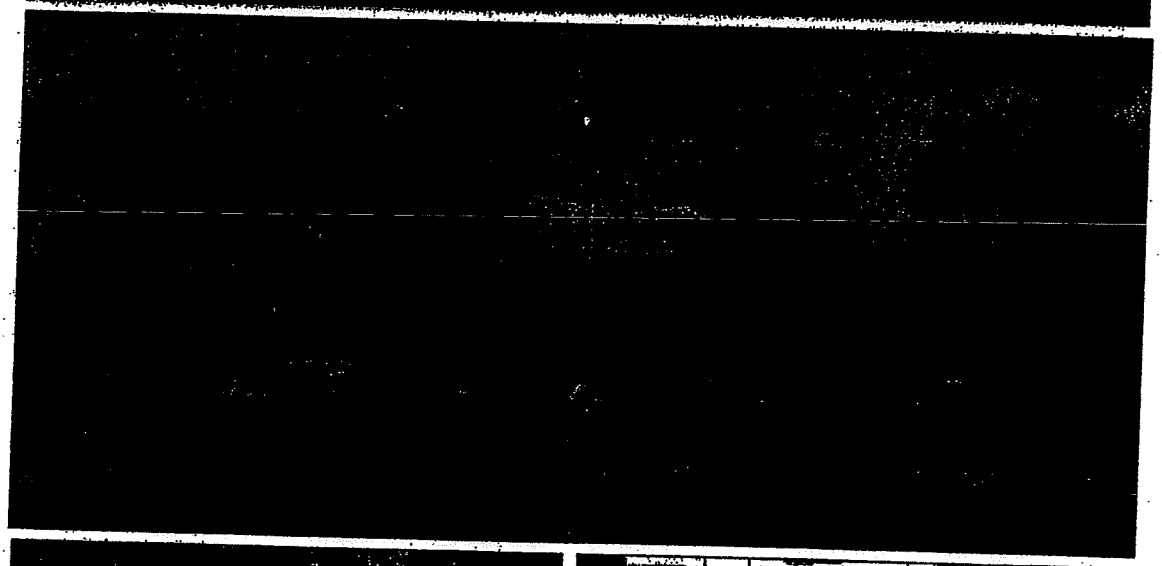


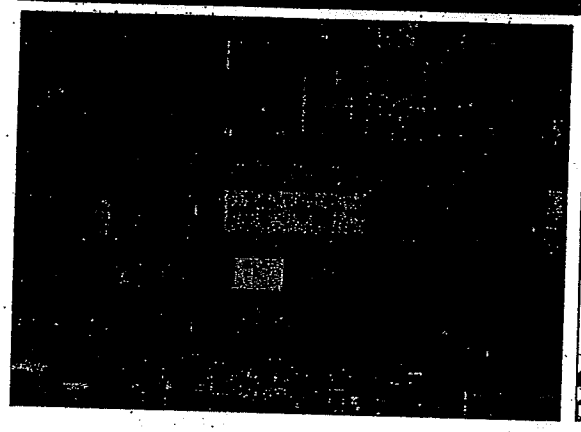
# Commercial

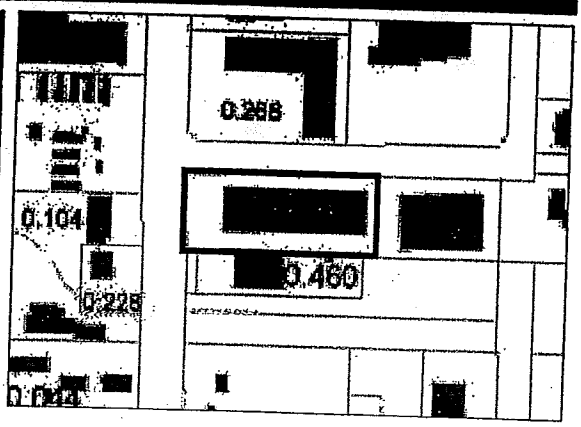
## C-5: 2690 28TH St

**FAR 0.32 : 1**









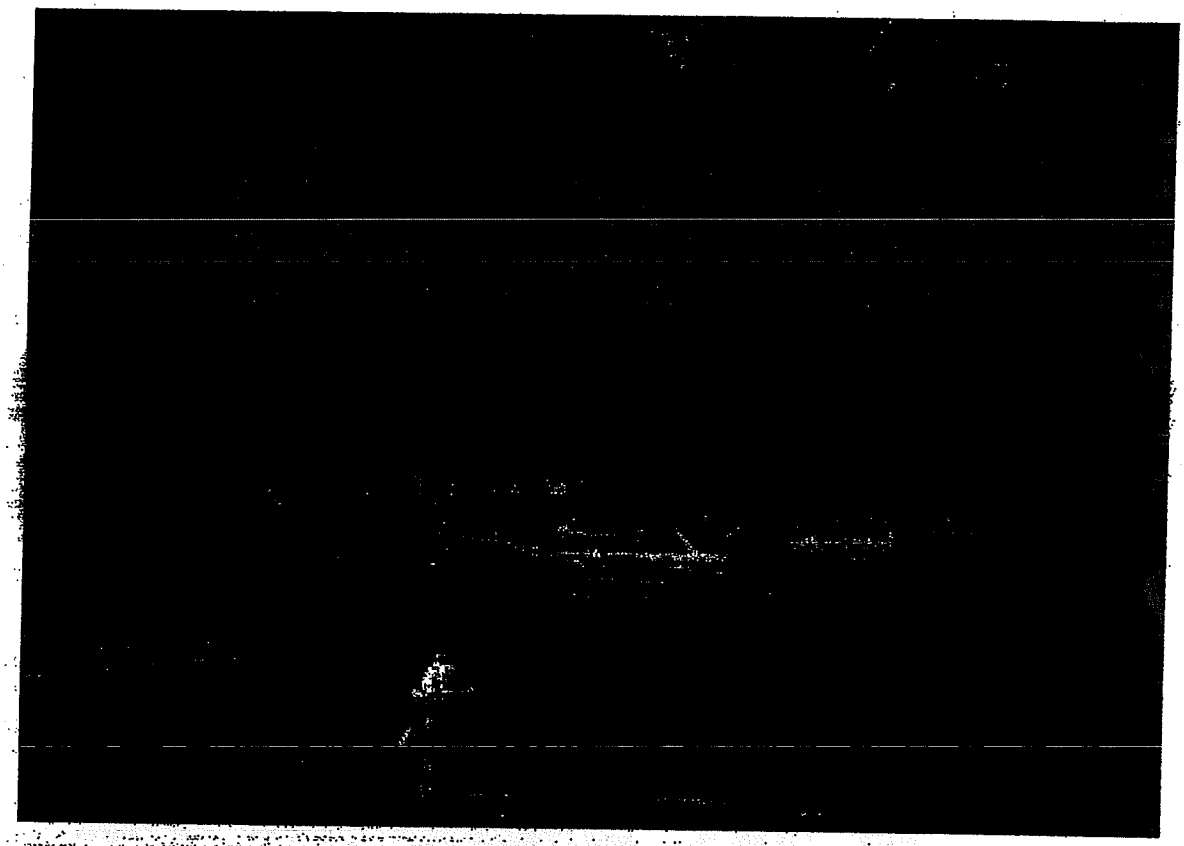

**Site Information**

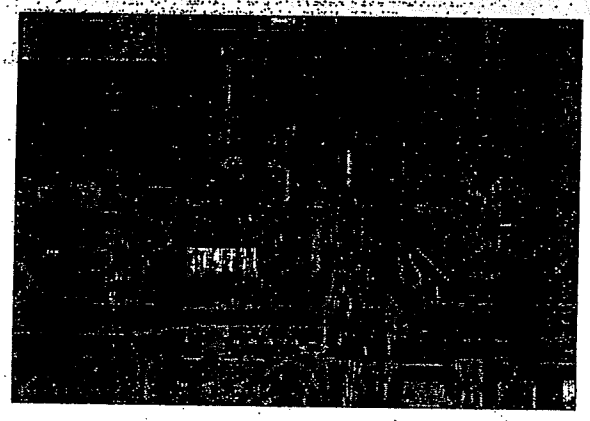
| | | | |
|---|---|---|---|
| **Existing Zoning:** | CB-E | **FAR** | 0.32 : 1 |
| **Year Built:** | 1966 | **Gross Site Area:** | 53,359 sf |
| | | **Floor Area:** | 17,291 sf |

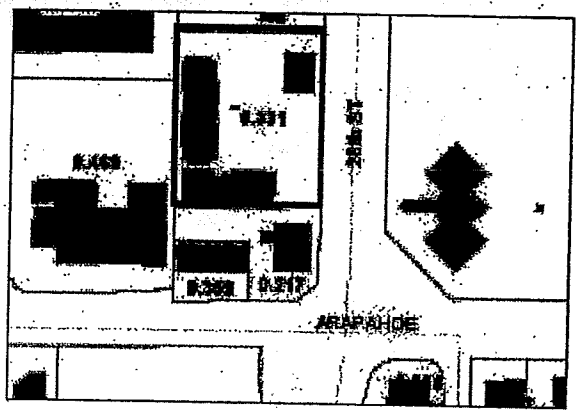
# Commercial

## C-6: 1657 28TH St

**FAR 0.33 : 1**







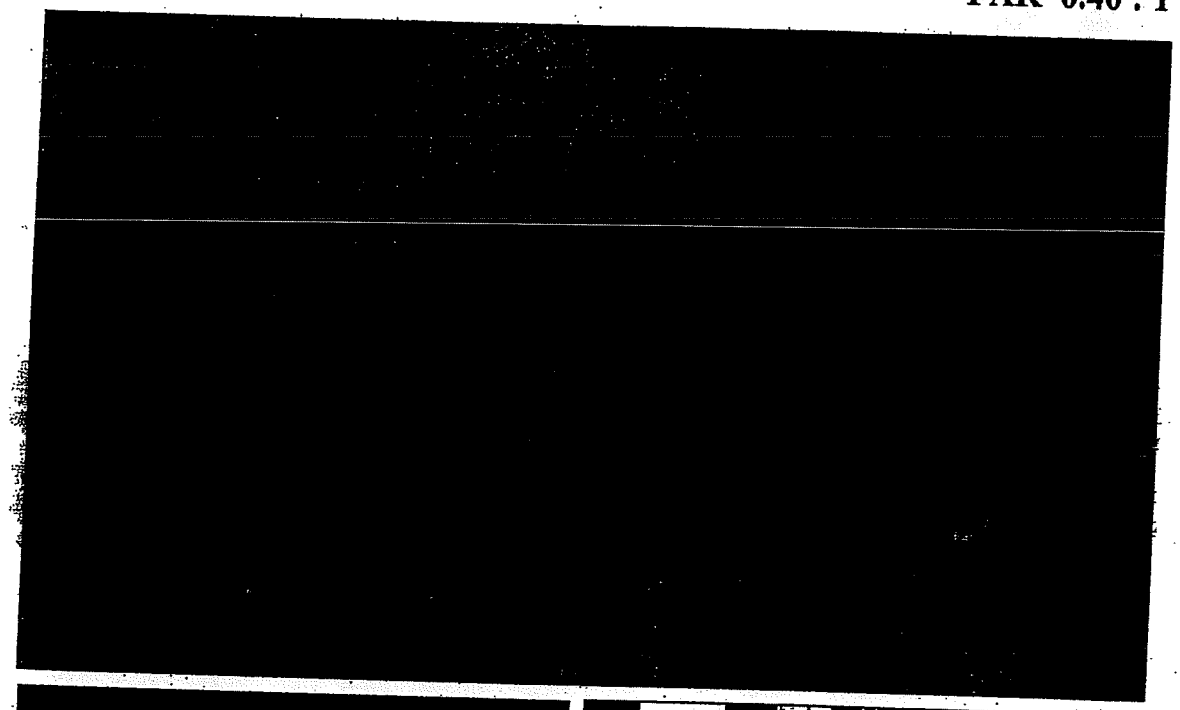

### Site Information

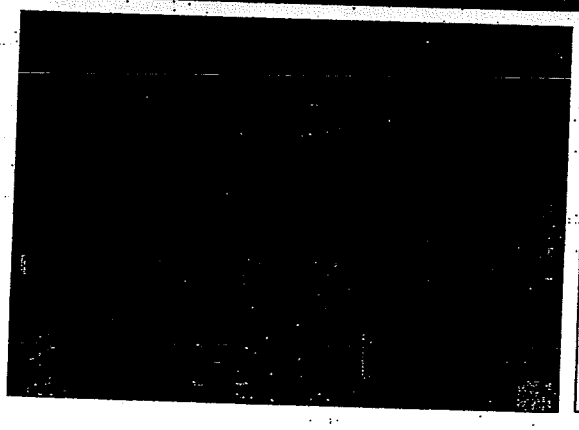
| | |
|---|---|
| **Existing Zoning:** | **RB-E** |
| **Gross Site Area:** | **88,896 sf** |
| **Floor Area:** | **29,425 sf** |
| **Year Built:** | **1978** |
| **FAR:** | **0.33 : 1** |

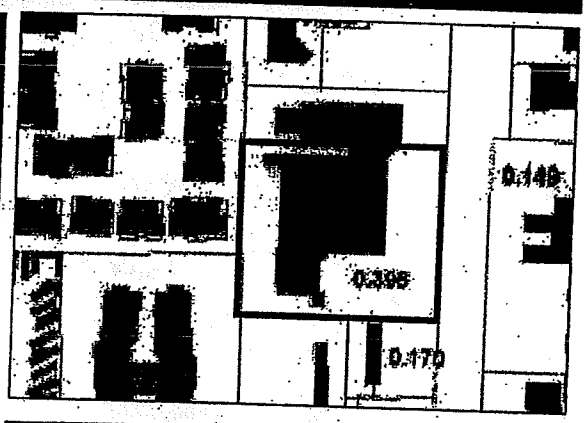
# Commercial

## C-7: 3101 - 3133 28th St

**FAR 0.40 : 1**

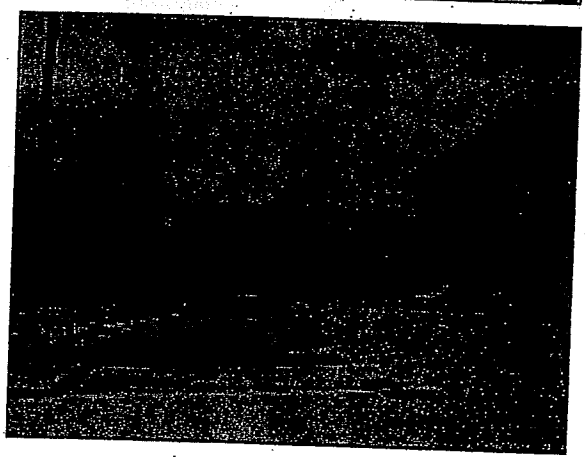







### Site Information

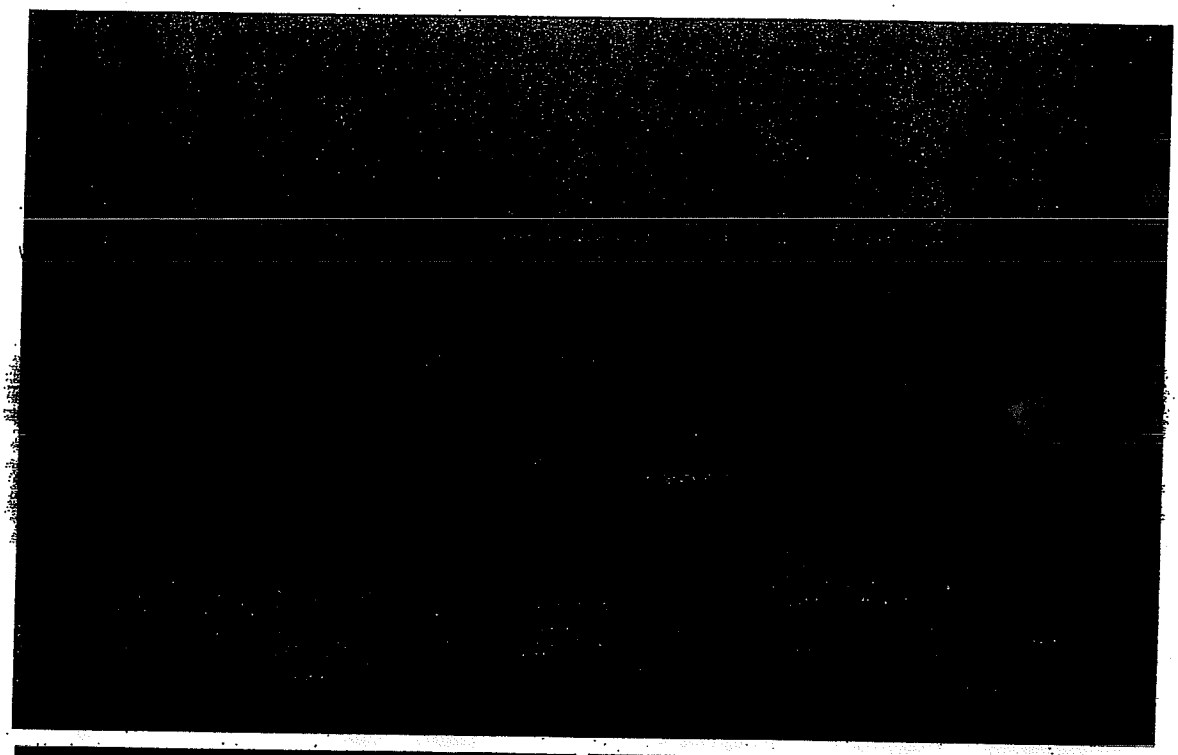
| | |
|---|---|
| **Existing Zoning:** | **CB-D** |
| **Gross Site Area:** | **119,366 sf** |
| **Floor Area:** | **47,222 sf** |
| **Year Built:** | **1968** |
| **FAR:** | **0.40 : 1** |

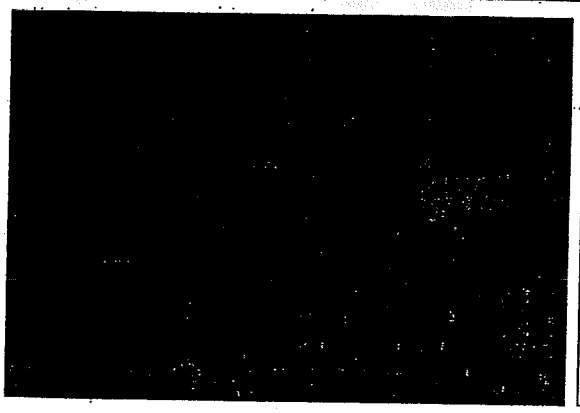


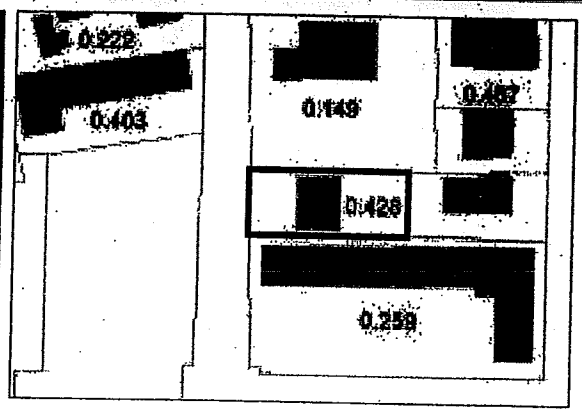
# Commercial

## C-8: 2000 30th St

**FAR 0.43 : 1**





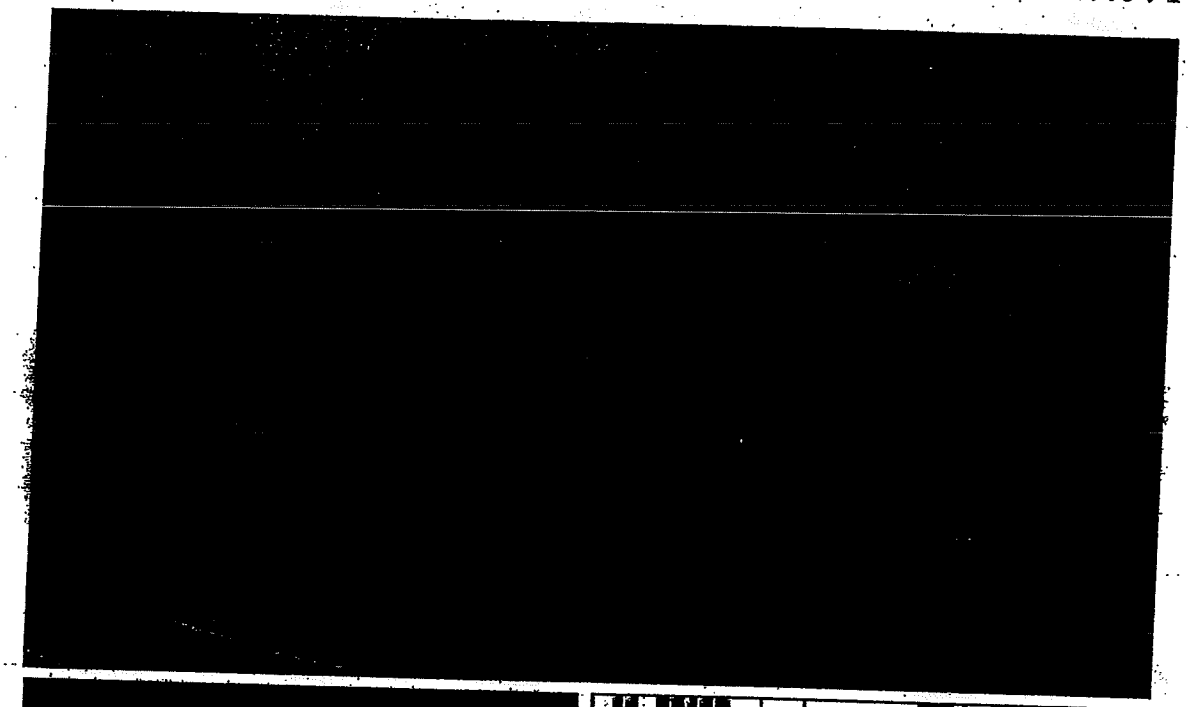


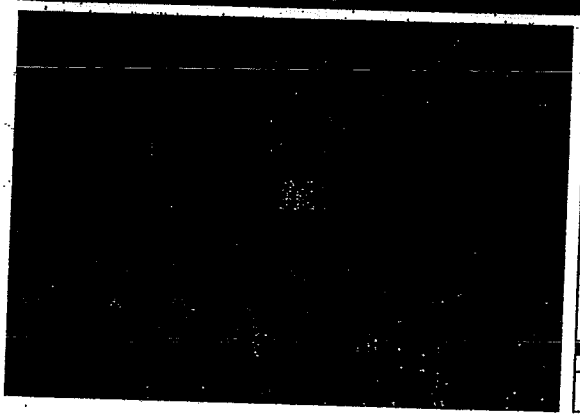

| **Site Information** | | | |
|---|---|---|---|
| **Existing Zoning:** | **RB-E** | **FAR:** | **0.43 : 1** |
| **Year Built:** | **1972** | **Gross Site Area:** | **36,313 sf** |
| | | **Floor Area:** | **15,542 sf** |

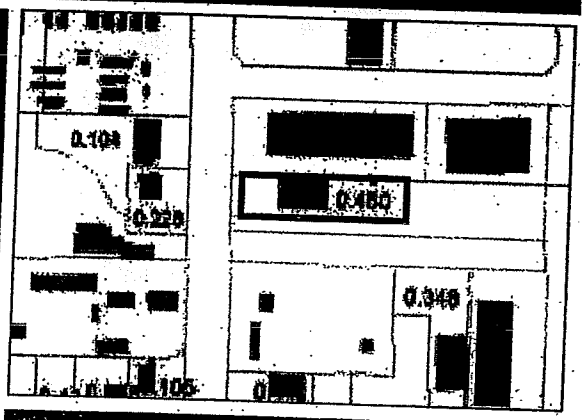
# Commercial

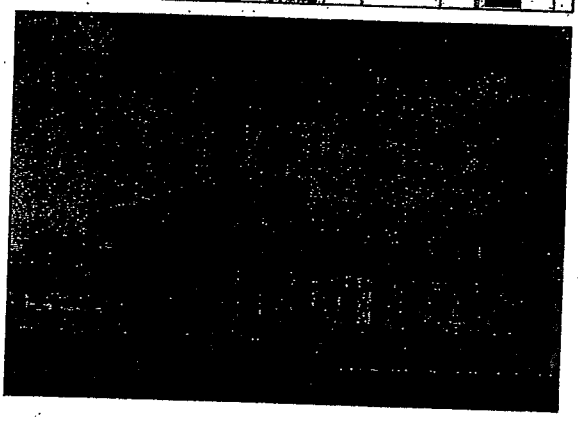
## C-9: 2560 28th St

**FAR 0.46 : 1**







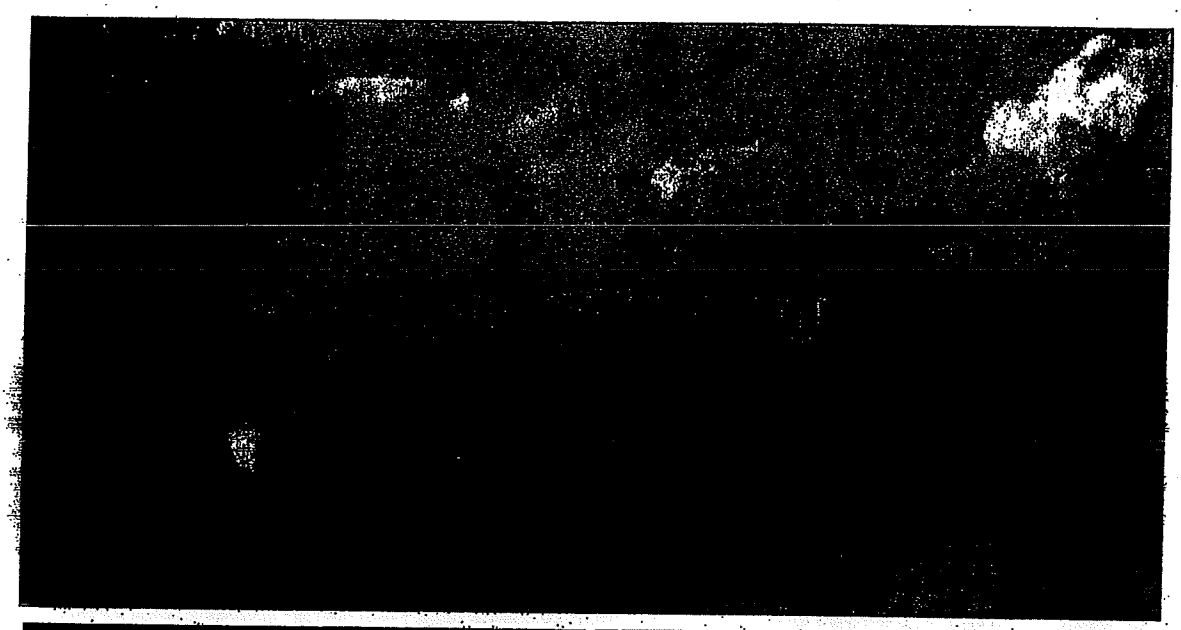
**Site Information**

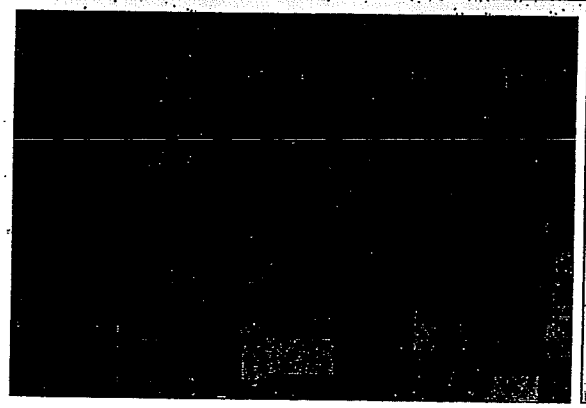
| | |
|---|---|
| **Existing Zoning:** | **CB-E** |
| **Gross Site Area:** | **23,495 sf** |
| **Floor Area:** | **10,800 sf** |
| **Year Built:** | **1979** |
| **FAR:** | **0.46 : 1** |

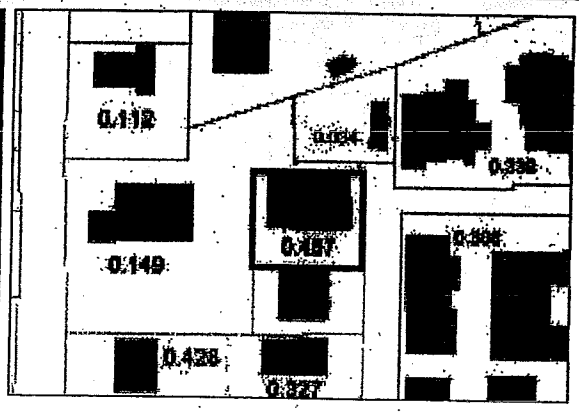
# Commercial

## C-10: 2125 32nd St

**FAR 0.47 : 1**








**Site Information**

| | | | |
|---|---|---|---|
| **Existing Zoning:** | **RB-E** | **FAR:** | **0.47 : 1** |
| **Year Built:** | **1981** | **Gross Site Area:** | **36,970 sf** |
| | | **Floor Area:** | **17,274 sf** |

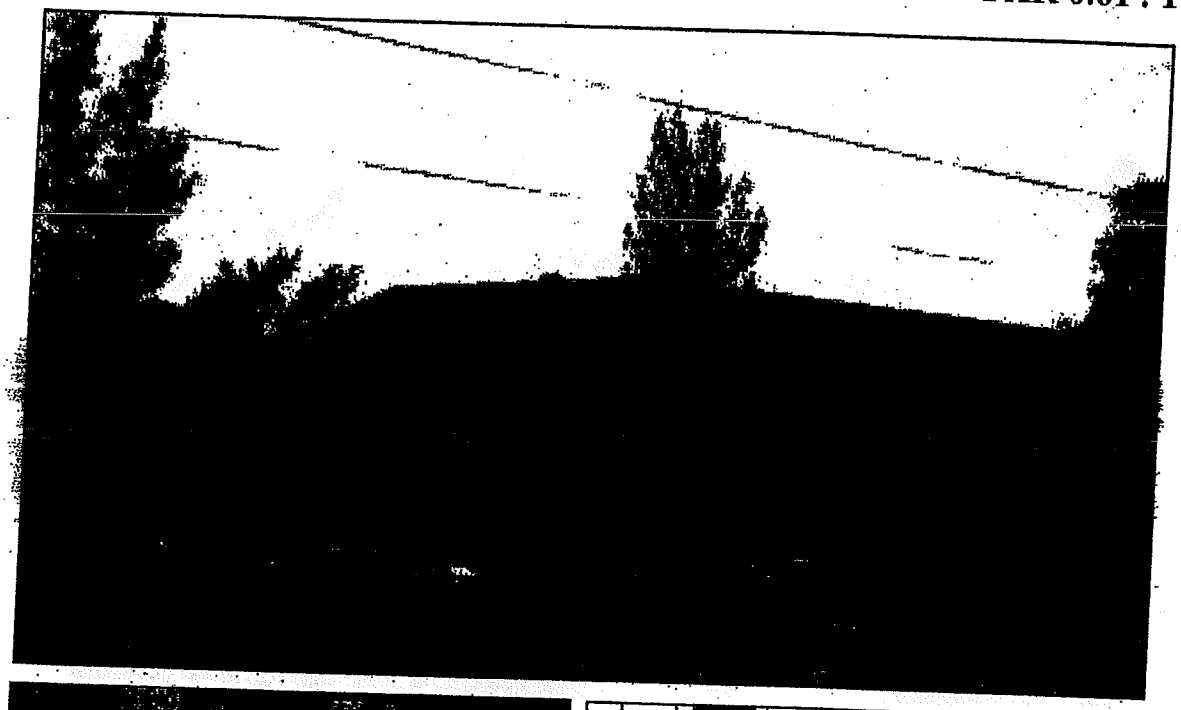


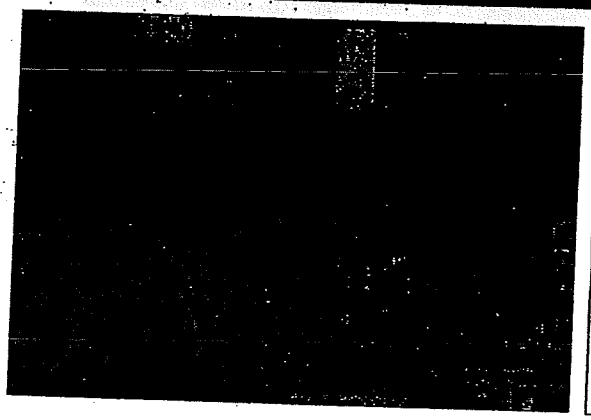
em No. 7
age 846

# Commercial

## C-11: 3100 Arapahoe Av

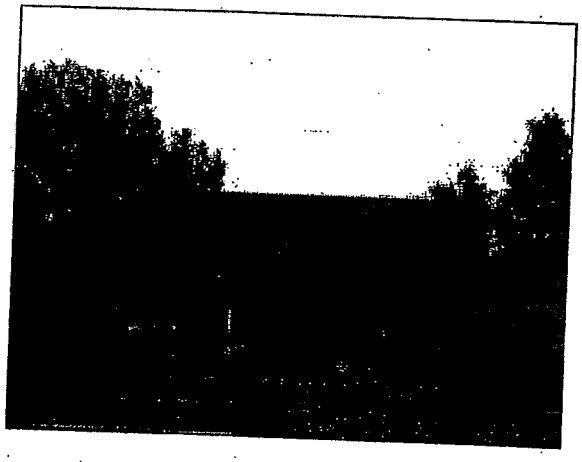
**FAR 0.61 : 1**





### Site Information

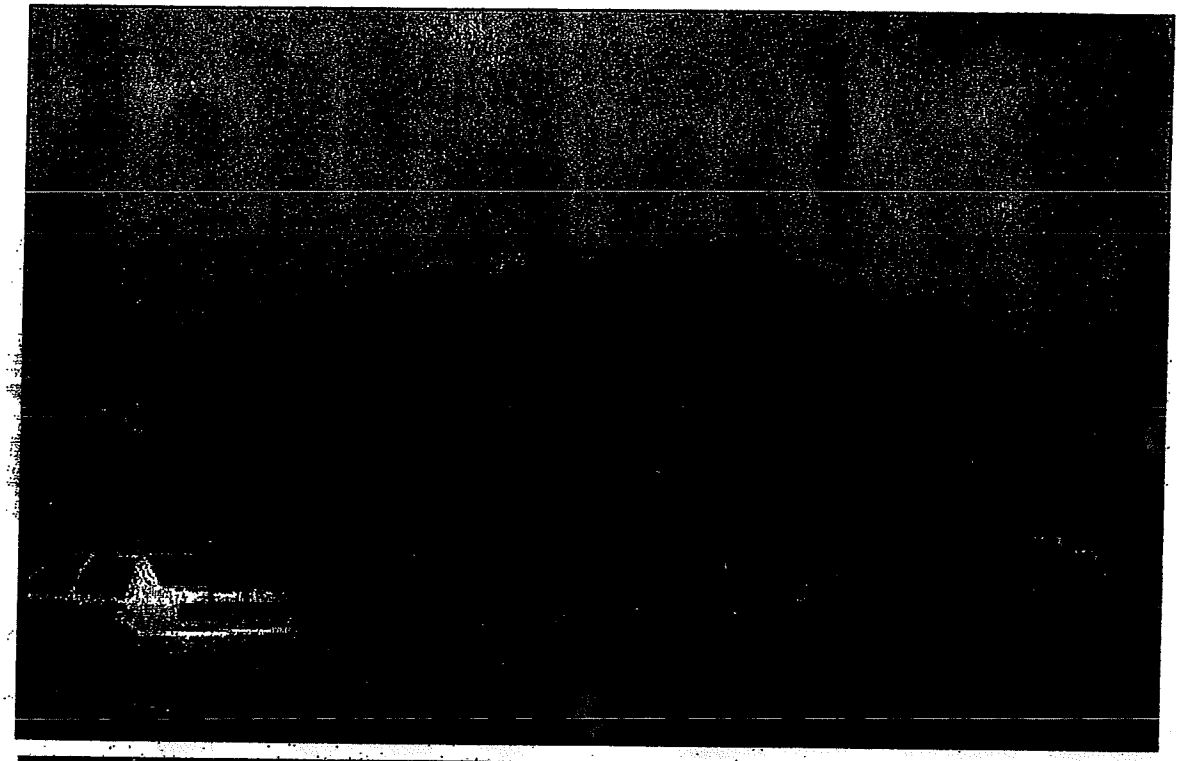
| | |
|---|---|
| **Existing Zoning:** | **RB-E** |
| **Gross Site Area:** | **75,650 sf** |
| **Floor Area:** | **46,170 sf** |
| **Year Built:** | **1982** |
| **FAR:** | **0.61 : 1** |

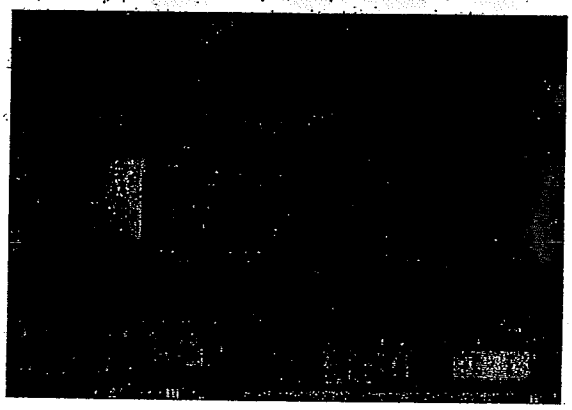


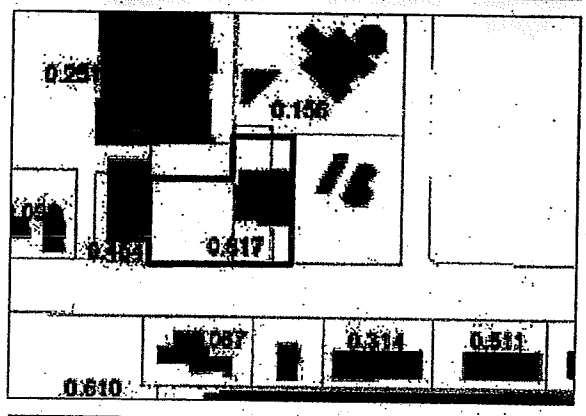
# Commercial

## C-12: 3223 Arapahoe Av

**FAR 0.62 : 1**

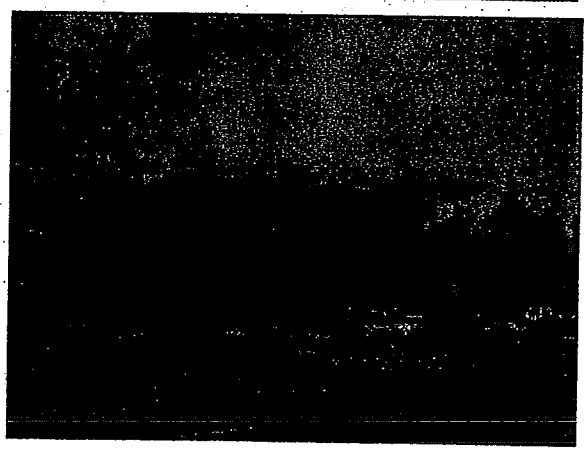







### Site Information

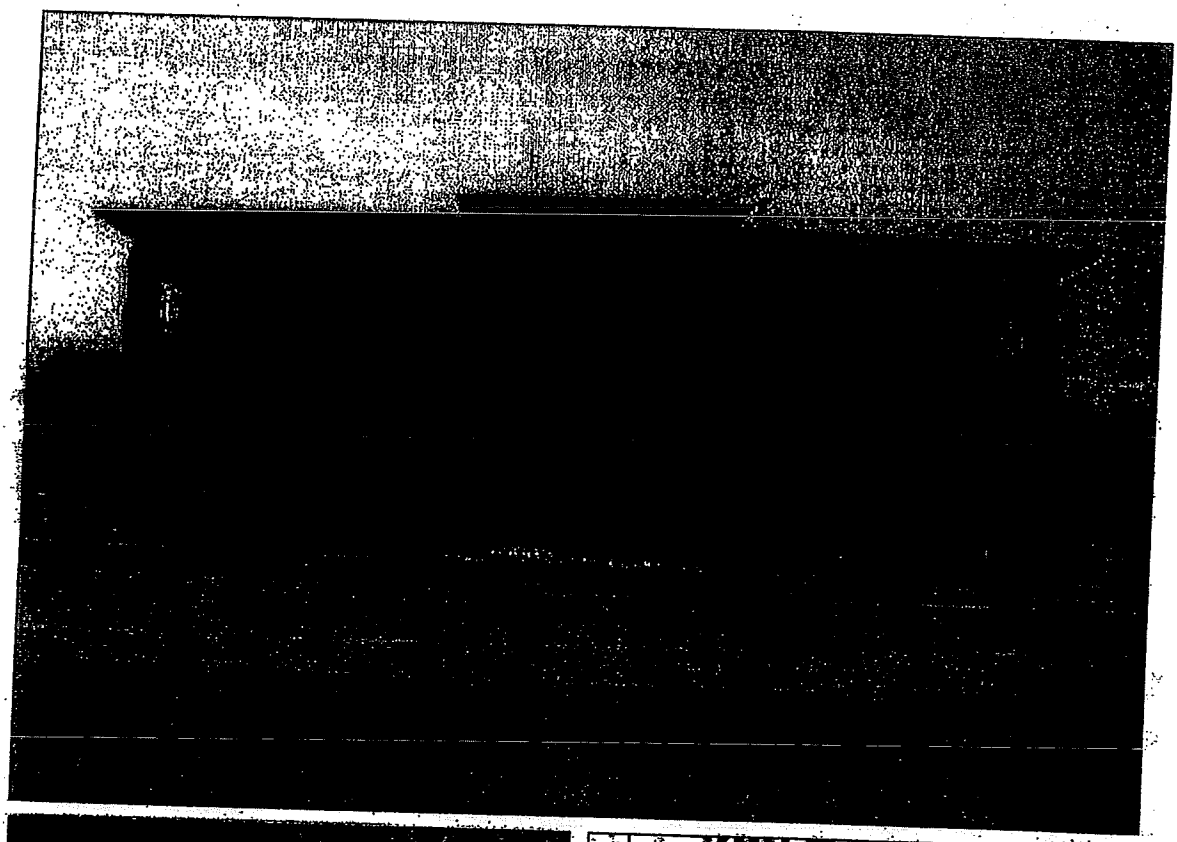
| | |
|---|---|
| **Existing Zoning:** | **RB-E** |
| **Gross Site Area:** | **43,155 sf** |
| **Floor Area:** | **26,662 sf** |
| **Year Built:** | **1987** |
| **FAR:** | **0.62 : 1** |

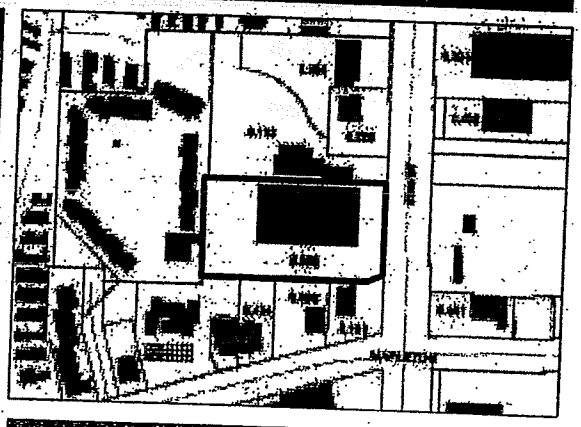


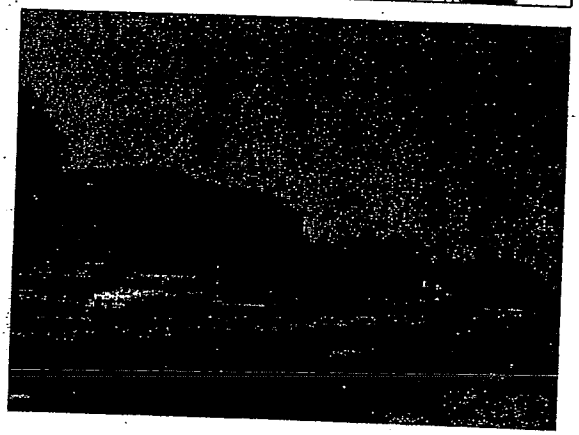
# Commercial

## C-13: 2525 28TH St

**FAR 0.63 : 1**







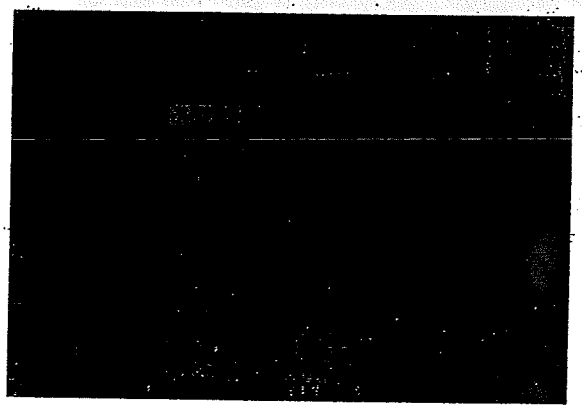
**Site Information**

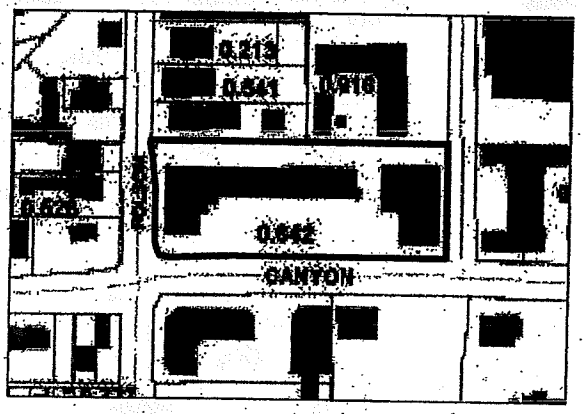
| | |
|---|---|
| **Existing Zoning:** | **CB-E** |
| **Gross Site Area:** | **63,663 sf** |
| **Building Size:** | **40,000 sf** |
| **Year Built:** | **2002** |
| **FAR:** | **0.63: 1** |

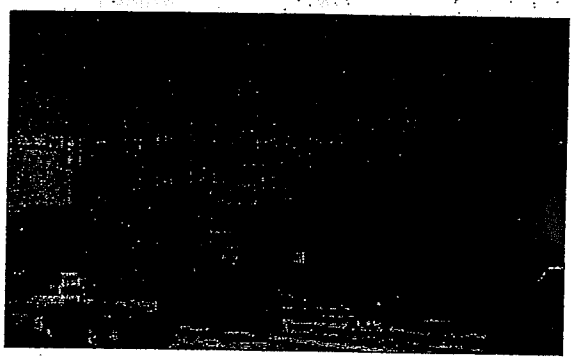
# Commercial

## C-14: 2425 - 2595 Canyon Blvd

**FAR 0.64 : 1**





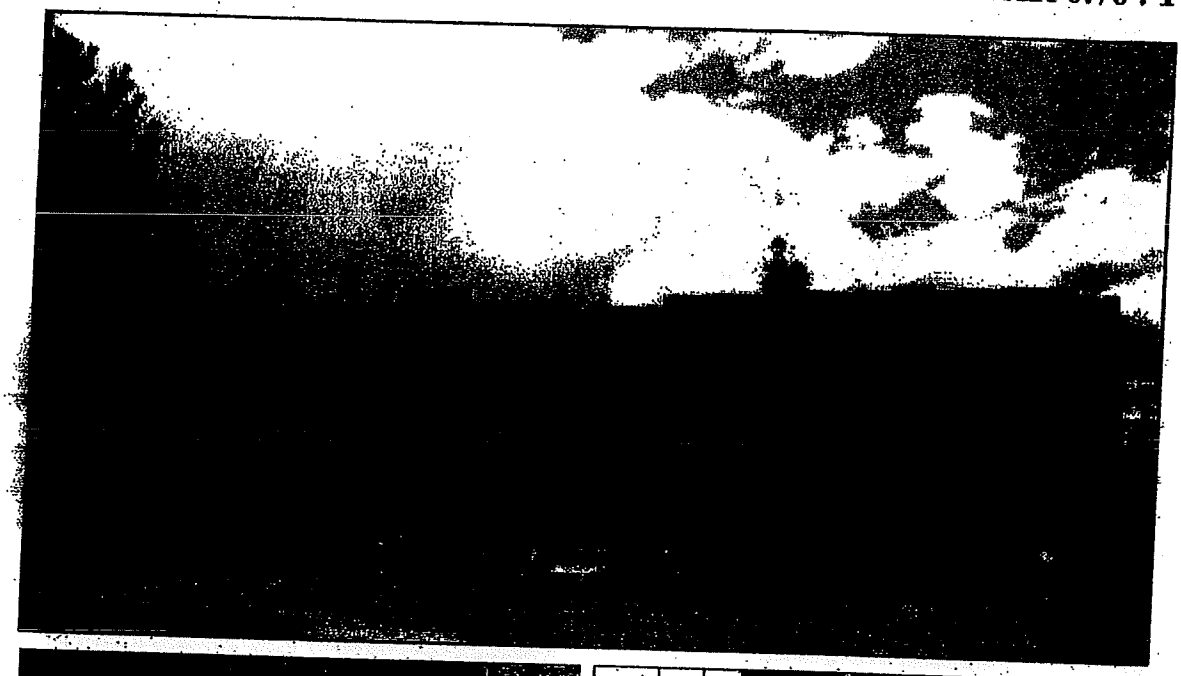
**Site Information**

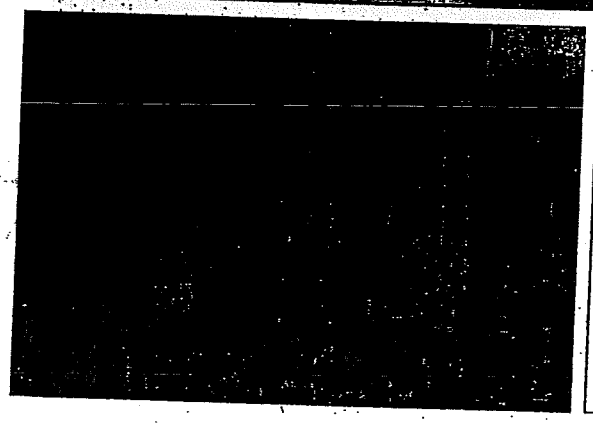
| | |
|---|---|
| **Existing Zoning:** | **RB-E** |
| **Gross Site Area:** | **171,289 sf** |
| **Floor Area:** | **109,968 sf** |
| **Year Built:** | **1987** |
| **FAR:** | **0.64 : 1** |

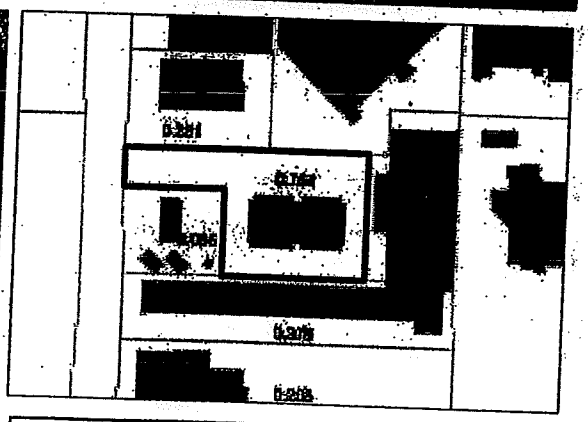
# Commercial

## C-15: 1790 30th St

**FAR 0.76 : 1**

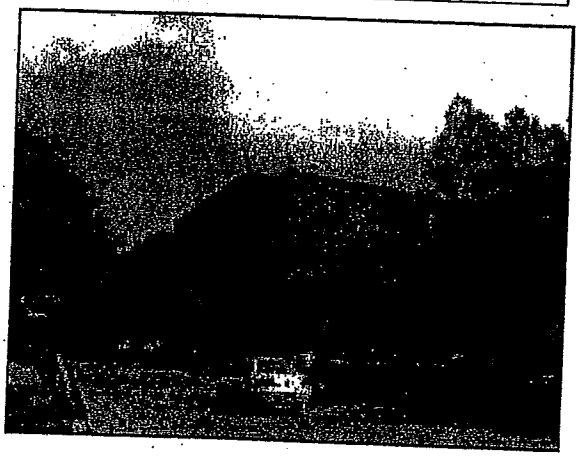






### Site Information

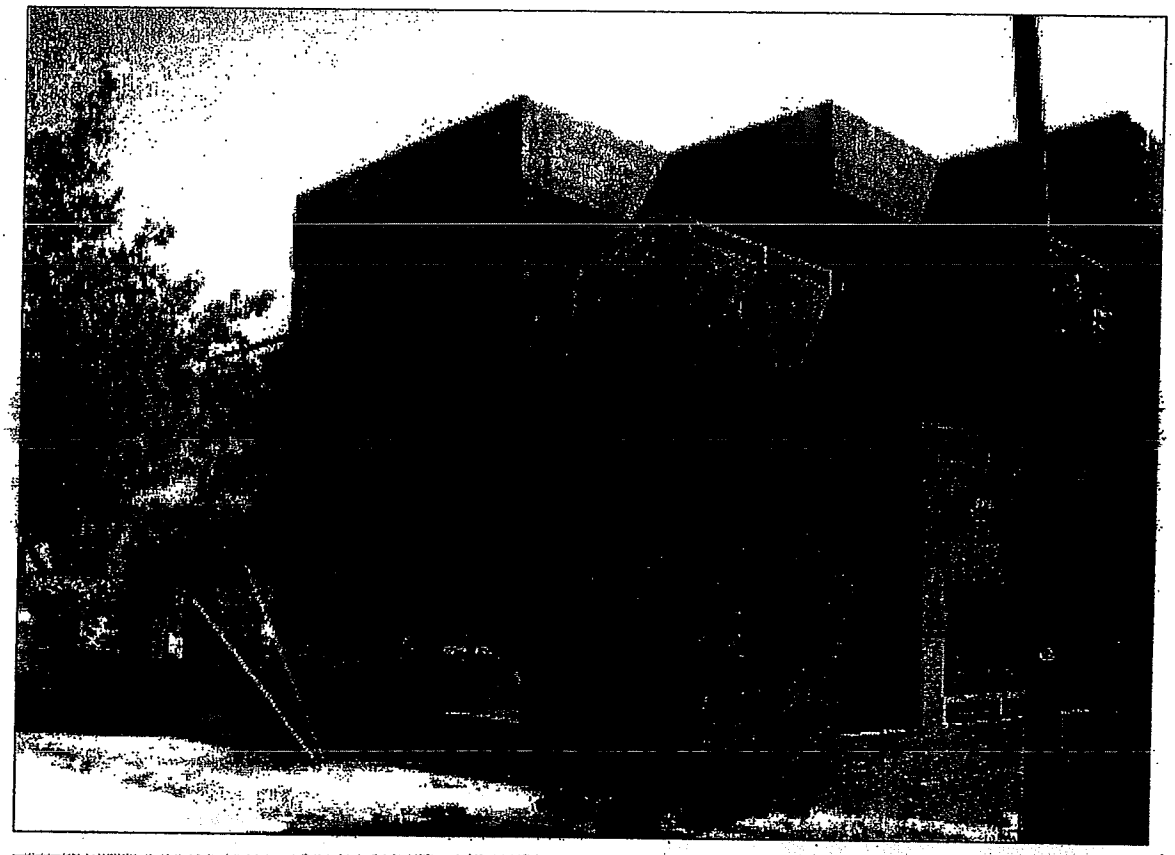
| | |
|---|---|
| **Existing Zoning:** | **RB-E** |
| **Gross Site Area:** | **78,844 sf** |
| **Floor Area:** | **60,192 sf** |
| **Year Built:** | **1974** |
| **FAR:** | **0.76 : 1** |

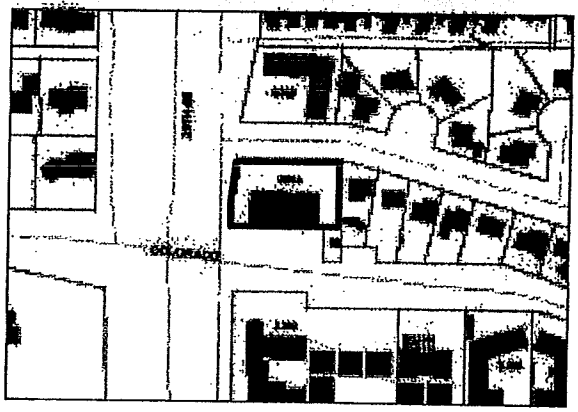


# Commercial

## C-16: 1200 28TH St

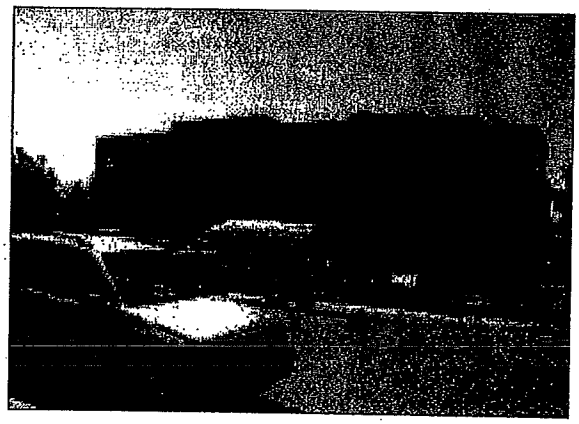
**FAR 0.81 : 1**





### Site Information

| | |
|---|---|
| **Existing Zoning:** | **TB-D** |
| **Gross Site Area:** | **23,958 sf** |
| **Floor Area:** | **19,369** |
| **Year Built:** | **1995** |
| **FAR:** | **0.81 : 1** |



# Planning & Design for Transit

March 1993

TRI-MET

Tri-County Metropolitan Transportation District of Oregon
4012 S.E. 17th Avenue
Portland, Oregon 97202

# Principles of Transit Supportive Development

"Transit supportive development" is a strategy to preserve regional mobility and quality of life, by reinforcing Tri-Met's transit system and supporting ridership growth. It recommends, simply, that land use planning be used to cluster new development along existing and planned transit corridors, such that walking and transit are viable transportation options. Land uses within walking distance of transit should be planned at densities that provide enough riders to warrant frequent service and configured such that many of our daily routines can be performed without using a car. Hand-in-hand with land use planning is a desire to make transit service work efficiently with today's lifestyles, by routing transit service to key job sites and residential areas, as well as providing shopping and recreational amenities in conjunction with transit. Achieving these goals will entail cooperation and coordination between Tri-Met (the transit provider), local jurisdictions (land use decision-makers), and the development community (ultimate implementors).

Not all development placed along transit lines will support an efficient transit system. For example, low density development, or uses that cater exclusively to autos, will not generate enough bus and light rail riders to make transit cost effective. Tri-Met's intent is to define and clarify what will make transit work, assist local jurisdictions in applying these strategies to existing and planned transit corridors within their communities, and commit to long-term service expansion in designated corridors in response to development projects, planned densities, circulation needs, and pedestrian improvements. As such, the fundamental principles of transit supportive development are as follows:

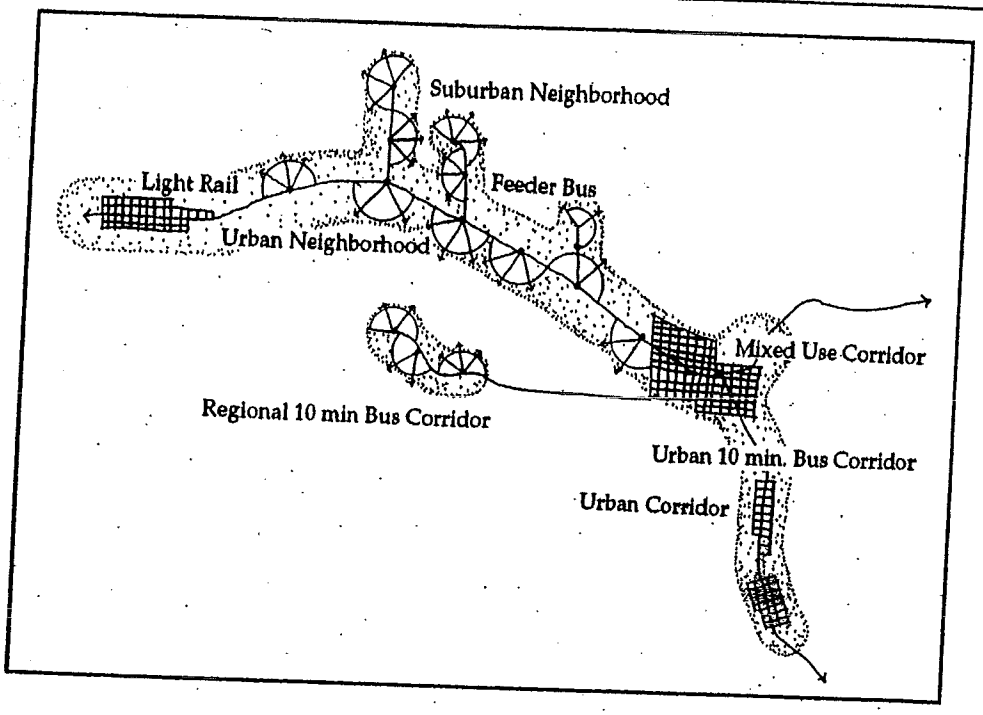
- Place Moderate and High Density Housing and Employment Within Walking Distance of Transit
- Mix Residential and Employment Uses with Shopping Opportunities and Public Facilities
- Provide Multiple and Direct Street Connections to Transit Stops and Shopping
- Design for Pedestrians, Without Excluding the Auto

While these principles may seem obvious, they are often absent from much of recent development patterns. In fact, many of the concepts embodied in transit supportive development reflect the design character of Portland's original streetcar neighborhoods, but are tailored to work with today's lifestyles and market practices.

The concepts of transit supportive development will be pursued at two levels:

- Primary Transit Network — a system of designated transit corridors made up of LRT station areas, urban and suburban 10 minute bus corridors and targeted feeder bus corridors. Within these designated corridors, transit supportive development should occur within ½ mile of the LRT stations and ¼ mile of the bus routes.
- Pedestrian Districts — designated nodes of transit-supportive development within transit corridors.

The transit supportive development Concept involves placing moderate and

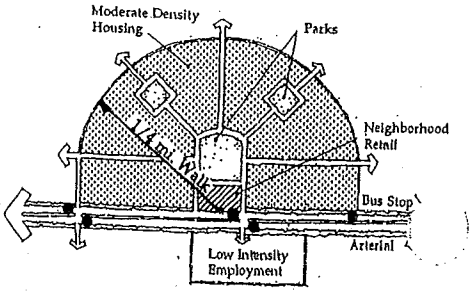



high density housing and jobs, along with complementing public uses, retail and services in mixed-use developments located at strategic points along the Primary Transit Network, called Pedestrian Districts. Each Pedestrian District has a centrally located transit stop and core commercial area; accompanying residential and/or employment uses are all located within walking distance of the transit stop. The location, design, configuration, and mix of uses in a Pedestrian District provides an alternative to current development patterns by emphasizing a pedestrian-oriented environment and reinforcing the use of public transportation.

The mix of uses within each Pedestrian District will strike a balance between satisfying market demand for different land uses, complementing the physical character of an area, and generating the ridership necessary to support the types of transit service Tri-Met intends to provide. Density and mix of uses will vary depending on where a Pedestrian District is located. Pedestrian Districts with high frequency transit service will be targeted for intensive employment and housing uses; Pedestrian Districts with less frequent transit service will have lower density residential and neighborhood uses.

The following sections describe the fundamental principles of transit supportive development and how they will be manifested along the Primary Transit Network and Pedestrian Districts.

## Place Moderate and High Density Housing and Employment Within Walking Distance of Transit




A healthy transit system depends, in part, on concentrating potential riders along a limited number of Transit Corridors so that serving those riders can be done frequently and efficiently. Studies by transit agencies throughout the country have found that people are most likely to use transit for their commute if they can walk a maximum of two to four blocks to a bus stop or light rail station which takes them directly to their place of work.[1] Residential densities need to be at least an average of 8 du/net ac to support viable feeder bus service and an average of 15 du/net ac to support light rail and high

frequency bus service. Similarly, employment-generating uses need to provide at least 20 jobs/acre to support bus service and 30 jobs/acre to support LRT.[2]

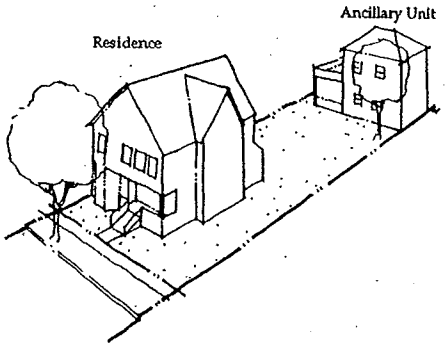
The transit supportive development concept recommends that a majority of all new intensive jobs and housing in the Portland region be within a five to ten minute walk to transit. While everyone will not use transit, placing a strong bus and light rail system within walking distance will encourage some. Even if the same percentage of people use transit, the greater concentration of potential riders will boost ridership levels, as well as allow people to walk to more of their destinations.

The Pedestrian District design guidelines (Chapter 4) provide strategies for locating the most intensive employment and housing development adjacent to light rail stops and the most frequent types of bus services (10 Minute Bus Corridors) and moderate density residential-oriented neighborhoods along feeder bus lines. Transit utilization in Pedestrian Districts will increase over time as the mix of uses reaches build-out, as a Transit Corridor develops, and as residents and employees see the convenience of transit service.

The compact patterns of transit supportive development provide additional benefits beyond increasing ridership. Transit supportive development requires efficient use of land within the Urban Growth Boundary and potentially limits the need to expand the boundary in the future. Its higher density housing located along the Primary Transit Network can reduce household travel costs and auto expenses, as well as provides a range of affordable housing opportunities for diverse types of households. And, it is a benefit to businesses in Portland because employees are freed of the gridlock and high housing costs of other growing regions in the country.

## *Housing in Pedestrian Districts*

The residential densities in Pedestrian Districts are designed to support a transit system that runs at frequent headways to important destinations in the region. Housing within a Pedestrian District will be built at medium to high densities to maximize the opportunity for residents to walk to a commercial core and transit stop. The outer edge of the Pedestrian District residential area should be an average ¼ mile from bus stops and ½ mile from light rail stops. Homes within the Pedestrian Districts will form neighborhoods with easy pedestrian access to commercial centers, schools, parks and public transportation.




Each type of Pedestrian District will provide a mix of residential types to meet minimum and average density standards. These density requirements vary based on proximity to transit and local context, yet in all cases, residential densities are set to match local market conditions and accepted building practices. Density requirements should be achieved by building a mix of single-family and attached housing. Housing types could include: standard and small lot single-family homes, small lot single-family homes with ancillary units, duplexes, townhouses, garden apartments and condominiums, and the possibility of some housing above retail within the commercial cores. Both the carriage homes and duplexes can be used to make a smooth transition from higher density housing types to more traditional single-family neighborhoods, while providing medium density housing with single-family character.

# The Next American Metropolis

## Ecology, Community, and the American Dream

PETER CALTHORPE

Guidelines with Shelley Poticha

Princeton Architectural Press

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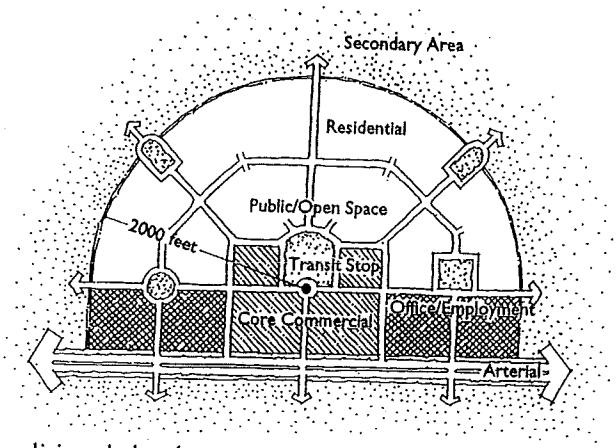
# *Definitions*

## Transit-Oriented Development (TOD)

A Transit-Oriented Development (TOD) is a mixed-use community within an average 2,000-foot walking distance of a transit stop and core commercial area. TODs mix residential, retail, office, open space, and public uses in a walkable environment, making it convenient for residents and employees to travel by transit, bicycle, foot, or car.




TODs offer an alternative to traditional development patterns by providing housing, services, and employment opportunities for a diverse population in a configuration that facilitates pedestrian and transit access.

They can be developed throughout a metropolitan region on undeveloped sites in urbanizing areas, sites with the potential for redevelopment or reuse, and in new urban growth areas. Their uses and configuration must relate to existing surrounding neighborhoods.

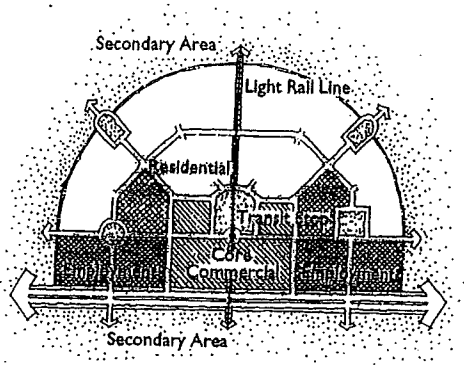
They must be located on or near existing or planned segments of a trunk transit line or feeder bus network. Adequate auto accessibility is also important. These design guidelines establish standards for site selection and development to ensure that TODs succeed in providing a mix of uses, a variety of housing types, and a physical environment that is conducive to pedestrian and transit travel. Developing a network of TODs throughout the region will also serve to strengthen the overall performance of the regional transit system.

The size of a TOD must be determined on a case-by-case basis. The average 2,000-foot radius is intended to represent a "comfortable walking distance" (±10 minutes) for a majority of people. In some locations, comfortable walking distance is affected by topography, climate, intervening arterials or freeways, and other physical features. Therefore, their size will be greater or lesser depending on surrounding features.

# Urban TOD

Urban TODs are located directly on the trunk line transit network: at light rail, heavy rail, or express bus stops. They should be developed with high commercial intensities, job clusters, and moderate to high residential densities.

Each TOD may assume a different character and mix of uses depending on its location within the region, market demands, and the surrounding land uses. Urban TODs are suitable for job-generating and high-intensity uses such as offices, community-serving retail centers, and moderate- to high-density housing because they allow direct access to the transit system without requiring passengers to transfer. Similarly, the intensity of development along the trunk line network should reflect the significant investment necessary to construct the transit system and should generate the greatest number of transit-bound trips.



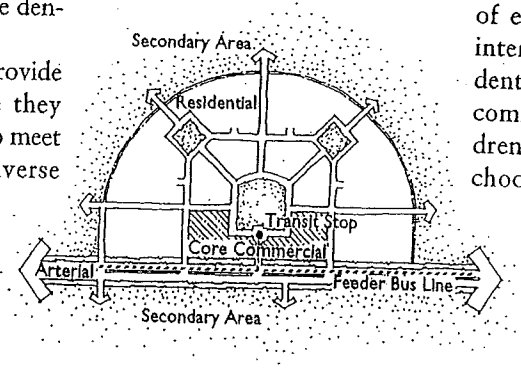

Special development guidelines are recommended for sites that are highly accessible by trunk line transit to permit higher-density residential development and to encourage a higher percentage of job-generating uses. When Urban TODs are located in existing developed neighborhoods, it may be appropriate to apply the densities and mix of uses recommended by a local planning effort. Urban TODs are typically sited approximately 1/2 to 1 mile apart to meet station spacing guidelines, although they could be sited closer together, as transit planning and market demand permit.

# Neighborhood TOD

Neighborhood TODs are located on a local or feeder bus line within 10 minutes transit travel time (no more than 3 miles) from a trunk line transit stop. They should place an emphasis on moderate density residential, service, retail, entertainment, civic, and recreational uses.

Neighborhood TODs should have a residential and local-serving shopping focus at densities appropriate for its context and lesser transit service level. Where the feeder bus stops are frequent, TODs can be sited close together and form a "corridor" of moderate density, mixed-use nodes.

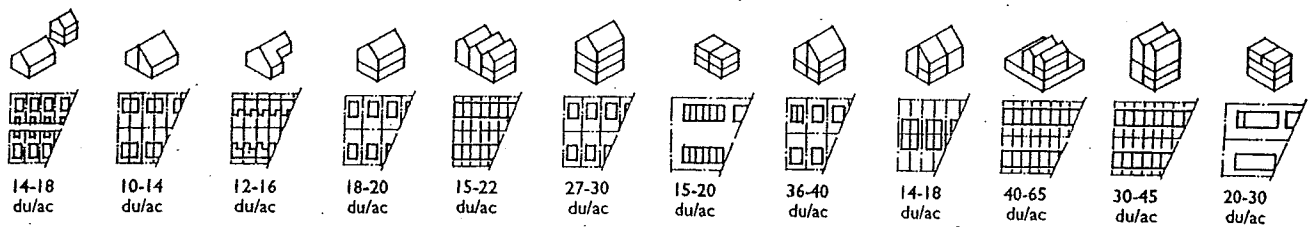
Neighborhood TODs can help provide affordable communities because they include a variety of housing types to meet the needs of our increasingly diverse population in a land use pattern that minimizes the need for multiple car ownership. If properly designed, Neighborhood TODs can meet local needs for public facilities and parks, respect the character and quality of existing neighborhoods, and limit inter-community traffic through residential areas. They are also walkable communities, providing access for children, the elderly, and those adults who choose to walk or bike.



# *Residential Areas*

## Residential Densities

Residential densities within Neighborhood TODs must be a minimum of 7 units per net acre and a minimum average of at least 10 units per net acre. Residential densities within Urban TODs must be a minimum of 12 units per net acre and have a minimum average of at least 15 units per net acre. Maximum densities should be set by local plans.




The range of permissible densities is designed to encourage transit ridership, as well as provide a variety of housing types. Residential densities are measured in net densities on residential land area. Minimum densities are established to avoid "squandering" valuable transit-accessible land.

Small-lot single-family homes can range from seven to ten units per acre. Single-family homes with ancillary units are feasible between 12 and 17 units per net acre. Ancillary units are calculated as 1 unit per lot. For example, a 4,500 sq-ft or smaller lots will create densities of 16 units/net acre or greater if developed with an ancillary unit. Townhouses can provide between 18 and 29 units per acre. Apartment buildings up to three stories can provide densities of 35-50 du/net acre. Actua. densities should strike a balance between emphasizing the impor-tance of development around transit stops and blending in with existing surrounding neighborhoods.

The required "minimum average" density requirement allows flexibility to respond to changing market conditions and encourages a mix of housing types. The range of permissible residential densities which can be combined to achieve this "minimum average" density is broad, with its maximum determined by the nature of the surrounding community.

## Ancillary Units

Ancillary "granny" units are encouraged to increase affordability and diversity. These units should be located in the single-family portion of residential areas. The additional unit will be counted toward meeting the minimum average density requirement.

Ancillary units, or second units, create affordable rental units without changing the character and quality of single-family areas. They can also serve to offset housing costs for the primary unit, provide needed space for a teenager or elderly family member, or act as transitional single-family housing. Ancillary units can be

## The Written Record For This Proceeding

Task 1 submittal:

1. City Ordinance No. 4795
2. McMinnville Economic Opportunities Analysis (**EOA**), November 2001

UGB task submittal:

1. City Ordinance No. 4796
2. County Ordinance No. 730
3. McMinnville Growth Management and Urbanization **Plan (MGMUP)**, May 2003
4. McMinnville Growth Management and Urbanization Plan: **Findings**, October 2003
5. McMinnville Growth Management and Urbanization Plan: **Appendices**, May 2003
6. McMinnville Residential Land Needs Analysis (**RNA**), ECONorthwest, May 2001

Objections:

1. 1000 Friends of Oregon, Friends of Yamhill County and Larry Rucker
2. Community Development Law Center (CDLC)
3. Mr. Mark Davis

DLCD staff report with responses to objections and other attachments

Exceptions to the department's report:

1. 1000 Friends of Oregon, Friends of Yamhill County and Larry Rucker
2. Community Development Law Center (CDLC)
3. Mr. Mark Davis
4. City of McMinnville

Any written response from the department to the exceptions
(A written response can be submitted up to the time of the Commission's hearing.)