



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING  
2051 KAEN ROAD | OREGON CITY, OR 97045

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**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
Assistants

June 11, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

**Adoption of an Ordinance Related to a Previously Approved Comprehensive Plan  
Amendment ZDO-278: 6.42-Acre Expansion of Sandy Urban Growth Boundary**

<b>Purpose/Outcomes</b>	<i>Adopt an ordinance to amend the Clackamas County Comprehensive Plan</i>
<b>Dollar Amount and Fiscal Impact</b>	<i>N/A</i>
<b>Funding Source</b>	<i>N/A</i>
<b>Duration</b>	<i>Indefinitely</i>
<b>Previous Board Action</b>	<i>Board of County Commissioners held a public hearing on June 3, 2020</i>
<b>Strategic Plan Alignment</b>	<i>1. Build public trust through good government.</i>
<b>Contact Person</b>	<i>Nate Boderman, Assistant County Counsel; 503-655-8364</i>
<b>Contract No.</b>	<i>N/A</i>

**BACKGROUND:**

ZDO-278, corresponding to Planning File No. Z0004-20-CP, is an amendment to the Clackamas County Comprehensive Plan to include within the City of Sandy Urban Growth Boundary approximately 4.37 acres of T2S R4E Section 23, Tax Lot 701 and approximately 2.05 acres of an adjacent section of Hwy 211, for a total of 6.42 contiguous acres, as shown on Pages 8-10 of the attached Findings of Fact.

The UGB expansion is necessary to provide: a planned Gunderson Road minor arterial connection between planned urban development and Hwy 211; a roughly 2.38-acre public park on the north side of Hwy 211 in an area adjacent to planned urban development; and associated stormwater facilities.

The Planning Commission held a public hearing on March 9, 2020 for the proposed amendment described above. The Planning Commission voted 5-0 to recommend to the Board that the amendment be approved with three conditions:

1. The City of Sandy (the “City”) urban growth boundary (UGB) shall be expanded to include only the approximately 6.42-acre area (the “expansion area”) identified in plans submitted on February 13, 2020, with all relevant maps of the Clackamas County Comprehensive Plan updated accordingly;
2. The expansion area shall only be used for the public facilities described in the application, including a section of Gunderson Road connecting to Highway 211, a roughly 2.38-acre public park, and associated stormwater facilities; and
3. In the development of the public facilities, the Barlow Road Historic Corridor shall be considered and impacts caused by the extension of Gunderson Rd and highway improvements, construction staging activities, and excavation for the stormwater facility shall be minimized. Visibly apparent portions of the Barlow Road (e.g., ruts) that may be in the park land area shall be preserved.

The Board of County Commissioners held a public hearing on May 6, 2020, which was continued to June 3, 2020, to consider the application and the recommendation from the Planning Commission and to accept public testimony. The Board voted 5-0 to approve ZDO-278 as recommended by staff and the Planning Commission. The Board then directed staff to draft an ordinance, along with findings supporting the Board’s oral decision in the matter.

A copy of the relevant ordinance, with findings and conclusion to be adopted by the Board, have been provided with this report. The conditions listed above have been incorporated and would be adopted in the event the Board votes to approve the ordinance.

**RECOMMENDATION:**

Staff respectfully requests that the Board adopt the proposed ordinance and findings of fact.

Respectfully submitted,



Nate Boderman  
Assistant County Counsel

Attachments:

1. Proposed Ordinance
2. Findings of Fact

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of An Ordinance  
Amending the Clackamas  
County Comprehensive Plan

**Ordinance No. ZDO-278**



Order No. \_\_\_\_\_

*Page 1 of 3*

**Whereas**, Allied Homes & Development made an application in Planning File No. Z0004-20-CP for an amendment to the Clackamas County Comprehensive Plan expanding the City of Sandy's urban growth boundary (UGB) by 6.42 acres; and

**Whereas**, the proposed expansion area is comprised of approximately 4.37 acres of T2S R4E Section 23, Tax Lot 701 and approximately 2.05 acres of an adjacent section of Hwy 211, for a total of 6.42 contiguous acres, as described in the attached Findings of Fact; and

**Whereas**, the proposed expansion is needed to accommodate: a planned Gunderson Road minor arterial connection between planned urban development and Hwy 211; a roughly 2.38-acre public park on the north side of Hwy 211 in an area adjacent to planned urban development; and associated stormwater facilities; and

**Whereas**, approval of the application requires compliance with: Statewide Planning Goals; Oregon Administrative Rules (OAR) chapter 660, divisions 12 and 24; Clackamas County Comprehensive Plan Chapters 2, 4, and 11; and Zoning and Development Ordinance (ZDO) Sections 202 and 1307; and

**Whereas**, after a duly-noticed public hearing on March 9, 2020, the Clackamas County Planning Commission recommended approval of subject to three conditions; and

**Whereas**, the Board of County Commissioners held a duly-noticed public hearing on May 6, 2020, and continued the public hearing to June 3, 2020; and

**Whereas**, at the continued public hearing on June 3, 2020, the Board of County Commissioners received public testimony and took up deliberation on the recommendations before finding that the application complies with all relevant Statewide Planning Goals, OARs, Comprehensive Plan Chapters, and ZDO Sections and orally approving the application, subject to the Planning Commission's recommendations; now therefore:

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of An Ordinance  
Amending the Clackamas  
County Comprehensive Plan

**Ordinance No. ZDO-278**



Order No. \_\_\_\_\_

*Page 2 of 3*

Based on the evidence and testimony presented, of Commissioners of Clackamas County makes the following findings and reaches the following conclusions:

1. Allied Homes & Development requests approval for an amendment to the Clackamas County Comprehensive Plan expanding the City of Sandy’s urban growth boundary (UGB) by 6.42 acres, as identified in Ordinance Exhibit A (map).
2. This Board adopts as its findings and conclusions the “Findings of Fact for ZDO 278” document attached hereto and incorporated herein as Ordinance Exhibit B, which finds the application to be in compliance with the applicable criteria.

The Board of Commissioners of Clackamas County ordains as follows:

- Section 1:** The requested Comprehensive Plan amendment is hereby APPROVED, subject to the following conditions of approval.
- Section 2:** The City of Sandy (the “City”) urban growth boundary (UGB) shall be expanded to include only the approximately 6.42-acre area (the “expansion area”) identified in plans submitted on February 13, 2020, and in the attached Findings of Fact, with all relevant maps of the Clackamas County Comprehensive Plan updated accordingly.
- Section 3:** The expansion area shall only be used for the public facilities described in the application, including a section of Gunderson Road connecting to Highway 211, a roughly 2.38-acre public park, and associated stormwater facilities.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of An Ordinance  
Amending the Clackamas  
County Comprehensive Plan

**Ordinance No. ZDO-278**



Order No. \_\_\_\_\_

*Page 3 of 3*

**Section 4:** In the development of the public facilities, the Barlow Road Historic Corridor shall be considered and impacts caused by the extension of Gunderson Rd and highway improvements, construction staging activities, and excavation for the stormwater facility shall be minimized. Visibly apparent portions of the Barlow Road (e.g., ruts) that may be in the park land area shall be preserved.

ADOPTED this 11th day of June, 2020.

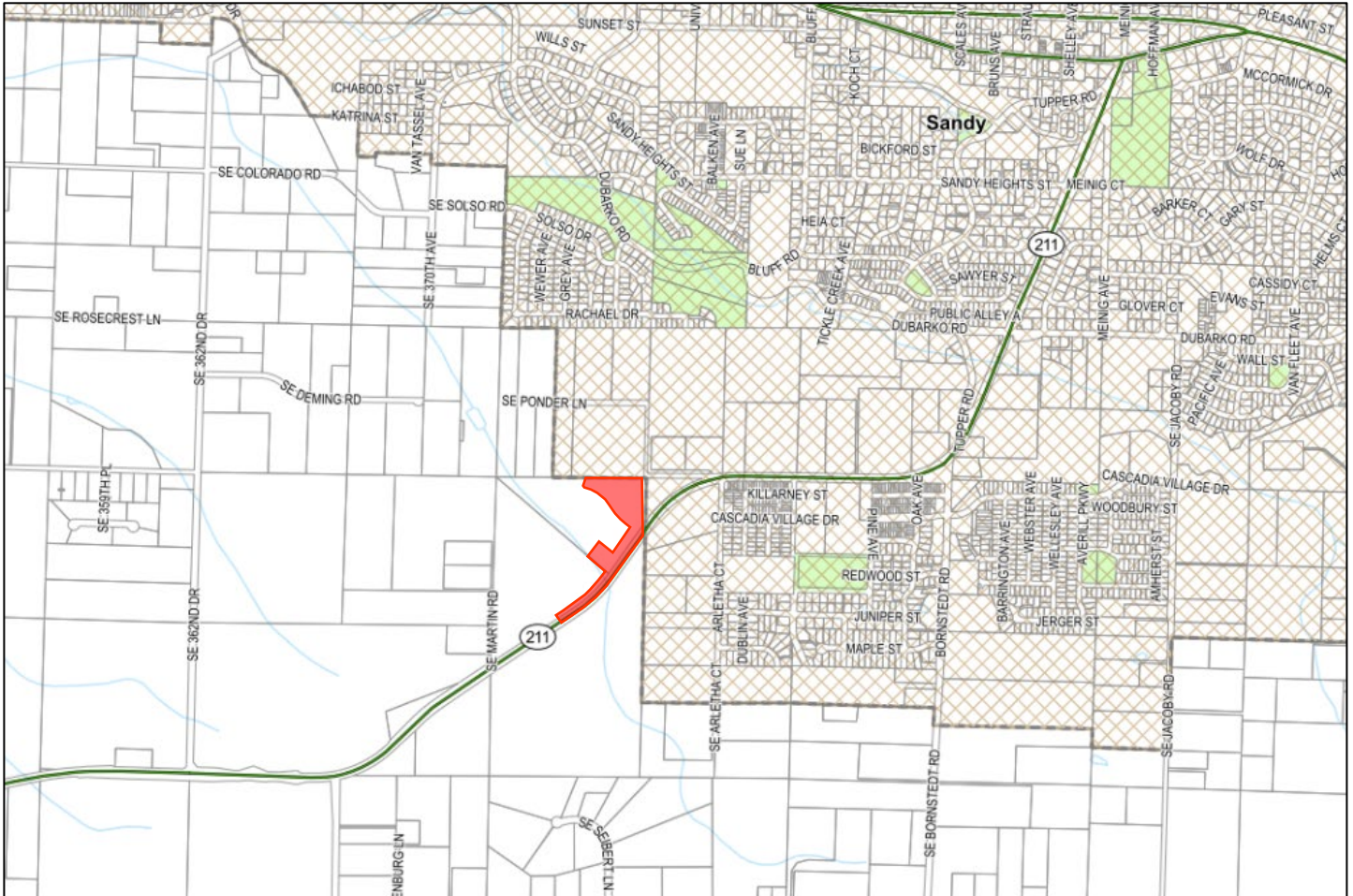
**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

# EXHIBIT A

**City of Sandy UGB expansion area, highlighted red, in relation to UGB prior to adoption of ZDO-278 (File No. Z0004-20-CP)**



TAX LOT 807  
TAX MAP  
2 4E 23

TAX LOT 800  
TAX MAP  
2 4E 23

TAX LOT 803  
TAX MAP 2 4E 23

PONDER LANE



SCALE: 1"=150 FEET



TAX LOT 701  
TAX MAP 2 4E 23

TAX LOT 700  
TAX MAP 2 4E 23

TAX LOT 502  
TAX MAP 2 4E 23

TAX LOT 518  
TAX MAP 2 4E 23

TAX LOT 501  
TAX MAP 2 4E 23

WOODBURN SANDY  
HIGHWAY

- ① PARK LAND
- ② PERMANENT SLOPE EASEMENT/  
TEMPORARY CONSTRUCTION EASEMENT
- ③ PUBLIC RIGHT-OF-WAY DEDICATION
- ④ PUBLIC UTILITY EASEMENT
- ⑤ STORMWATER TRACT
- ⑥ PERMANENT SLOPE EASEMENT/  
TEMPORARY CONSTRUCTION EASEMENT
- ⑦ HIGHWAY ANNEXATION

2/11/2020  
 REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR  
 BENJAMIN R HUFF  
 OREGON  
 MARCH 14, 2017  
 BENJAMIN R HUFF  
 84738PLS  
 RENEWS: 6/30/21

**PREPARED FOR**  
 ALLIED HOMES & DEVELOPMENT  
 12042 SE SUNNYSIDE ROAD, SUITE 706  
 CLACKAMAS, OR 97015

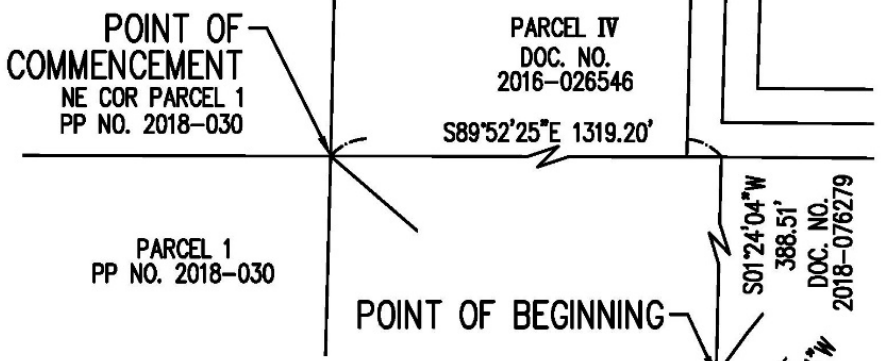
SE PONDER LANE - SANDY		EXHIBIT KEY
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 503.563.6151 WWW.AKS-ENG.COM		DRWN: WCB CHKD: BRH AKS JOB: 7107



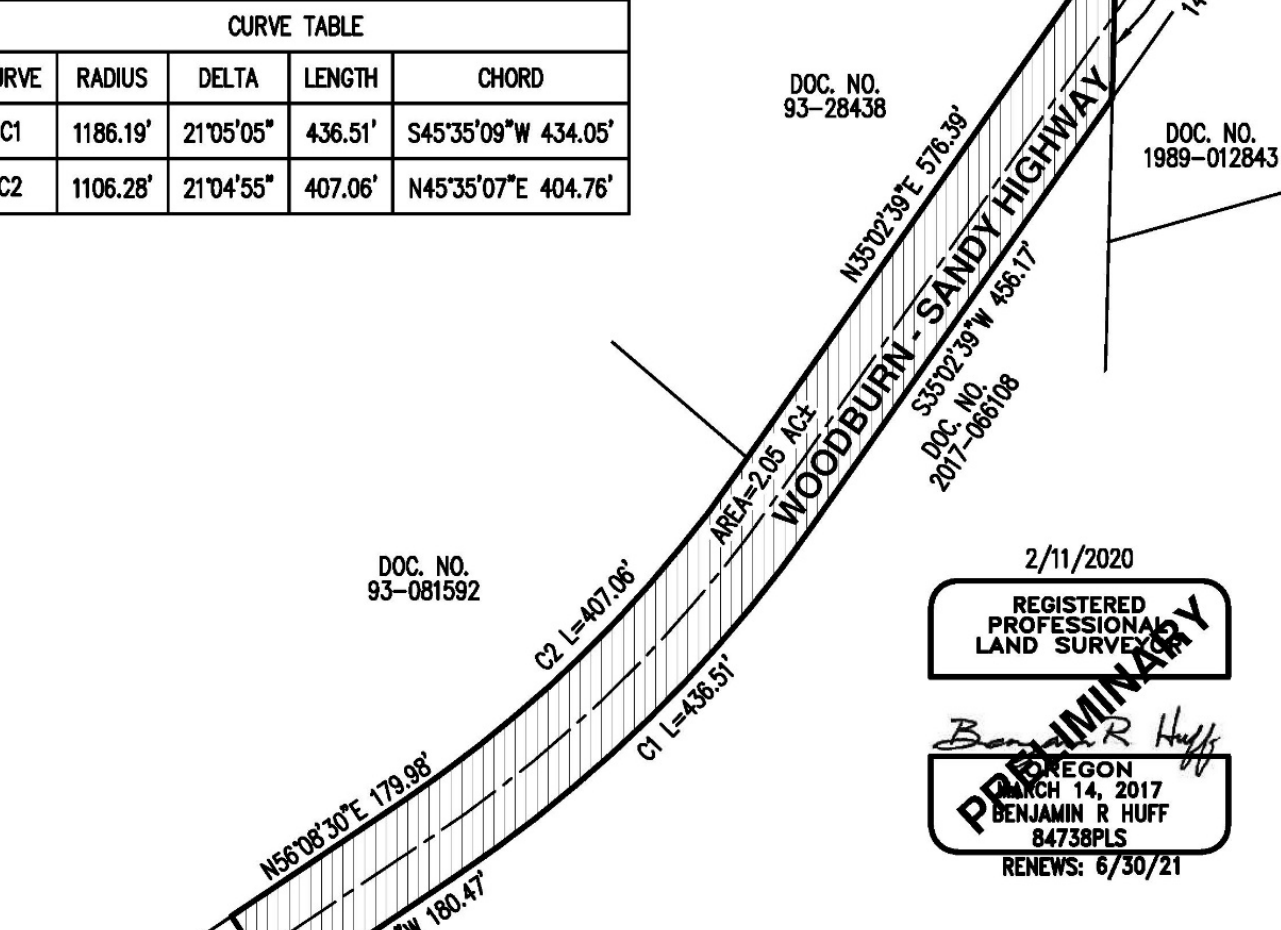
A PORTION OF RIGHT-OF-WAY LOCATED IN THE NORTHEAST 1/4 OF SECTION 23,  
TOWNSHIP 2 SOUTH, RANGE 4 EAST, WILLAMETTE MERIDIAN,  
CLACKAMAS COUNTY, OREGON



SCALE: 1" = 150 FEET



CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	1186.19'	21°05'05"	436.51'	S45°35'09"W 434.05'
C2	1106.28'	21°04'55"	407.06'	N45°35'07"E 404.76'



DOC. NO.  
93-081592

DOC. NO.  
93-28438

DOC. NO.  
1989-012843

2/11/2020

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Benjamin R Huff*

OREGON  
MARCH 14, 2017  
BENJAMIN R HUFF  
84738PLS  
RENEWS: 6/30/21

ANNEXATION MAP		EXHIBIT <b>B</b>
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 503.563.6151 WWW.AKS-ENG.COM		DRWN: WCB CHKD: BRH AKS JOB: 7107



DWG: 7107 20200211 ROW EXHIBIT | EX88





## Exhibit B

### FINDINGS OF FACT FOR ZDO-278:

#### *6.42-Acre Expansion of Sandy Urban Growth Boundary (Planning File No. Z0004-20-CP)*

#### **SECTION I: GENERAL INFORMATION**

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**Planning File No.** Z0004-20-CP

**Adoption Date:** June 11, 2020

**Applicant:** Allied Homes & Development

**Property Owners:** Lawrence Pullen, Richard L. Pullen, and Sherrene Lanette TenEyck

**Proposal:** Inclusion within the City of Sandy Urban Growth Boundary of approximately 4.37 acres of Tax Lot 701 of Map 24E23 and approximately 2.05 acres of an adjacent section of Hwy 211, for a total of 6.42 contiguous acres, as shown on Pages 8-10 of these findings

**Property Location:** The eastern portion of Tax Lot 701 on the northwest side of Hwy 211 southwest of SE Ponder Ln and south of and adjacent to existing Sandy city limits, as well as a roughly 900-foot-long adjacent section of Hwy 211 between SE Martin Rd to the west and Arletha Ct to the east, all of which is inside of the City of Sandy Urban Reserve Area (URA)

**Subject Map and Tax Lot:** T2S R4E Section 23, Tax Lot 701, W.M.

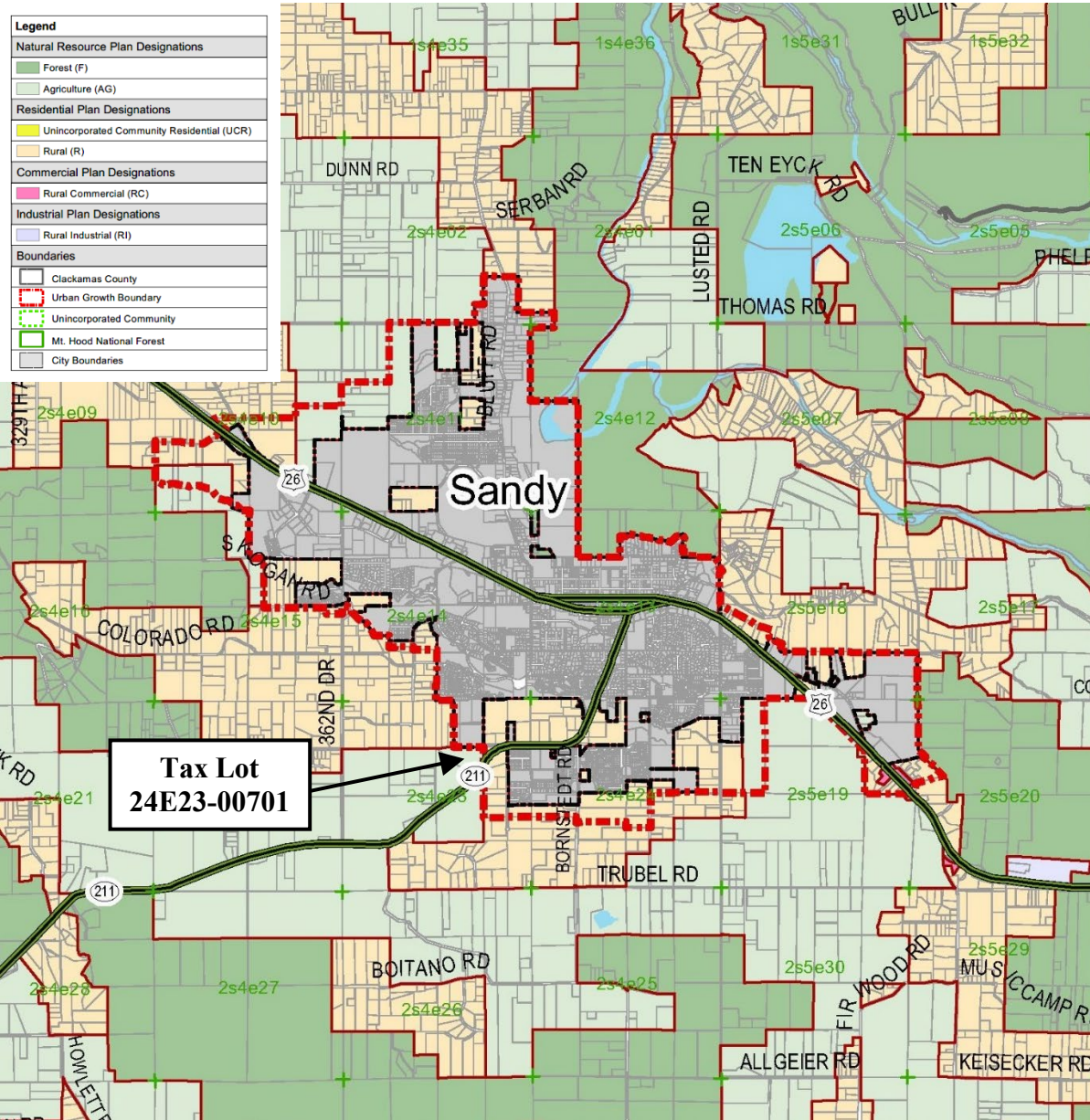
**Site Address:** (no situs)

**Comprehensive Plan Designation:** Agriculture

**Zoning District:** Exclusive Farm Use (EFU)

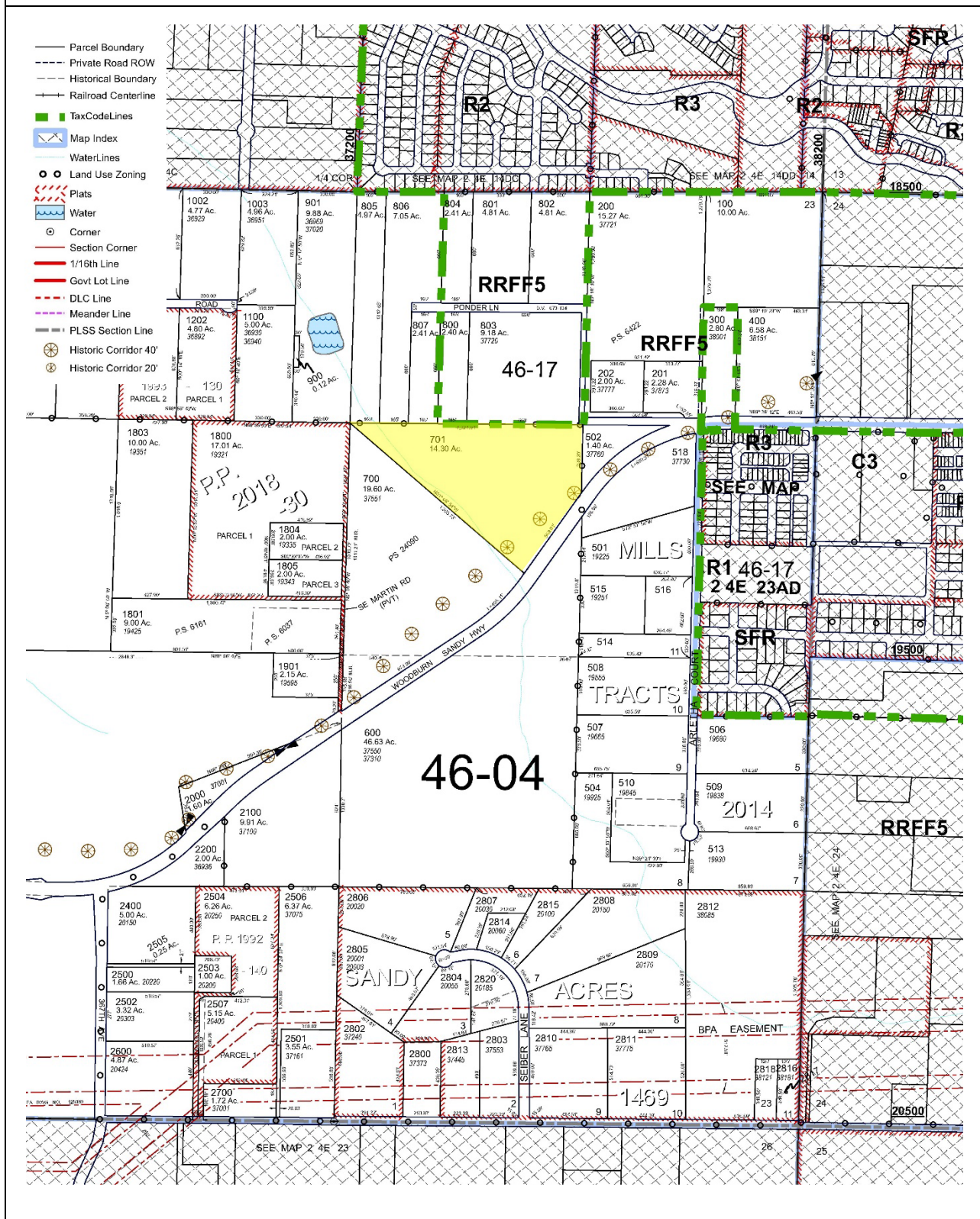
**Total Area Involved:** 6.42 acres

**Current Sandy UGB in Clackamas County Comprehensive Plan Map 4-07a**  
*(Prior to proposed expansion, outlined in red)*



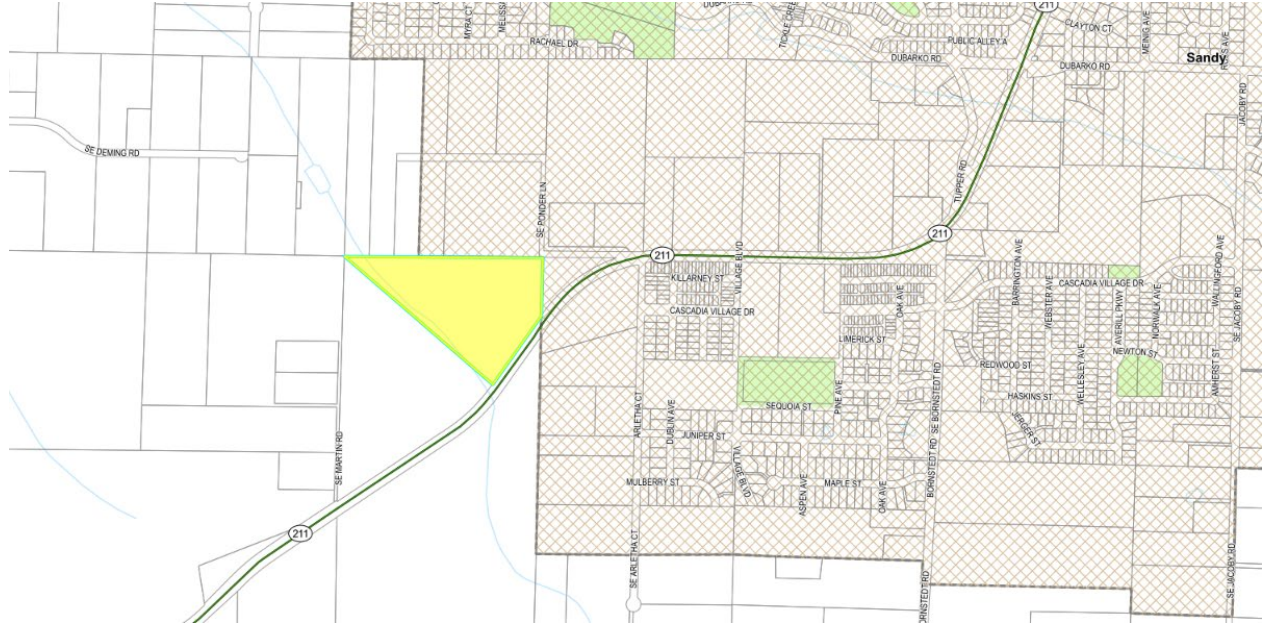


## Tax Lot 701 in Map 24E23 (Highlighted Yellow)

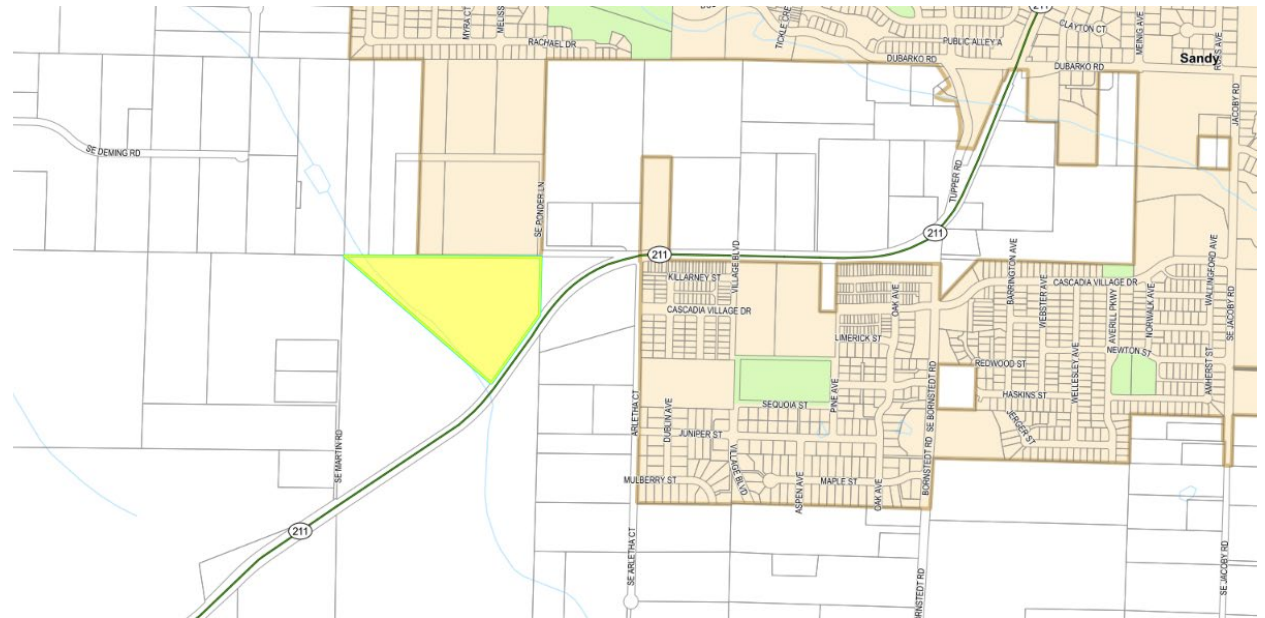


**Tax Lot 24E23-00701**  
**(Highlighted Yellow)**

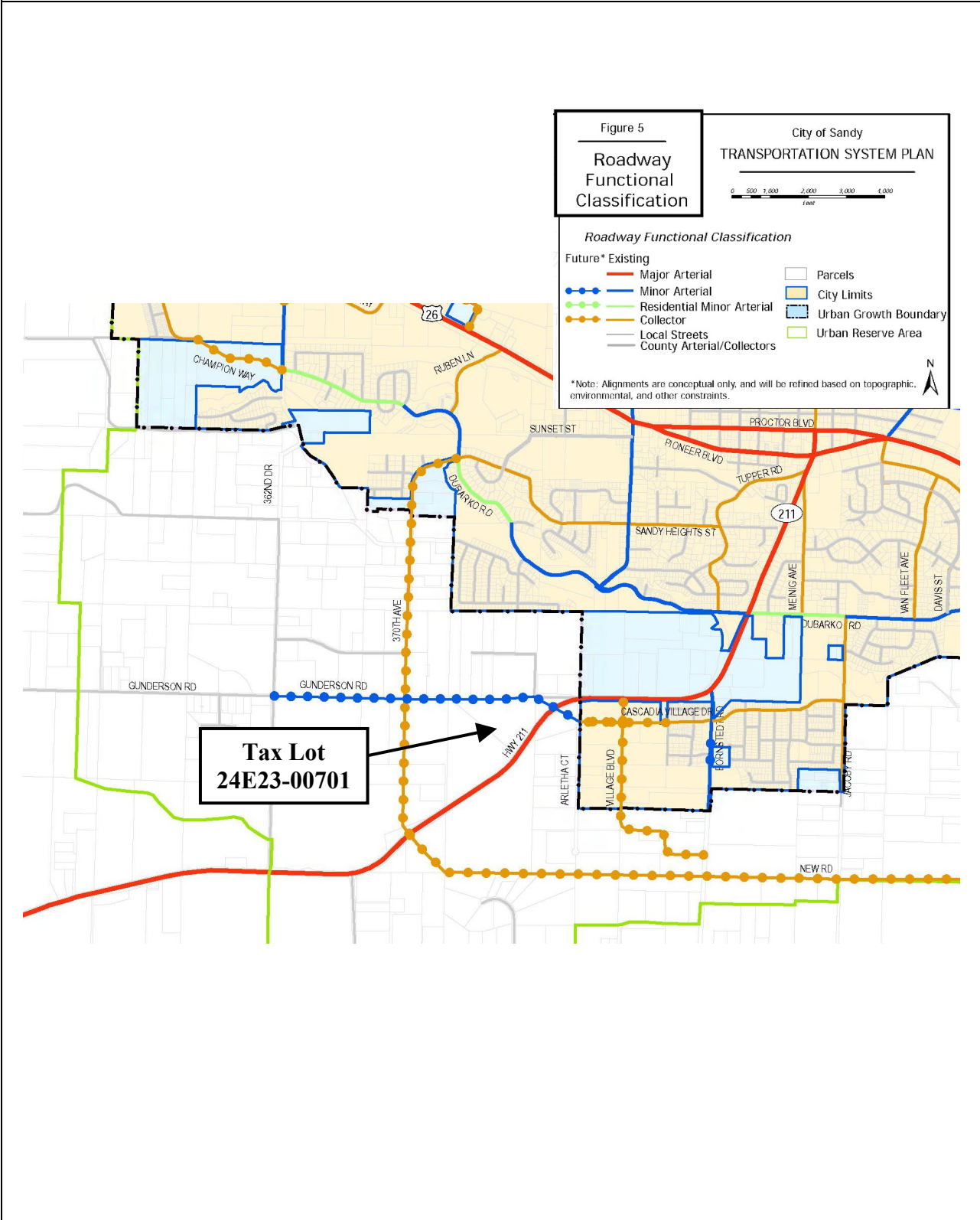
***In relation to UGB prior to proposed expansion:***



***In relation to current city limits:***

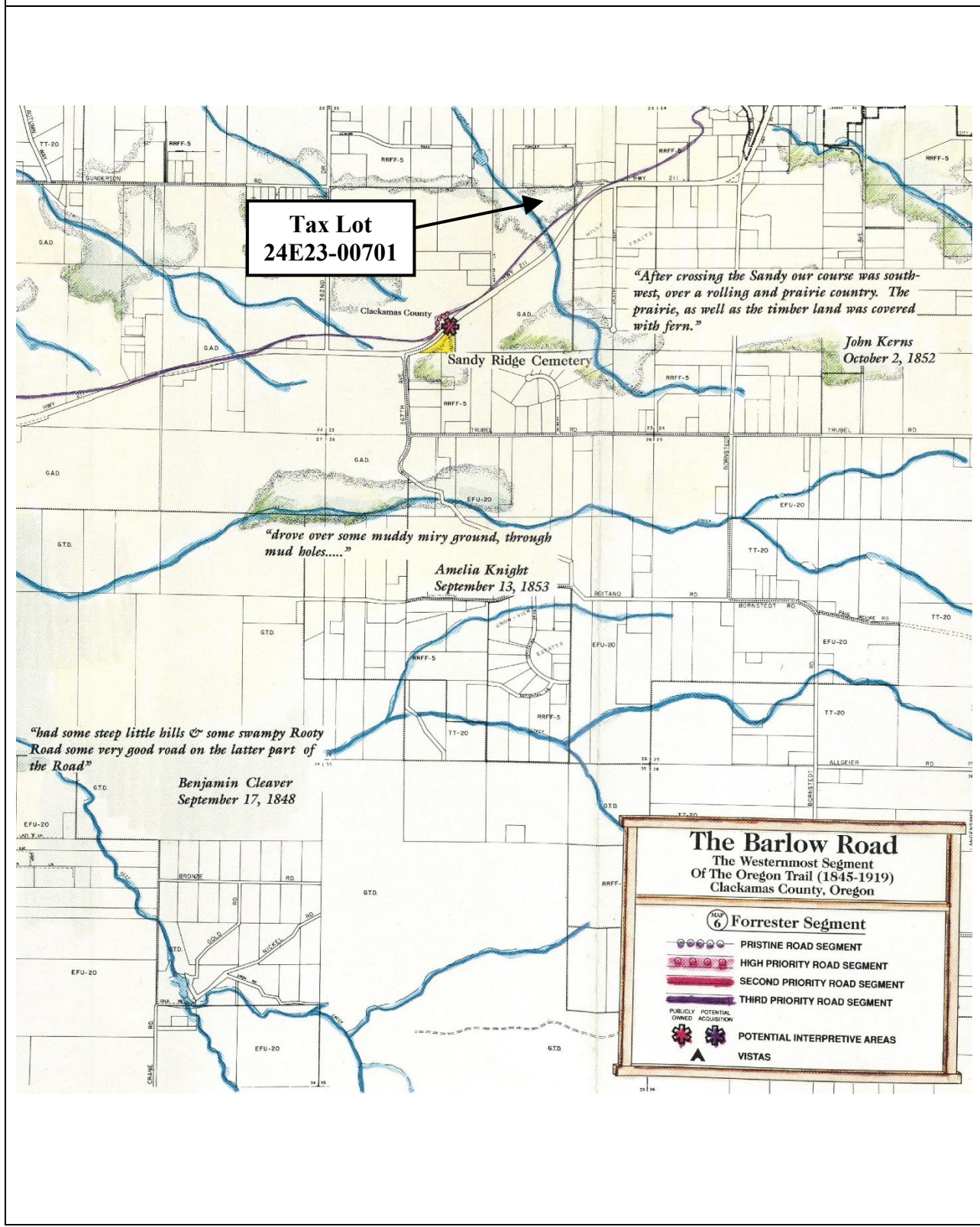


**Gunderson Road in Close-Up of City of Sandy Transportation System Plan (TSP) Figure 5**  
*(UGB and City Limit Boundaries are NOT current)*

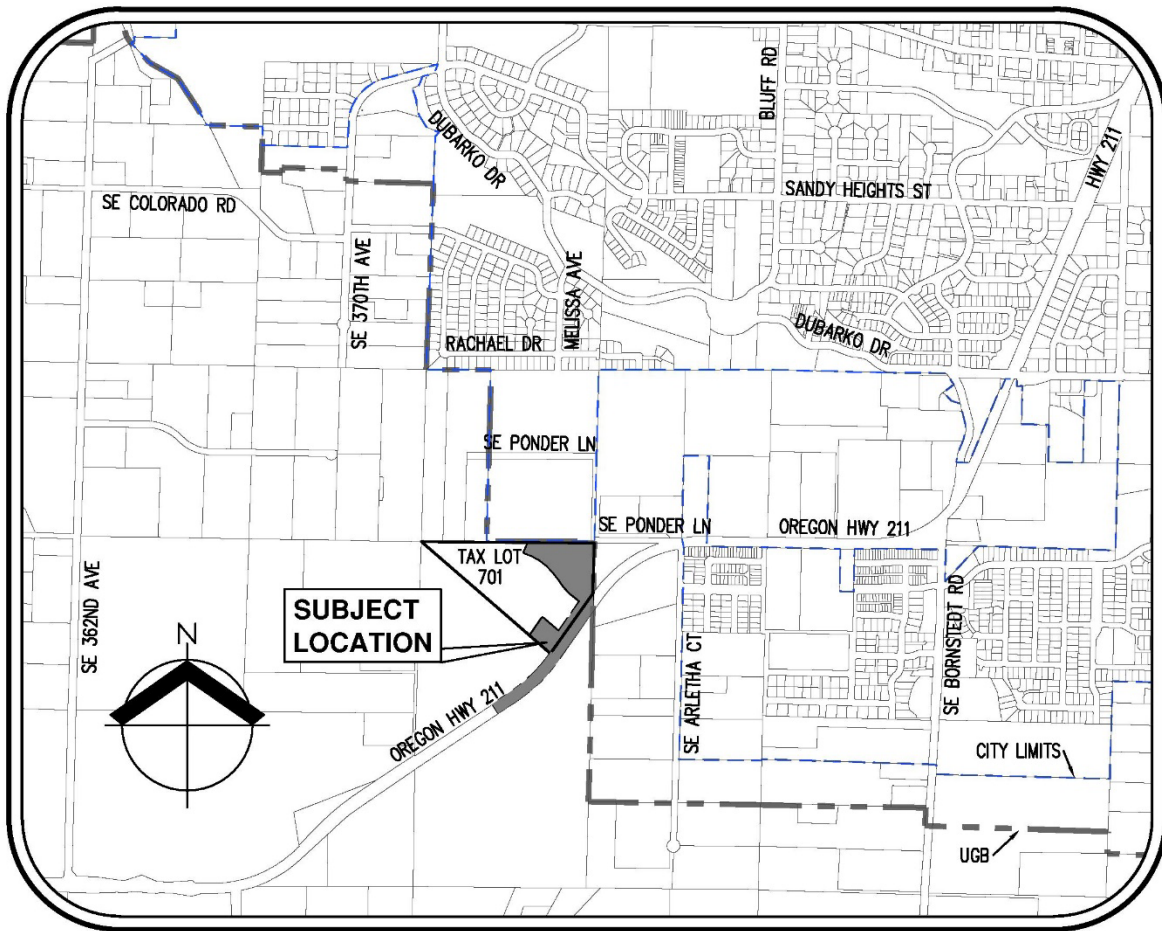


## Barlow Road Forrester Segment

*(In 1993 Barlow Road Historic Corridor Background Report & Management Plan)*



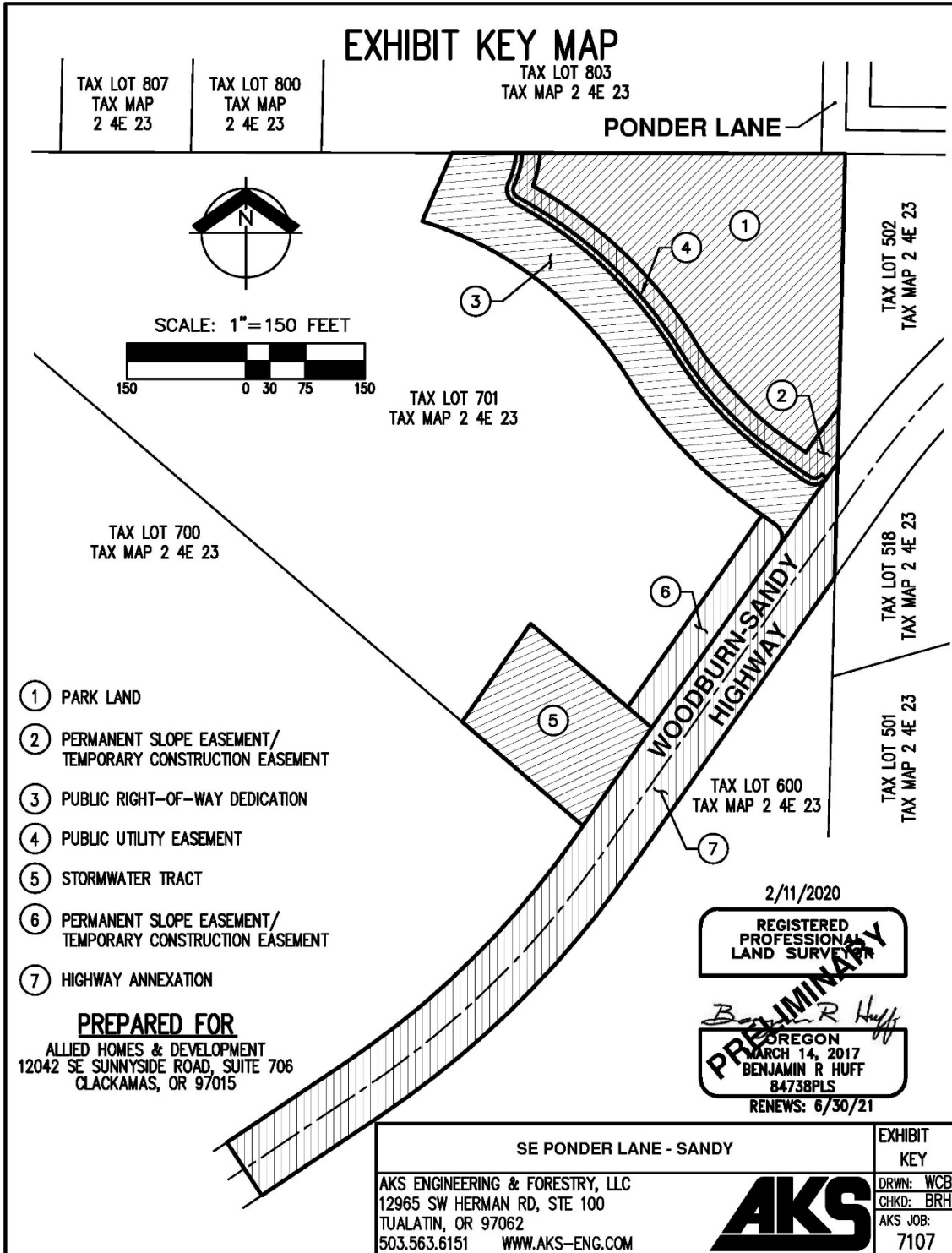
**Applicant's "Vicinity Map"**  
*(As Revised on February 13, 2020)*



**VICINITY MAP**  
NOT TO SCALE



**Applicant's Close-Up Map of Subject Location Proposed for Inclusion in Sandy UGB**  
*(Areas 1-7, as Revised on February 13, 2020)*

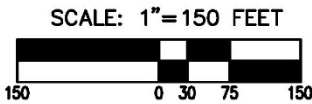


DWG: 7107 20191230 EXB | EXHIBIT KEY MAP

**Applicant's Close-Up Map of Hwy 211 Section Proposed for Inclusion in Sandy UGB**  
*(As Revised on February 13, 2020)*

**EXHIBIT B**

A PORTION OF RIGHT-OF-WAY LOCATED IN THE NORTHEAST 1/4 OF SECTION 23,  
 TOWNSHIP 2 SOUTH, RANGE 4 EAST, WILLAMETTE MERIDIAN,  
 CLACKAMAS COUNTY, OREGON



POINT OF COMMENCEMENT  
 NE COR PARCEL 1  
 PP NO. 2018-030

PARCEL IV  
 DOC. NO.  
 2016-026546

S89°52'25"E 1319.20'

PARCEL 1  
 PP NO. 2018-030

POINT OF BEGINNING

S01°24'04"W  
 388.51'  
 DOC. NO.  
 2018-076279

S01°24'04"W  
 144.40'

CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	1186.19'	21°05'05"	436.51'	S45°35'09"W 434.05'
C2	1106.28'	21°04'55"	407.06'	N45°35'07"E 404.76'

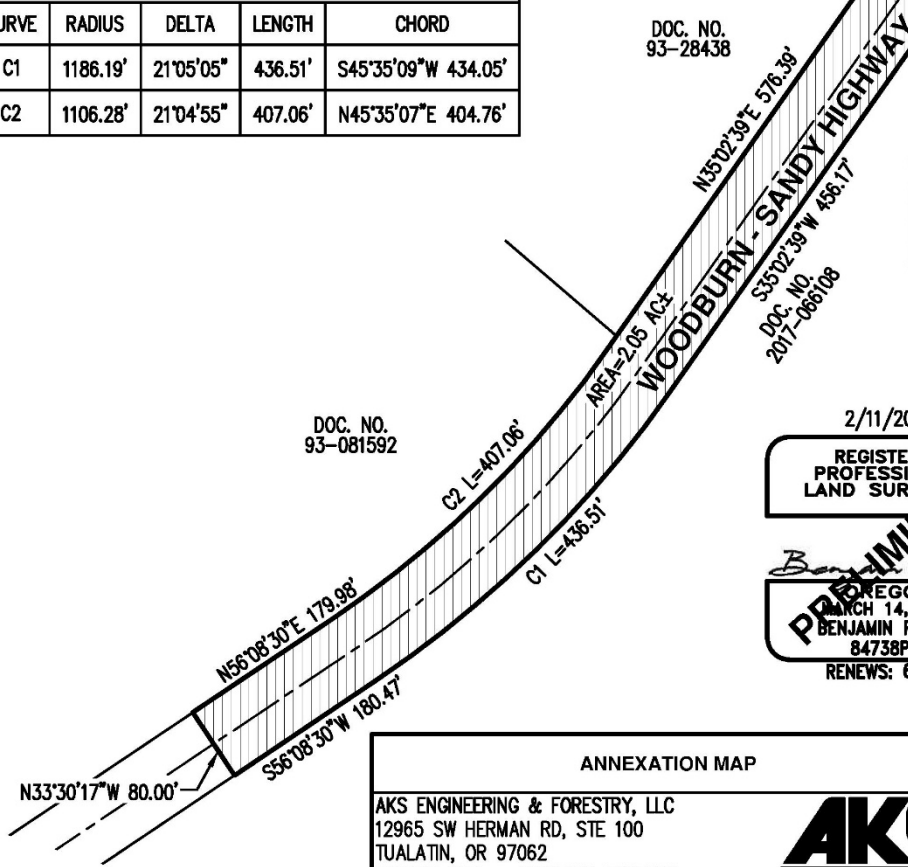
DOC. NO.  
 93-28438

DOC. NO.  
 1989-012843

DOC. NO.  
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2/11/2020  
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ANNEXATION MAP	EXHIBIT <b>B</b>
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 503.563.6151 WWW.AKS-ENG.COM	DRWN: WCB CHKD: BRH AKS JOB: 7107

DWS: 7107 20200211 ROW EXHIBIT | EX88

## **SECTION II: PROJECT OVERVIEW & BACKGROUND**

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This application, made by Allied Homes & Development (the “Applicant”), requests an amendment to Clackamas County’s Comprehensive Plan for an expansion of the City of Sandy (the “City”) urban growth boundary (UGB). The amendment would specifically be to Comprehensive Plan Map 4-07a (shown on Page 2 of these findings), as well as to any other maps of the Comprehensive Plan where the City’s UGB is labeled.

The application explains that the 6.42-acre requested expansion is necessary in order to provide certain public facilities:

1. A planned Gunderson Road minor arterial connection between planned urban development and Hwy 211;
2. A roughly 2.38-acre public park on the north side of Hwy 211 and adjacent to that planned urban development; and
3. Associated stormwater facilities.

Gunderson Road, with its connection to Hwy 211, is identified as a needed transportation facility in the City’s Transportation System Plan (TSP). The road’s highway connection in the precise location shown in the TSP’s conceptual-level illustrations is problematic. Engineers have determined that the nearest suitable alternative for this road connection is slightly to the south. The park that the City finds necessary to serve the area could fit between that alternative road connection location to the south and the planned urban development to the north.

However, the recommended alternative location for the road connection is just outside the City’s existing UGB on property currently under the County’s jurisdiction and zoned Exclusive Farm Use (EFU). Facilities serving urban uses are not permitted outright in the EFU District outside of a UGB. The requested UGB expansion, if approved, would make the subject area eligible for annexation to the City of Sandy (the “City”) and for rezoning by the City to a zoning district that does allow such public facilities. The expansion would occur in the City’s Urban Reserve Area (URA), where lands have already been prioritized for inclusion in the City’s UGB when deemed necessary.

The Applicant initially requested only a 5.29-acre expansion of the UGB for these public facilities. On February 13, 2020, the Applicant formally modified their application to request a 6.42-acre expansion and the modified proposal was re-noticed on February 18, 2020.

The expansion requires approval of both the City and the County. Consistent with Oregon Administrative Rules (OAR) chapter 660, division 24, the City has initiated consideration of the proposal by noticing and holding a public hearings with the City Planning Commission on February 11, 2020, and with their City Council on March 2, 2020.

### **SECTION III: CONCLUSION & CONDITIONS OF APPROVAL**

---

The Board of County Commissioners (the “Board”) finds that this application satisfies all applicable state and County criteria for an expansion of the City’s UGB in to its urban reserve area. The Board approves the expansion, subject to the following three (3) conditions:

1. The City of Sandy (the “City”) urban growth boundary (UGB) shall be expanded to include only the approximately 6.42-acre area (the “expansion area”) identified in plans submitted on February 13, 2020, and on Pages 8-10 of these findings, with all relevant maps of the Clackamas County Comprehensive Plan updated accordingly;
2. The expansion area shall only be used for the public facilities described in the application, including a section of Gunderson Road connecting to Highway 211, a roughly 2.38-acre public park, and associated stormwater facilities; and
3. In the development of the public facilities, the Barlow Road Historic Corridor shall be considered and impacts caused by the extension of Gunderson Rd and highway improvements, construction staging activities, and excavation for the stormwater facility shall be minimized. Visibly apparent portions of the Barlow Road (e.g., ruts) that may be in the park land area shall be preserved.

### **SECTION IV: ANALYSIS & FINDINGS**

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This application is subject to the following provisions:

1. Statewide Planning Goals;
2. OAR chapter 660, divisions 12 and 24;
3. Clackamas County Comprehensive Plan Chapters 2, 4, and 11; and
4. Zoning and Development Ordinance (ZDO) Sections 202 and 1307.

These provisions have been reviewed in conjunction with this proposal, with the following findings in regarding 1-3 above; the ZDO sections listed in 4 above provide only definitions and procedural requirements that do not warrant separate written findings.

#### **1. STATEWIDE PLANNING GOALS:**

##### *Goal 1 – Citizen Involvement*

Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process” and requires the County to have a citizen involvement program with certain features.

This application only proposes to amend the County’s Comprehensive Plan maps and, if approved, the structure of the County’s existing, State-acknowledged citizen involvement program would not change.

Section 1307 of the ZDO contains adopted and acknowledged procedures for citizen involvement and public notification of quasi-judicial applications. This application has been processed consistent with those requirements, including with notice to the Department of Land Conservation and Development (DLCD) as directed, to property owners within 750 feet of the subject property, and in the Sandy Post.

There have been at four public hearings: two at the City, one with the County's Planning Commission, and another with the Board. The proposal has also been advertised on both City and County websites.

**The relevant requirements of Statewide Planning Goal 1 are satisfied.**

### *Goal 2 – Land Use Planning*

Goal 2 requires the County to have and to follow a comprehensive land use plan and implementing regulations. Comprehensive plan provisions and regulations must be consistent with Statewide Planning Goals, but Goal 2 also provides a process by which exceptions can be made to certain Goals.

The proposed amendment to Clackamas County's Comprehensive Plan maps, including to Map 4-07a, would not change the County's land use planning process. Even under the Applicant's proposal, the County will continue to have a comprehensive land use plan and consistent implementing regulations. The Applicant does not request an exception to any Statewide Planning Goal.

**The relevant requirements of Statewide Planning Goal 2 are satisfied.**

### *Goal 3 – Agricultural Lands*

Goal 3 is **not applicable** to UGB amendments, per OAR 660-024-0020(1)(b).

### *Goal 4 – Forest Lands*

Goal 4 is **not applicable** to UGB amendments, per OAR 660-024-0020(1)(b).

### *Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces*

Goal 5 requires the local government with jurisdiction to adopt programs that will protect an area's natural resources and conserve scenic, historic, and open space resources for present and future generations. It requires an inventory of natural

features, groundwater resources, energy sources, and cultural areas, and encourages the maintenance of inventories of historic resources.

Page 16 of the Applicant's initial submittal states that "there are no identified Goal 5 resources on the property". However, the historic Barlow Road, an inventoried Goal 5 resource, crosses Tax Lot 701 and the requested expansion area and would presumably be disturbed by the construction of the proposed highway connection. Nonetheless, this particular proposal would not change the County's acknowledged programs for the protection of its historic resources, nor would it change the County's adopted and acknowledged historic resources inventory. This application would not itself authorize any development, either. The proposal would simply make the subject area eligible for annexation to and rezoning by the City. The City, rather than the County, would evaluate Goal 5 compliance with any application for annexation and/or rezoning.

Page 7 of a February 20, 2020, letter submitted by one of the Applicant's representatives states "the Applicant commits to and will accept a condition of approval requiring it to coordinate with the County on Barlow Road when it submits an application to construct and permit [the highway connection]". On Page 8 of the letter, the Applicant further states that it "requests" the County impose a condition of approval reading:

*"The Applicant shall consider the Barlow Road Historic Corridor and to minimize impact by the extension of Gunderson Road [the planned highway connection]."*

The Planning Commission recommended that, in the development of the proposed public facilities, the Barlow Road Historic Corridor should be considered and impacts caused by the extension of Gunderson Rd and highway improvements, construction staging activities, and excavation for the stormwater facility should be minimized. Visibly apparent portions of the Barlow Road (e.g., ruts) that may be in the park land area should, according to the Planning Commission, also be preserved. The Applicant has not objected to these specific conditions.

**The relevant requirements of Statewide Planning Goal 2 are satisfied.**

#### *Goal 6 – Air, Water, and Land Resources Quality*

Goal 6 instructs the County to consider the protection of air, water, and land resources from pollution and pollutants when developing its Comprehensive Plan. The proposed Comprehensive Plan amendment would not change any Comprehensive Plan policy or implementing regulation affecting a Goal 6 resource, nor would it modify the mapping of any protected resource.

The acreage brought in to the UGB will retain its existing County zoning (EFU) until annexed and rezoned by the City. The City will be responsible for evaluating Goal 6 in its consideration of that annexation.

Because the Statewide Wetlands Inventory indicates that Tax Lot 701 may contain state-regulated waterbodies, Staff notified the Department of State Lands of this application; their comments are included in the record.

**The relevant requirements of Statewide Planning Goal 6 are satisfied.**

*Goal 7 – Areas Subject to Natural Hazards*

The Applicant states that the subject property does not contain “mapped areas of steep slopes 25 percent or greater” or other “known hazard areas.”

Goal 7 requires the comprehensive plan of the local government with jurisdiction to address Oregon’s natural hazards, and this UGB expansion application would not change the County’s acknowledged Comprehensive Plan policies or implementing regulations regarding natural disasters and hazards, nor would it modify the mapping of any hazard. The acreage brought in to the UGB will retain its existing County zoning, and will continue to be subject to the County’s hazard-related land use regulations, until it is annexed and rezoned by the City. The City will be responsible for evaluating Goal 7 when it considers any application for annexation or rezoning.

**The relevant requirements of Statewide Planning Goal 7 are satisfied.**

*Goal 8 – Recreational Needs*

Goal 8 requires relevant jurisdictions to plan for the recreational needs of their residents and visitors. The proposal would not change any existing, State-acknowledged County Comprehensive Plan policy or implementing regulation regarding recreational needs, nor would it reduce or otherwise modify a mapped recreational resource.

The City will be responsible for formally evaluating Goal 8 when it considers any annexation and rezoning proposal, but City representatives, as well as the Applicant, have already expressed that the park land – and this requested UGB expansion to allow for it – are necessary in part to meet particular recreational needs in the area of the subject property. The Applicant has also agreed to a condition of approval limiting the subject area to only the public facilities identified in their application, which include an approximately 2.38-acre public park. The Board finds that such a condition is appropriate in order to ensure the area provides the public facilities that the Applicant and the City say the UGB expansion is needed to accommodate.

**The relevant requirements of Statewide Planning Goal 8 are satisfied.**

### *Goal 9 – Economic Development*

The purpose of Goal 9 planning is to make sure cities and counties have enough land available to realize economic growth and development opportunities. The proposed UGB expansion would not, in and of itself, change the allowed uses of any property, and would not reduce or expand either the County's or the City's employment (i.e. commercial, industrial) lands. The proposal would simply make the subject 6.24 acres, which are already in the City's Urban Reserve Area (URA), *eligible* for annexation and rezoning by the City. The City will be responsible for evaluating Goal 9 when it considers any annexation or rezoning application.

The proposal represents that the subject area would not be used for employment lands or for residential development, but rather only for specific public facilities. The conditions of approval restrict the area to these uses because the Applicant has not demonstrated that an economic opportunity analysis has been conducted consistent with Goal 9 for the expansion area to be used for employment lands.

**The requirements of Goal 9 are satisfied with the conditions of approval.**

### *Goal 10 – Housing*

The purpose of Goal 10 is to meet housing needs. As noted previously, the proposed UGB expansion would not, in and of itself, change the allowed uses of any property. The proposal would not reduce or expand the County's residential lands supply, or change any housing-related Comprehensive Plan policy or implementing regulation.

Information in the record suggests that the expansion area may be assigned a residential zoning district by the City if and when it is annexed, yet the Applicant has not provided a housing needs analysis conducted consistent with Goal 10 demonstrating that the City's UGB needs to be expanded to provide additional land for residential development.

Nonetheless, the Applicant maintains that the expansion area is not to provide for more housing beyond the City's current UGB. The February 20, 2020, letter submitted by one of the Applicant's representatives states that "the Applicant has never proposed housing for this area" and the Applicant independently requests for the County to impose a condition of approval limiting the expansion area to development of the limited public facilities identified in their application. The conditions of approval will help to ensure that the expansion area is only used for the described public facilities. Staff has confirmed with DLCDC representatives that, in the absence of a housing needs analysis, such a condition would satisfy the requirements of Goal 10, even if the property were to be assigned a residential zone by the City.

**The requirements of Goal 10 are satisfied with the conditions of approval.**



## Goal 11 – Public Facilities and Services

The purpose of Goal 11 is to ensure that local governments plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Goal 11 guidelines specifically call for plans providing for public facilities and services to be coordinated with plans for designation of urban boundaries and urbanizable land.

The City has already demonstrated a need and planned for a Gunderson Road highway connection in its adopted Transportation System Plan (TSP). However, the intersection location illustrated in that plan has been determined to be impractical. Page 10 of the January 6, 2020, Technical Memorandum prepared by Lancaster Engineering includes the following findings:

*“...it was determined that the alignment shown on the TSP was not feasible for construction of an intersection with Highway 211, primarily due to poor sight distance, the need for a perpendicular intersection and a very steep superelevated roadway section. Looking northeast from the TSP-identified location, sight distance is limited by both horizontal and vertical curves on Highway 211. In addition, sight distance from the future north leg of the intersection would be particularly poor. At the TSP-identified location, the highway was designed for moving traffic, not for accommodation of an intersection. Due to the high design speed and the horizontal curve, superelevation (the banking of the roadway around the curve) is very steep. This facilitates through traffic on the highway, but makes an intersection at this location problematic, due to difficult turning and crossing improvements across the steep curve.”*

The Technical Memorandum goes on to explain that the Applicant’s proposal is the “nearest suitable intersection location”, and finds that UGB expansion and highway connection would “result in improved operation at the study area roadways and intersections” and that “the connection will improve conditions for the existing neighborhood to the north of Baily Meadows subdivision by providing another means of vehicular access to the area.”

A February 24, 2020, letter from Sandy Fire District No. 72 further attests to the need for the Applicant’s proposed Gunderson Road connection to the highway. The letter states that the connection would provide a “much-needed” secondary access to planned and existing residential developments within the City’s existing UGB.

The City has also determined a need for a public park in the expansion area in order to serve planned residential development on the north side of Hwy 211. The Applicant proposes to locate this needed park land in an area between the highway connection and planned urban development, which the Board finds would be an efficient use of space.

As the Applicant notes, the proposed public facilities will include necessary stormwater infrastructure. However, the area will not require water and sewer facilities, not even to the proposed park facility.

The proposed expansion area is located in the City's URA on lands already determined to be a priority for consideration for future UGB expansions.

**The relevant requirements of Statewide Planning Goal 11 are satisfied.**

### *Goal 12 – Transportation*

The purpose of Goal 12 is to provide and encourage a safe, convenient, and economic transportation system. The City has already planned in its TSP for a Gunderson Road connection to Hwy 211 in order to serve planned residential development deemed necessary to meet the City's 20-year housing needs; however, as determined by Lancaster Engineering in their January 6, 2020, Technical Memorandum, the precise intersection location illustrated in the TSP would be problematic, while the Applicant's proposed alternative location would be better suited. The Technical Memorandum explains that the Applicant's proposed location, which requires this UGB expansion will improve conditions for existing and planned residential development on the north side of Hwy 211.

Sandy Fire District No. 72 attests that the Applicant's proposed Gunderson Road connection to Hwy 211 *"could enhance emergency service capabilities by eliminating a potential of impairment/congestion at a single point of access as well as providing first responders options that could decrease emergency response times in the event of a medical, police or fire emergency."* The Board finds that this is further evidence that the proposed UGB expansion would help to provide and encourage a safe and convenient transportation system.

ODOT has signed, and therefore consented to, this application as an owner of Hwy 211 included in the proposed expansion area. The County's Transportation Engineering Division was notified of this application and has not raised concerns.

**The relevant requirements of Statewide Planning Goal 12 are satisfied.**

### *Goal 13 – Energy Conservation*

Goal 13 encourages land use plans to consider lot size, siting controls, building height, density, and other measures in order to help conserve energy. The proposed Comprehensive Plan Map amendment would not change any policy or implementing regulation regarding energy conservation.

**The relevant requirements of Statewide Planning Goal 13 are satisfied.**

### *Goal 14 – Urbanization*

The purpose of Goal 14 is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The area proposed for inclusion in the City’s UGB is in the City’s URA, meaning the area has already been prioritized over other lands for future inclusion in the UGB. The UGB expansion is also to provide for a road connection that is already planned for in the City’s TSP to serve residential areas already within the UGB north of the highway. The applicant proposes to use an otherwise vacant area between the road connection and planned residential development for a park that has been deemed necessary by the City to improve the livability of the adjacent residential areas. The Board finds that using this area, which would otherwise not be practically developable or farmable under its present EFU zoning, to be an efficient use of land.

The conditions of approval require that the expansion area only be used for the proposed public facilities.

The rules in OAR chapter 660, division 24 clarify procedures and requirements of Goal 14 regarding amendments of UGBs. These rules are evaluated later in these findings.

**The requirements of Goal 14 are satisfied with the conditions of approval.**

### *Goal 15 – Willamette River Greenway*

Per OAR 660-024-0020(1)(e), Goal 15 is **not applicable** to land added to a UGB unless the land is within the Willamette River Greenway Boundary. The land proposed in this application to be included in Sandy’s UGB is not within the Willamette River Greenway Boundary.

### *Goal 16 – Estuarine Resources*

Per OAR 660-024-0020(1)(f), Goal 16 is **not applicable** to land added to a UGB unless the land is within a coastal shorelands boundary. The land proposed in this application to be included in Sandy’s UGB is not within a coastal shorelands boundary.

*Goal 17 – Coastal Shorelands*

Per OAR 660-024-0020(1)(f), Goal 17 is **not applicable** to land added to a UGB unless the land is within a coastal shorelands boundary. The land proposed in this application to be included in Sandy’s UGB is not within a coastal shorelands boundary.

*Goal 18 – Beaches and Dunes*

Per OAR 660-024-0020(1)(f), Goal 18 is **not applicable** to land added to a UGB unless the land is within a coastal shorelands boundary. The land proposed in this application to be included in Sandy’s UGB is not within a coastal shorelands boundary.

*Goal 19 – Ocean Resources*

Per OAR 660-024-0020(1)(g), Goal 19 is **not applicable** to a UGB amendment.

**2. OREGON ADMINISTRATIVE RULES (OARs):**

The full text of the following OARs are included in Exhibits 21 and 22.

*Chapter 660, Division 12 – Transportation Planning*

*OAR 660-012-0060: Plan and Land Use Regulation Amendments*

This OAR requires certain measures to be taken if an amendment to an acknowledged comprehensive plan would “significantly affect” an existing or planned transportation facility. This application proposes to amend maps of the County’s acknowledged Comprehensive Plan with an expansion of the City’s UGB. An analysis done by Lancaster Engineering and included with this application found that the proposed amendment would not “significantly affect” an existing or planned transportation facility, as that term is defined in section (1) of OAR 660-012-0060. As the applicant argues, the transportation system improvements that necessitate the proposed UGB expansion would complete a section of Gunderson Road, a planned City minor arterial roadway.

**The requirements of OAR 660-012-0060 are satisfied.**

*Chapter 660, Division 24 – Urban Growth Boundaries*

*OAR 660-024-0000: Purpose and Applicability*

This OAR establishes that certain procedures and requirements in chapter 660, division 24 apply to UGB amendments. This application indeed proposes an amendment (an expansion) to the City’s UGB, and because the application is not being considered under the “simplified UGB process” under OAR chapter 660, division 38, the requirements of division 24 must be satisfied. **No additional findings related to this OAR are necessary.**

*OAR 660-024-0010: Definitions*

This OAR provides definitions to be applied to certain terms used in division 24, and **does not warrant written findings.**

*OAR 660-024-0020: Adoption or Amendment of a UGB*

This OAR clarifies what Statewide Planning Goals are applicable when establishing or amending a UGB, and **the Board provided necessary findings concerning those goals earlier in these findings.** The rule also requires UGB amendments to be shown on the County’s Comprehensive Plan maps and zoning maps at a scale sufficient to determine which particular lots or parcels are included in the UGB. **The Board finds that the proposed amendment to the Comprehensive Plan Map expanding the City’s UGB can be shown in sufficient enough detail.**

*OAR 660-024-0040: Land Need*

Section (1) of this rule states that the UGB must be based on the appropriate 20-year population forecast for the urban area as determined under rules in OAR chapter 600, division 32, and must provide for needed housing, employment, and other urban uses such as public facilities, streets and roads, schools, parks, and open space over the 20-year planning period consistent with the land need requirements of Goal 14.

The City expanded their UGB by approximately 629 acres in 2017 in order to accommodate 20-year housing and employment land needs following an analysis conducted according to relevant requirements and prescribed methodologies.

This latest application does not argue that the City’s UGB needs to be expanded in order to provide more land for housing or employment uses. Rather, it argues that the expansion is needed for certain *public facilities*, facilities needed to support the development of housing on lands included in the (current) UGB established in 2017 based on the 20-year population forecast at the time.

Section (2) relates to UGB amendments conducted as part of a periodic review work program. The proposed amendment is not related to a periodic review work program, so this section is not applicable.

Section (3) states that a local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need). This application is only being considered to meet a need for certain public facilities.

Section (4) states that the determination of 20-year residential land needs for an urban area must be consistent with the appropriate population forecast, and section (8) establishes safe harbors that may be applied in determining housing needs. The City's current UGB, established in 2017, is based on a determination of 20-year residential land needs consistent with the required forecast. The UGB expansion proposed in this application would not add new land for residential development, but rather for public facilities that would serve the residential lands already within the existing UGB.

Section (5) explains how 20-year employment land needs are to be determined; Section (6) clarifies that cities and counties may jointly conduct an economic opportunity analysis for the determination of employment land needs; and section (9) establishes safe harbors that may be applied in determining employment land needs. This application does not show a need to expand the UGB for additional employment lands, but rather a need for certain public facilities.

Section (7) states that the determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Statewide Planning Goals 11 and 12, rules in OAR chapter 600, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. Compliance with Goals 11 and 12, which are interpreted by divisions 11 and 12 respectively, are reviewed earlier in this report. ORS 197.712 requires jurisdictions to develop and adopt a public facilities plan for areas within UGBs, which the City has done with its Transportation System Plan (TSP), and ORS 197.768 relates to the adoption of a public facilities strategy; the proposed UGB expansion would allow the construction of a road connection to Hwy 211 (Gunderson Road) that is already called for in the City's adopted TSP, except at a modified location that is deemed more appropriate than the exact, literal location shown in the concept-level TSP map.

**The requirements of OAR 660-024-0040 are satisfied.**

*OAR 660-024-0045: Regional Large Lot Industrial Land*

This OAR relates to UGB expansions for regional large lot industrial land. This application proposes a UGB expansion only for certain public facilities.

**OAR 600-024-0045 is not applicable.**

*OAR 660-024-0050: Land Inventory and Response to Deficiency*

- (1) When evaluating a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined by OAR 660-024-0040. For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute. For employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015.*
  
- (4) If the inventory demonstrates that the development capacity of land inside the UGB is inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040, the local government must amend the plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the city or by expanding the UGB, or both, and in accordance with ORS 197.296 where applicable. Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB. If the local government determines that there is a need to expand the UGB, changes to the UGB must be determined by evaluating alternative boundary locations consistent with Goal 14 and applicable rules at OAR 660-024-0060 or 660-024-0065 and 660-024-067.*

This OAR requires that, when a UGB expansion is proposed, there be an “inventory” of land inside the existing UGB to determine whether that current UGB provides adequate development capacity to accommodate 20-year needs. Representatives of the City have conducted such an inventory of lands inside the current UGB and determined that the current boundary is inadequate to provide the needed public facilities, specifically a highway connection in the area planned for Gunderson Road in the City’s adopted TSP, associated stormwater facilities, and a public park in this general location.

The Board finds that these particular, place-specific public facility needs could not be accommodated by expanding the UGB in any other location. Indeed, when considering alternative boundary locations, it is clear that it would not be necessary or appropriate to expand the UGB elsewhere in order to provide this Gunderson Road highway connection, the associated stormwater facilities, and this area’s park; the only place where it makes sense to expand the UGB to meet the City’s determined needs is in the location proposed by the Applicant.

OAR 660-024-0065 and 660-024-067 set rules for the establishment of a study area to evaluate land for inclusion in the UGB, and are largely concerned with identifying possible alternative locations for housing and employment land needs, rather than relevant to the place-specific public facility needs identified by the City. When the primary purpose for expansion of the UGB is to accommodate a public facility that

requires specific site characteristics, and when the site characteristics may be found in only a small number of locations, OAR 660-024-0065 (1) allows for a prescribed study area to be limited to those areas that can provide the required site characteristics. In this case, the required site characteristics are a Gunderson Road connection to Hwy 211, as identified in the City's acknowledged TSP, and a park north of the highway and adjacent to planned residential development. As noted previously in these findings, the application explains that the location of the proposed Gunderson Road connection (which necessitates this UGB expansion) would be preferable to the location of the Gunderson Road connection illustrated in the TSP. ODOT, who owns the section of Hwy 211 proposed for inclusion in the UGB, has signed this application.

The evaluation of alternative boundary locations does not need to be consistent with OAR 660-024-0060, which relates only to amendments of the Metro UGB. ORS 197.296 does not apply to this application because the City has a population of less than 25,000.

The full text of the other sections of this OAR are not included in these findings for brevity. However, section (6) requires the City to assign appropriate urban plan designations to the land added to its UGB and either: annex and apply appropriate zoning to the added land consistent with the plan designation; or maintain the County's present zoning until it is annexed, and then apply appropriate urban zoning at that time. Section (7) requires that any land included in the UGB to provide particular public facilities be planned and later zoned for the intended public facilities. While information in the record suggests that the City may plan and later zone the subject 6.42 acres for residential use, the Applicant makes clear that the expansion area will only be used for the specified public facilities, and the adopted conditions of approval ensure that the expansion area can only be used for these facilities. Staff with DLCD have confirmed that such a condition would satisfy the requirements of sections (6) and (7).

**The requirements of OAR 660-024-0050 are satisfied with the conditions of approval.**

*OAR 660-024-0060: Metro Boundary Location Alternatives Analysis*

This application does not propose a modification to the Metro UGB.

**OAR 660-024-0060 is not applicable.**



*OAR 660-024-0065: Establishment of Study Area to Evaluate Land for Inclusion in the UGB*

As noted previously, the Board finds that this OAR is primarily concerned with identifying possible alternative locations for housing and employment land needs rather than lands for public facilities. It allows for a more limited study area for UGB expansions for public facilities with specific site requirements, such as those in this application. The Applicant's proposed Gunderson Road highway connection location is more appropriate than the location illustrated in the City's TSP, as evidenced by their submitted technical memorandum. The undeveloped space between the proposed road connection and planned residential development is a logical place to site the public park that the City has determined is needed in this general location. The adopted conditions of approval prohibit the expansion area from being used for housing or employment uses.

**The requirements of OAR 660-024-0065 are satisfied with the conditions of approval.**

*OAR 660-024-0067: Evaluation of Land in the Study Area for Inclusion in the UGB; Priorities*

Again, the Board finds that this OAR is primarily concerned with identifying possible alternative locations for housing and employment land needs, and allows for a more limited study area for UGB expansions for public facilities with specific site requirements. The adopted conditions of approval prohibit the expansion area from being used for housing or employment uses.

**The requirements of OAR 660-024-0067 are satisfied with the conditions of approval.**

*OAR 660-024-0070: UGB Adjustments*

This OAR reiterates that expansions of a UGB must be consistent with Goal 14 and division 24, which are evaluated elsewhere in this report and are satisfied with the adopted conditions of approval. This OAR also establishes requirements for the removal of land from a UGB and for the exchange of lands within a UGB for those outside it, neither of which are proposed in this application.

**The requirements of OAR 660-024-0070 are satisfied with the conditions of approval.**

*OAR 660-024-0075: Airport Economic Development Pilot Program*

This OAR relates to the selection of a city to implement a pilot program to promote economic development and industry growth and job creation at an airport. It is **not relevant to this application**.

*OAR 660-024-0080: LCDC Review Required for UGB Amendments*

This OAR has specific requirements for city UGB expansions of more than 50 acres. This application proposes an expansion of only 6.42 acres.

**OAR 660-024-0080 is not applicable.**

**3. CLACKAMAS COUNTY COMPREHENSIVE PLAN GOALS AND POLICES:**

*Chapter 2: Citizen Involvement*

Chapter 2 aims to promote public participation in the County's land use planning. Its policies largely focus on the County's Community Planning Organization (CPO) program and methods for informing and involving the public, policies which this application does not propose to change. This application has been processed according to the requirements of ZDO 1307, which implement public notification policies of Chapter 2.

**This application is consistent with Comprehensive Plan Chapter 2.**

*Chapter 4: Land Use*

Chapter 4 includes the definitions of urban and rural land use categories and outlines policies for determining the appropriate Comprehensive Plan land use designation for all lands within the County. This application does not propose to change any Comprehensive Plan land use designation, but rather to expand a UGB to allow it to be annexed by the City and used for public facilities supportive of urban uses.

The 'Urbanization' section of Chapter 4 addresses the designation of lands for urban uses. The Board finds that the following policies are relevant to this application:

*4.A.2: Coordinate with affected cities in designating urban areas outside of Metro. Land designated as a Rural Reserve, as shown on Map 4-9, shall not be designated as an Urban Reserve or added to an urban growth boundary.*

The proposed amendment would expand the City's UGB only into a URA and not into a Rural Reserve. The City has initiated review of this application and concurs

with the applicant that the proposed expansion is necessary to meet identified longer-term needs.

*4.A.4: Establish Urban Growth Management Areas and Urban Growth Management Agreements to clarify planning responsibilities between the County and cities for areas of mutual interest.*

The County and the City jointly adopted an Urban Growth Management Agreement (UGMA) in 2001. The UGMA requires that an amendment proposed to the City's UGB be a coordinated City-County effort, with adoption by both the City and the County. The UGMA prohibits the County from considering adoption of any City UGB amendment unless adopted by the City first, and holds that the City is responsible for initiating all legislative amendments.

As noted previously, review of this application was initiated by the City with a noticed public hearing before their Planning Commission on February 11, 2020, and another before their City Council on March 2, 2020.

*4.C.3: For land within the urban growth boundaries of Canby, Estacada, Sandy, and Molalla, require annexation to a city as a requirement for conversion to Immediate Urban unless otherwise agreed to be the City and the County.*

The expansion area would continue to be zoned EFU and under the jurisdiction of the County until it is annexed and rezoned by the City under a separate application.

*4.E.1: The following policies apply to Urban Reserve areas established pursuant to OAR 660, Division 21: (1) ...The cities of Sandy, Molalla, Estacada and Canby, in coordination with Clackamas County, may designate and adopt other urban reserve areas in a manner consistent with OAR 660-021-000; (5) Lands within a designated Urban Reserve area shall continue to be planned and zoned for rural uses in a manner that ensures a range of opportunities for the orderly, economic and efficient provision of urban services when the lands are included in the Urban Growth Boundary. Planning and zoning shall be done in a manner consistent with OAR 660-021-000 and the Metro Code, in areas where Metro has jurisdiction.*

The City's URA has already been designated in coordination with the County. This application proposes to expand the UGB in to that established URA to provide public facilities that the City agrees are necessary. Until the expansion area is annexed by the City and appropriately rezoned, it will continue to be subject to the County's jurisdiction and the land use provisions for the EFU zoning district. Metro does not have jurisdiction over the proposed expansion area.

**This application is consistent with Comprehensive Plan Chapter 4.**

## *Chapter 11: The Planning Process*

Chapter 11 contains polices under its ‘*City, Special District, and Agency Coordination*’ section that encourage the involvement of relevant state and regional governments, cities, and special districts in the planning process, consistency between city and County plans, and public engagement. The ‘*Amendments and Implementation*’ section of this chapter also contains procedural standards for Comprehensive Plan amendments and requirements for the Plan and implementing regulations in ZDO Section 1307 to be consistent with Statewide Planning Goals.

Earlier findings demonstrate that, with the adopted conditions of approval, the proposed UGB expansion are indeed consistent with Statewide Planning Goals. The process followed for consideration of this application is in compliance with Section 1307’s notification standards. Specifically, notice of the County’s public hearings was provided to property owners within 750 of the proposed expansion area 20 days in advance, and notice published in the local newspaper at least 10 days in advance. ODOT signed this application as an owner of some of the property proposed for inclusion in the UGB, and DSL was provided notice in order for them to comment on any wetland-related requirements of the State. The Sandy CPO is currently inactive.

**This application has been processed consistent with Comprehensive Plan Chapter 11 and implementing regulations in ZDO Section 1307.**