

METRO STAFF REPORT TO THE HEARINGS OFFICER

Date: September 11, 2020

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Principal Regional Planner

PETITION SUMMARY

FILE NAME: UGB Case 20-01: City of Lake Oswego Urban Growth Boundary Major Amendment

PETITIONER: City of Lake Oswego
PO Box 369
380 A Avenue
Lake Oswego, OR 97034

PROPOSAL: The petitioner requests that Metro expand the urban growth boundary (UGB) to include approximately 83 acres to accommodate long-term needs for integrated open space, parks and recreational uses.

LOCATION: The proposal consists of six tax lots located east of SW Stafford Road and north of S Rosemont Road and includes abutting right-of-way, including the SW Stafford Road/S Rosemont Road roundabout. The properties are identified as Luscher Farm and are in the Stafford Urban Reserve Area 4A.

METRO CODE: Metro Code Sections 3.07.1425(b, c, d, e & f) and 3.07.1440(a & b). Code Section 3.07.1425(c)(1-9) are considered locational factors that are weighed and balanced to determine the most suitable location for the UGB expansion. The remaining code sections contain criteria that must be satisfied.

STAFF RECOMMENDATION

Based upon information available to staff on the date of this report, staff recommends that the Hearings Officer forward a recommendation for *denial* to the Metro Council.

BACKGROUND INFORMATION

Proposal Description: The petitioner requests the UGB be expanded to include approximately 83 acres east of SW Stafford Road and north of S Rosemont Road for open space, park and recreational uses. Specifically the proposed use of the Luscher Farm property is for a combination of passive and active recreation facilities and programs including:

- Urban agriculture (community gardens, CSA, etc.);
- Educational programs related to urban agriculture, environmental, and historic and cultural resources at Luscher Farm;
- Protection and enhancement of open spaces and resources, including orchards, tree groves and wetland and riparian areas;
- Event and community meeting space;

- Active recreation facilities; and
- Local and community trail and pathway improvements and connections.

The Luscher Farm property is currently used for a variety of activities, including organic farm plots for rent, a community supported agriculture (CSA) program, a clematis collection, a children's garden including classes and field trips, gardening classes, backyard campouts, historic walking tours and Rent the Farm Program for events and activities. Fees are charged for most if not all of these nonprofit activities.

Site Information: The site consists of six tax lots located within unincorporated Clackamas County on the east side of SW Stafford Road, north of S Rosemont Road as shown in Attachment 1. The property has frontage on SW Stafford and S Rosemont Roads and the abutting right-of-way and the roundabout at SW Stafford Road/S Rosemont Road is included in the petition. The entire property is zoned EFU (Exclusive Farm Use) by Clackamas County with a minimum lot size of 80 acres. The entirety of the property is located within the Stafford Urban Reserve Area 4A. The site has a high point near the middle of the eastern edge and slopes gently down to the north and south with approximately an 80 foot grade change in both directions across the site.

The six properties are owned by the City of Lake Oswego and are characterized as largely open and rural pastureland interspersed with pockets of orchards, woodlands and rural dwellings. There is a Historic Landmark (HL) overlay zoning district on a portion of the property which recognizes the Luscher Farm complex (house, barn and outbuildings) as a significant historic resource.

Case History:

In 1998 the City applied to Clackamas County to establish a City-owned park on the Luscher property. The proposed uses in that application included community gardens, composting site, demonstration gardens, a farm museum, summer camps, community workshops and tours, historical and cultural activities, environmental education and stewardship programs, walking and picnicking activities. The application was denied by the County Land Use Hearings Officer on March 31, 1999. The Hearings Officer also denied the City request for a rehearing.

In July 2000, the City applied to Clackamas County to establish a community center at Luscher Farm. Section 401.16B (20) of the Clackamas County Zoning Ordinance lists "*Community Centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community*" as a use which may be allowed in the EFU zone, subject to review and approval by the Director. County staff advised that a community center intended for use primarily by residents within the Lake Oswego urban area could not satisfy this standard and the City withdrew the application.

In addition to prior land use applications, Lake Oswego's City Attorney met with the Clackamas County Planning Director on August 17, 2011 to review information about the on-going and future uses being contemplated on the Luscher Farm Property and the City's interest in addressing the land use issues associated with the property. A letter summarizing the status of existing and contemplated uses relative to EFU zoning from Mike McCallister, Planning and Zoning Manager for Clackamas County (October 5, 2011), is included as Exhibit I in the petition.

In 2019, the City requested a Director's Interpretation that would have allowed active recreational uses at Luscher Farm, but the request was denied. The County has deferred enforcement of existing recreational uses, which are limited to trails and pathways, as there is an understanding that the City is pursuing a

UGB expansion and that upon annexation to Lake Oswego the City could apply PNA zoning which would allow for these uses.

In 2006, the Metro Chief Operating Officer approved a UGB “trade” through the minor adjustment process involving two City-owned sites abutting Stafford Road. This resulted in the removal of the Rassekh property on the west side of SW Stafford Road from the UGB and the addition of four parcels east of Stafford Road into the UGB. Two privately-owned parcels to the north of the city-owned parcels were also included in the UGB trade to avoid a notch in the UGB. The city owned properties were developed with an artificial turf field (Hazelia Field), dog park and associated parking and restroom facilities consistent with the 1997 Luscher Farm Master Plan.

In 2012, the city submitted a UGB major amendment petition to add the Rassekh property back into the UGB for an indoor tennis center and related neighborhood park amenities. The Metro Council approved the petition on December 6, 2012. The tennis center was never constructed and the property remains undeveloped. The non-natural resource portion of the property is currently being used to store soil for two park construction projects. Future uses could include active recreation, a neighborhood park, natural areas and a trail system.

In 2017, Lake Oswego, West Linn and Tualatin, along with Metro and Clackamas County came to an agreement on the designation of the Stafford Urban Reserve Area (Five-Party Agreement). In addition, the three cities have come to agreement, in the form of the Three-Party Agreement, on concept planning for the Stafford Urban Reserve, which provides more certainty around the Stafford Basin generally and Luscher Farm specifically (both agreements are in Exhibit H of the petition). The Three-Party Agreement specifically authorizes Lake Oswego to proceed with a UGB amendment to include Luscher Farm and certain other park and open space properties that the City of Lake Oswego owns or may acquire in the Upper Stafford Basin, provided the request is limited to parks, recreation, open space or agricultural uses.

Local Government Statement: This UGB major amendment is being considered at the request of the City of Lake Oswego. The City of Lake Oswego completed a Concept Plan for the proposed expansion area and submitted service provider forms supporting the petition from the Lake Oswego Fire Department, Parks & Recreation Department, Police Department, and Engineering Department. In addition the Lake Oswego School District submitted a service provider form supporting the petition and the Clackamas County Sherriff Department submitted a service provider form that is neutral on the petition. Clackamas County Board of Commissioners submitted a written statement supporting the petition.

APPLICABLE REVIEW CRITERIA

The criteria for a Major Amendment to the UGB are contained in Metro Code Section 3.07.1425(b, c, d, e, & f) and 3.07.1440(a & b). The criteria (**in bold**), petitioner responses to the criteria (*in italics*), and staff analysis and conclusion follow.

Metro Code Section 3.07.1440(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that cannot wait until the next analysis of buildable land supply under ORS 197.299. Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other non-housing needs;

Petitioner Response:

Oregon land use law requires that, every six years, Metro assess the region’s capacity to accommodate the numbers of people anticipated to live or work inside the UGB over the next 20 years. To make this

determination, Metro forecasts population and employment growth over a 20-year timeframe; conducts an inventory of vacant, buildable land inside the UGB; assesses the capacity of the current UGB to accommodate population and employment growth; determines whether additional capacity is needed, and documents the results of these analyses in the Urban Growth Report. The Metro Council accepted the Urban Growth Report in 2018. Through the most recent legislative amendment process, Metro addressed residential growth and employment growth, with a focus on housing. The 2018 Urban Growth Report does not expressly address land needs for parks and recreation.

Under 3.07.1440, the Major Amendment process is only available for public facilities and services, public schools, natural areas, and other non-housing needs. The Major Amendment proposed by the City of Lake Oswego consists of land that is already owned by the City and proposed for a combination of public facility / service, non-housing needs including a combination of passive and active recreation facilities and programs. The proposed needs include:

- Urban agriculture (community gardens, CSA, etc.);*
- Educational programs related to urban agriculture, environmental, and historic and cultural resources at Luscher Farm;*
- Protection and enhancement of open spaces and resources, including orchards, tree groves and wetland and riparian areas;*
- Event and community meeting space;*
- Active recreation facilities; and*
- Local and community trail and pathway improvements and connections.*

These needs are only partially met today, because state planning rules (under Goal 3) and County land use regulations preclude full implementation of the Luscher Area Master Plan. The needs can only be met by adding Luscher Farm to the Urban Growth Boundary. This need cannot wait until Metro's next buildable land analysis because that analysis (under ORS 197.299) does not examine land need for public facilities (parks) and natural areas independent of residential land needs. The UGB amendment is needed now to make these agricultural uses (which are allowed in the EFU zone) available for the public to enjoy and learn from. This includes hosting regular events and classes for environmental education and community enrichment – uses which are not compliant with the County's EFU zoning ordinance, as the City has received clarification from County planning staff (see Exhibit I). While the County has informally clarified that enforcement will be on hold, it was with the understanding that the City is actively pursuing expansion of the UGB and annexation, which will bring all these uses into compliance.

The properties included in this Major Amendment application are crucial to the implementation of the City's Vision 2035 and Comprehensive Plan, Parks Plan 2025, and the Luscher Farm Area Master Plan. Without the amendment and eventual annexation and rezoning of the site, many of the planned improvements and uses will not be implemented. The proposed UGB amendment includes land that is owned by the City that will be designated for parks and natural area uses by the City of Lake Oswego, consistent with the limitations of 3.07.1440.(a).

The timing of the UGB amendment is crucial to the implementation of these adopted plans and the most recent Parks Bond (2019) approved by Lake Oswego voters. The community authorized \$30 million towards parks improvements and acquisitions backed by long term planning. The Luscher Area has a history of planning and community support, but the bonds have more projects identified than funds available. The City does not expect another major park bond to be presented to voters in the near future. Should the implementation of the Luscher Area Master Plan be delayed to the next UGB expansion and BLS, it is likely that these funds will be assigned to other projects that do not need an UGB amendment to move forward and will not be available.

Metro Staff Analysis:

There are two criteria contained in Metro Code section 3.07.1440(a) that are analyzed separately below:

1) The proposal must be for a non-housing need.

The petitioner proposes to add land to the UGB for a combination of public facility/service, non-housing needs including a combination of passive and active recreation facilities and programs, which are non-housing needs.

2) The proposal must be intended to meet needs that cannot wait until the next analysis of buildable land supply (December 2024).

Title 14 of Metro's Urban Growth Management Functional Plan includes the Major Amendment process to amend the UGB for a number of specific non-housing needs, including public parks. This process is intended to provide an opportunity to meet specific land needs outside of the Legislative process the Metro Council conducts on a six-year cycle as required by State law. As part of the Legislative process, Metro conducts an inventory of the current residential and employment capacity within the UGB, forecasts population and employment growth over a 20-year timeframe, determines the capacity of the current UGB to accommodate that growth and documents the results of these analyses in an urban growth report. The most recent urban growth report, adopted in 2018, did not address park land needs at the regional level. Park districts acquire property and develop park facilities based on numerous operational and funding parameters that can't be considered at the regional level. The Major Amendment process is the appropriate means of addressing specific park needs that **can only** be accommodated through UGB expansion and cannot wait until the next Legislative cycle.

The City proposes a combination of public facility/service, non-housing needs that include: urban agriculture (community gardens, CSA, etc.); educational programs related to urban agriculture, environmental, and historic and cultural resources at Luscher Farm; protection and enhancement of open spaces and resources, including orchards, tree groves and wetland and riparian areas; event and community meeting space; active recreation facilities; and local and community trail and pathway improvements and connections. Two of the proposed uses, urban agriculture and protection and enhancement of open spaces are allowed uses under the EFU zoning and the expansion of these uses are not dependent on an UGB amendment. The City even notes in the petition that the needs are partially met today and the UGB amendment "is needed now to make these agricultural uses (which are allowed in the EFU zone) available for the public to enjoy and learn from". If the uses are allowed under the current zoning then a UGB amendment is not necessary to provide for the expansion of those uses nor is a UGB expansion appropriate for the purpose of increasing public access to allowed uses. As discussed in more detail below, a UGB expansion must be tied to needs arising out of future population growth, not to the desires of current city residents to have better access to agriculture.

The Oregon Statewide Planning Program is predicated on the protection of farm and forest lands through the implementation of urban growth boundaries. Expanding the UGB to include land for agricultural uses is contradictory to this fundamental tenet of the statewide program. Trails and pathway connections are also allowed under the current zoning; some improvements envisioned by the City may not be allowed but there is no documentation in the petition regarding what improvements are needed that are not allowed and why these specific trail and connection improvements could not wait for the next analysis of buildable land supply in 2024. The Luscher Farm Master Plan also notes that "all pedestrian trails in the open space areas connect to the Rosemont Multi-Use Trail, creating a rich, interconnected network of pathways from which to explore the site's natural features," which does not indicate an immediate need for pathway connections.

The City also notes that the properties included in this Major Amendment application are crucial to the implementation of the City's Vision 2035 and Comprehensive Plan, Parks Plan 2025, and the Luscher Farm Area Master Plan. The City states that without the amendment and eventual annexation and rezoning of the site, many of the planned improvements and uses will not be implemented. The Luscher Farm Area Master Plan makes clear that "the Luscher Area Master Plan presents a long-term vision for the future use and development of park land. Implementation of this vision will be incremental and take place over time as funding is available." The Master Plan lays out a phasing approach broken into five-year increments with the first five years concentrating on easier to implement and lower cost elements of the plan (most of which can take place under current zoning without an UGB amendment). There is no documentation in the petition regarding whether any of the program elements in this first phase have been completed or if the recommendations for implementation of the elements, some of which appear critical for later year program elements (for example historic structure rehabilitation plan, team sport fundraising for future sport field development or water right expansion), were considered or adopted. The petition does not explain or document the urgency for implementing some of the uses now rather than at a later date beyond providing the current citizens of Lake Oswego access to uses on the site. The petition does not explain why this access for its citizens cannot wait until a larger portion of the urban reserve area is included in the UGB through the Legislative process.

Clackamas County's letter of October 5, 2011 from Mike McCallister (Exhibit I of the petition) provided an outline of the allowed and not allowed uses in the EFU zone as well as some opportunities for the City to apply for some of the uses in the petition, on a limited rural community focus only. He noted that all programs which include on-site educational classes, training and/or seminars (Children's Garden, Kids and Corn, Garden Apprentice Program, Oregon Tilth Organic Center, etc.) are not allowed unless approved through the Planning Director Review Process. It appears from the petition the City has not attempted to obtain approval for on-site educational classes or training seminars through the Director Review Process, although the petition does note that current uses include gardening classes, backyard campouts, historic walking tours and Rent the Farm Program for events and activities. Since the Master Plan was completed in 2013, based on the information in the petition, the City has only requested a Director's interpretation to allow active recreational use, which the county denied.

The petition notes that the timing of this UGB amendment is crucial to the implementation of the recently passed \$30 million Parks Bond (2019). The City asserts that if implementation of the Luscher Area Master Plan is delayed to 2024, it is likely that these funds will be assigned to other projects that do not need an UGB amendment to move forward and will not be available. The \$30 million bond authorized funds to 13 different projects, including Luscher Farm Master Plan Implementation, estimated to cost about \$6 million. The use of the bond fund is limited to the following types of land acquisition and improvements: acquisition of natural open space and park land that can be used for active or passive recreation; renovation and replacement of park improvements and facilities; and development of new park and recreation improvements and facilities. As noted in the petition, the City has identified multiple projects for these funds exceeding the amount of funds available. The final distribution between the projects has yet to be determined and will be guided by the City's current and future parks and capital improvement plans, with input from the public and from the Parks, Recreation and Natural Resources Advisory Board. Given that there are multiple projects that exceed the amount of funds available and the allocation of those funds are guided by the current and future parks and capital improvement plans with input from the public and the advisory board, there is no guarantee that park bond measure funds would be available even if the petition was successful. The Luscher Area Master Plan notes that the City will need to rely on a wide variety of funding mechanisms and strategies and presents a unique opportunity to explore the use of other creative strategies including grants, foundation funding and community partnerships. The petition does not explain whether other funding strategies have been explored. The successful implementation of the 2019 park bond measure is not dependent on a successful UGB petition

for Luscher Farm when the City has identified more park projects than there is bond funding available for and the funding decisions are not yet determined.

While the active recreation component of the needs identified by the City appears to be the most applicable identified need for not waiting for the next buildable land analysis it is not specifically addressed by the City in this section. There are no data or numbers in the petition describing how often the fields are used by city recreational leagues or how many potential teams or individuals are currently not able to participate due to a lack of recreation facilities; nor is there any description of potential impacts to individuals or teams in the future.

Conclusion:

The petition meets the first criterion for a non-housing use. The petition does not meet the second criterion to meet needs that cannot wait until the next analysis of land supply because some of the identified needs do not require an UGB amendment to occur. In addition, no justification is provided as to why the other needs must occur now, beyond their inclusion in the City's various planning documents or potential bond funding, or why they could not wait for the next analysis of buildable land. Finally, not all of the identified needs are addressed by the City in this section, leading to the conclusion that the need can wait until the next buildable land supply analysis.

Metro Code Section 3.07.1440(b), referring to 3.07.1425(b, c, d, e, & f).

3.07.1425(b) The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

(1) Demonstrated need to accommodate future urban population, consistent with a 20-year population range forecast coordinated with affected local governments;

Petitioner Response:

As described in Section 1 of the application, the City of Lake Oswego is requesting expansion of the UGB to include approximately 83 acres of City-owned land in the vicinity of Stafford and Rosemont Roads to accommodate existing and long-term communitywide needs for integrated open space, park and recreational uses. Lake Oswego is forecast to grow from 37,000 in 2019 to over 40,000 by 2040 (see application Table 2 below). Given anticipated growth, the properties included in the Luscher Area Master Plan are well-situated to meet growing recreation needs for nearby neighbors.

Table 1 Metro Adopted Forecasts for the Current Lake Oswego USB¹

<i>Forecast</i>	<i>2015 Population Estimate (PSU estimate)</i>	<i>2040 Population Forecast</i>	<i>2015-2040 Change</i>
<i>Final Metro Forecast - Households</i>	<i>15,760</i>	<i>17,648</i>	<i>1,888</i>
<i>Final Metro Forecast - Employees</i>	<i>19,381</i>	<i>25,265</i>	<i>5,884</i>
<i>Final Metro Forecast - Population</i>	<i>37,300</i>	<i>40,311</i>	<i>3,011</i>

Community leaders and citizens demonstrated foresight in purchasing these properties at the edge of the City beginning more than 30 years ago, which secured and protected a unique open space/agrarian/cultural landscape at the southerly entrance to the City. Now the City has updated plans

¹ Metro 2040 Regional Population Housing Forecast by City and County, 2016.

for the next 15 years and received bonds dedicated specifically towards parks, with a special recognition for implementing long term interests of the community. City residents voted in 2019 to raise funds through a parks bond for new park facilities to accommodate current and future park demand. It is timely to bring these city-owned properties into the UGB, so that they can be better integrated and managed under the City's established land use framework for parks, open space, and natural areas, and so available funds can be used to implement the vision.

As the City continues to grow, the need for parks will continue to grow. Including Luscher Farm in the UGB at this time (instead of four years from now) will ensure the City has funds from the bonds to implement the Master Plan and ensure that the agricultural history of Lake Oswego is preserved.

Metro Staff Analysis:

The need that must be addressed in this criterion is the region's long-range need to accommodate its urban population, consistent with a 20-year population range forecast coordinated with affected local governments. The City identifies a population increase of 3,011 people by the year 2040 based on Metro's 2016 regional population housing forecast by city and county. There is no connection in the petition between the 3,011 expected additional people and the various land use needs identified (urban agriculture, educational programs, protection and enhancement of open spaces and resources, event and community meeting space, trail and pathway improvement and connections and active recreation facilities). With 1,888 additional households forecasted, the average household size for new households would appear to be about 1.6 people (i.e., probably mostly single adults or couples). Thus one could infer that many of those are adults, not children. However the petition contains no connection between the City's stated need for the uses and the breakout of adults and children expected over the 20-year timeframe. In terms of the City's stated need for urban agriculture, the petition refers to a November 2011 phone survey that showed the importance of urban agriculture to residents of the city at that time, which again indicates that the need to include Luscher Farm inside the UGB is related to the desires of the existing residents of Lake Oswego and not to accommodating future urban population over the next 20 years.

The Luscher Farm Master Plan does not identify any specific acreage amount that would be required to meet the stated need for additional urban agriculture or for any of the other uses related to a population forecast. The Master Plan identifies two new multi-use synthetic athletic fields and basketball courts and a 125 space parking area, however the petition does not correlate the proposed new athletic facilities to an assumed number of adults or children in the 20-year population forecast. The petition only notes that the 2019 update to the Athletic Field Requirement Study found that the number of fields available to the community for reservation had decreased by three since 2011 and that two high school fields are assumed unavailable to the Lake Oswego community. The study also noted that, while participation in city and community leagues has declined (27% overall excluding soccer), sports season overlap and conflicting time practice and game hours create the need for additional fields. The determinations in the 2019 update are related to the use of the fields by the current residents of Lake Oswego (comparison of 2011 to 2018 participants) and are not connected to a need to accommodate a 20-year population forecast.

The Three Party Agreement specifically authorizes Lake Oswego to proceed with a UGB amendment to include Luscher Farm and certain other park and open space properties that the City of Lake Oswego owns or may acquire in the Upper Stafford Basin, provided the request is limited to parks, recreation, open space or agricultural uses. This again indicates that the size of the proposed UGB expansion is based on the amount of land the City owns or can purchase in the Upper Stafford Basin, and not on the City's 20-year population growth forecast. Finally, as noted in the petition, since 1998 the City has applied to Clackamas County to allow the proposed uses (plus other uses) and has also discussed with the County options for allowing various uses on the site. Based on the numerous attempts over the last 20 years it is clear that the proposed uses are for the current residents of Lake Oswego and the petition does not

correlate the existing or proposed uses of Luscher Farm with the need to accommodate a 20-year population forecast.

Conclusion:

The petition does not meet the criterion.

(2) Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph;

Petitioner Response:

The City has identified a need for a larger park facility, including large areas for active and passive recreation and urban agriculture, incorporated around a historic landmark building which may be used for education and community gatherings, as noted in the Luscher Farm Master Plan and Parks Plan 2025. Luscher Farm already has the existing infrastructure of a historic building to use for the meetings and classes, a working farm for urban agriculture, proximity to the Hazelia Fields to the north, and open space to the northeast and east, which could include walking trails. The Luscher Farm site allows for efficient accommodation of the needed improvements due to the lack of constraints and relatively few improvements needed to add the planned uses to the site. The Luscher Area has been planned for and analyzed by the 2013 Luscher Farm Master Plan, and evaluation of the opportunities and constraints of the site are well documented.

The Parks Plan 2025 identified three essential services which make up the specific needs identified by residents: Play for Children, Exercise and Sports, and Access to Nature. In analyzing the distribution of existing parks in meeting these essential services, Luscher Farm was the only City park outside the UGB which met all three essential services.

As described in the Luscher Area Master Plan, the site has the unique ability to meet the educational needs of the community, while allowing natural resources, local history, sports, walking trails, gardening, gathering spaces, and local access to food. These elements are unable to be replicated as completely by other City parks. The Luscher Farm Property is currently used for a variety of activities, including organic farm plots for rent, community supported agriculture (CSA) program, clematis collection, children's garden including classes and field trips, historic walking tours, Oregon Tilth Organic Education Center and other events and activities. No other parks space meets the vision of community health related to access to locally grown food, as Luscher Farm is uniquely able to provide community gardens and agriculture to residents.

With the current location of the subject property outside of the UGB and Exclusive Farm Use zoning, the City has pushed the boundaries of uses that are allowed under Oregon statutory rules for "commercial" agriculture. As discussed later, existing land within the City is either too steep, developed, or too small a lot to provide for the comprehensive uses planned for Luscher Area (see Figure 8). While the City is able to provide community agriculture currently at the site, it is unable to share the educational aspect of hands-on learning with residents currently, given the EFU zoning and County restrictions.

Oregon's land use framework anticipates a "bright line" between urban uses inside the UGB that are supported by urban facilities and services and farm and forest resource uses located outside of the UGB and protected for the commercial farm and forest economy. The existing and proposed park, open space and recreational uses associated with this UGB amendment are unusual and focus on more of a "blurred" line between urban and rural.

As summarized in Section 1 of this narrative, the City has identified a need to include the Luscher Farm Area properties in the UGB to accommodate four primary and interrelated park and recreational uses that cannot be adequately be accommodated on parks or other lands inside the UGB: 1) Urban Agriculture and Related Programs, 2) Athletic Fields, 3) Connecting Trails and Pathways, and 4) Historic and Community Uses.

Relative to the need for urban agriculture, no other properties available within Lake Oswego provide the scale and scope of opportunities for urban agriculture that are available at Luscher Farm (see response to 1425(b)(3)). The interest in, and support for, urban agriculture has clearly grown in the almost 30 years since the City purchased Luscher Farm in 1991. The characteristics of the property, including soils, topography, access to well water for irrigation, and existing urban agriculture that is already in place (CSA, community gardens, Oregon Tilth, volunteer and education programs) leverage the importance of this location as a focus for urban agriculture in Lake Oswego. Sites within the City which are large enough to have urban agriculture and education around it are either already developed or too steep to provide land for agricultural uses.

The proposed UGB Amendment is driven by a plan to expand the existing athletic fields at Hazelia Fields and urban agriculture at the Farm as part of a larger vision for the area determined through the Luscher Area Master Plan. Through the Luscher Area Master Plan, the community decided on the specific allocation of land and location for the integrated open space, park and recreational uses, with a contiguous recreational and open space area, bordered on the southwest by the Luscher Farm and on the northwest by the athletic fields. By expanding the UGB to the proposed properties, the City will be able to provide an area with seamless transitions between the planned park and natural area uses.

Bringing the Luscher Farm Area into the UGB at this time will facilitate the development and connection of a system of pathways and trails at a local, community and regional scale. There are six planned regional trails in the Lake Oswego area, including one that crosses near the proposed UGB amendment, the “River to River Trail” which will connect the Willamette Greenway at George Rogers Park to the Tualatin River. Community connector trails link important land uses and areas of interest within Lake Oswego. The Conceptual Trails and Pathways Master Plan identifies existing and proposed community connector trails along Stafford Road, Rosemont Road, Atherton Drive, Overlook Drive and Bergis Road abutting the properties included in the proposed UGB amendment. A network of connected, local access trails is shown for the Luscher Farm Area on the Conceptual Trails and Pathways Master Plan.

While trails and pathways aren’t precluded outside of the UGB or on land zoned EFU, the land use and permitting process is more complicated, and County staff have indicated that trails cannot be used for walking tours or walking and picnicking activities (Exhibit I). Additionally, Park System Development Charges (SDCs) cannot be spent on trails and pathway improvements that are outside of the UGB and city limits. Therefore, pathways and trails are a very important component of the overall vision for the Luscher Farm Area and can be accommodated with the proposed UGB amendment.

The City finished planning efforts in 2013 which provided context for the proposed UGB amendment, including the 2035 Community Vision, Comprehensive Plan, and Parks Plan 2025. The population baseline analysis and forecasts for these planning efforts have been coordinated. Key themes from public outreach efforts for the Comprehensive Plan Update and Parks Plan 2025 support this proposed UGB Amendment:

- A focus on filling gaps in recreation services by adding new facilities to existing parks or partnering with other providers; creating parks that serve multiple needs rather than acquiring new park land.*

- *Identification of the three essential services that residents should have close access to from their homes: play for children, nature experience, and exercise and sports.*
- *Improving bike and pedestrian access to parks throughout the City.*
- *Identifying goals to provide facilities that promote community health, provide year-round recreational opportunities, and provide multiple services—including local access to healthy food--to a broad range of people.*

The proposed UGB amendment is integrally linked with community needs and themes articulated through these major community-wide planning initiatives. The location, scale and unique synergy of uses at Luscher Farm can fulfill the essential needs for access to play for children, nature, and exercise and sports. The City is focused on expanding existing uses and programs (such as urban agriculture, community gardens and expanded trail/pathway connections) at Luscher Farm and adding new facilities to serve multiple needs at this community-scale park rather than acquiring new land.

Within the Luscher Area Master Plan, a community desire for the expansion on active recreation, community programming, and cultural resources was identified. The Luscher Farm Area was identified as an area where the existing cultural resource was not able to be fully integrated into the community, as certain recreational and community uses were not allowed. The community opinion was that, while this was a working CSA farm, there were other opportunities with the site and its surrounding properties which would benefit from expansion. The opportunity for heritage tourism, environmental education, and community programming at one existing site is rare, that the site is uniquely situated to allow for the Luscher Farm, Hazelia Fields, and the wide-open spaces around the area to integrate into a larger environmental complex that serves the wide variety of community needs.

In summary, the City has demonstrated a need to include the Luscher Farm Area properties in the UGB to accommodate 20-year needs for park and open space based on coordinated population and demographic projections. The characteristics of the Luscher Area Farm properties – including the long-standing public ownership by the City, existing uses and park improvements, and proximity to urban development and urban infrastructure – make this a uniquely suitable location for UGB expansion for park uses. Including the properties in the UGB will also facilitate related park improvements such as construction of trails and pathways that are a key component of overall community livability.

Metro Staff Analysis:

The need that must be addressed in this criterion is a demonstrated need for land suitable to accommodate the identified uses. The only acreage identified in the petition is the 83 acres that make up the city owned block of land. There is no breakout of land need by acre for any of the City's specific proposed uses based on the 20-year forecast. While the Luscher Area Master Plan identifies general acreage amounts for existing and future uses, it is unclear which acres relate to the future uses and there is no attempt to relate the future acres to the need based on the 20-year forecast. The petition notes that the City is able to provide community agriculture currently at the site, but it is unable to share the educational aspect of hands-on learning with residents currently given the EFU zoning and County restrictions, leading one to believe that accessibility of the site to current residents is needed more than additional acres for community agriculture. In addition, the petition notes that trails and pathways are not precluded on land outside the UGB or on land zoned EFU, but the permitting process is more complicated and SDC funds could not be used. This however, does not mean that the trails and pathways envisioned in the master plan can only be built with an expansion of the UGB.

The Luscher Farm Master Plan also does not identify what amount of acreage is needed for the additional urban agriculture use or for any of the other uses. There is no doubt in Metro staff's mind that the City's

request would have included the nearby City-owned Brock open space parcel if it adjoined the proposed 83 acre expansion area, as well as other nearby parcels that the City has considered purchasing.² As noted previously, the Three Party Agreement authorizes Lake Oswego to proceed with a UGB amendment to include Luscher Farm and any other park and open space properties that the City of Lake Oswego owns or may acquire in the Upper Stafford Basin. This supports a conclusion that the proposed expansion of the UGB is related to the amount of acreage owned by the city rather than the amount of acreage needed to meet the identified needs based on the 20-year population forecast.

Given that the Master Plan identifies two new multi-use synthetic athletic fields and basketball courts and a 125 space parking area an estimate of the acreage need for the athletic facilities could be calculated. However, the petition does not connect the proposed new athletic facilities and the acreage needed to develop those facilities to the 20-year population forecast. The petition only notes that the 2019 update to the Athletic Field Requirement Study found that the number of fields available to the community for reservation had decreased by three since 2011 and that two high school fields are assumed unavailable to the Lake Oswego community. Finally, the City fails to address all of the needs identified in the petition.

Thus, the petitioner has not shown there is a demonstrated land need to accommodate urban agriculture, educational programs, protection and enhancement of open spaces and resources, event and community meeting space, trail and pathway improvement and connections, and active recreation facilities.

Conclusion:

The petition does not meet this criterion.

(3) A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot be accommodated on land already inside the UGB.

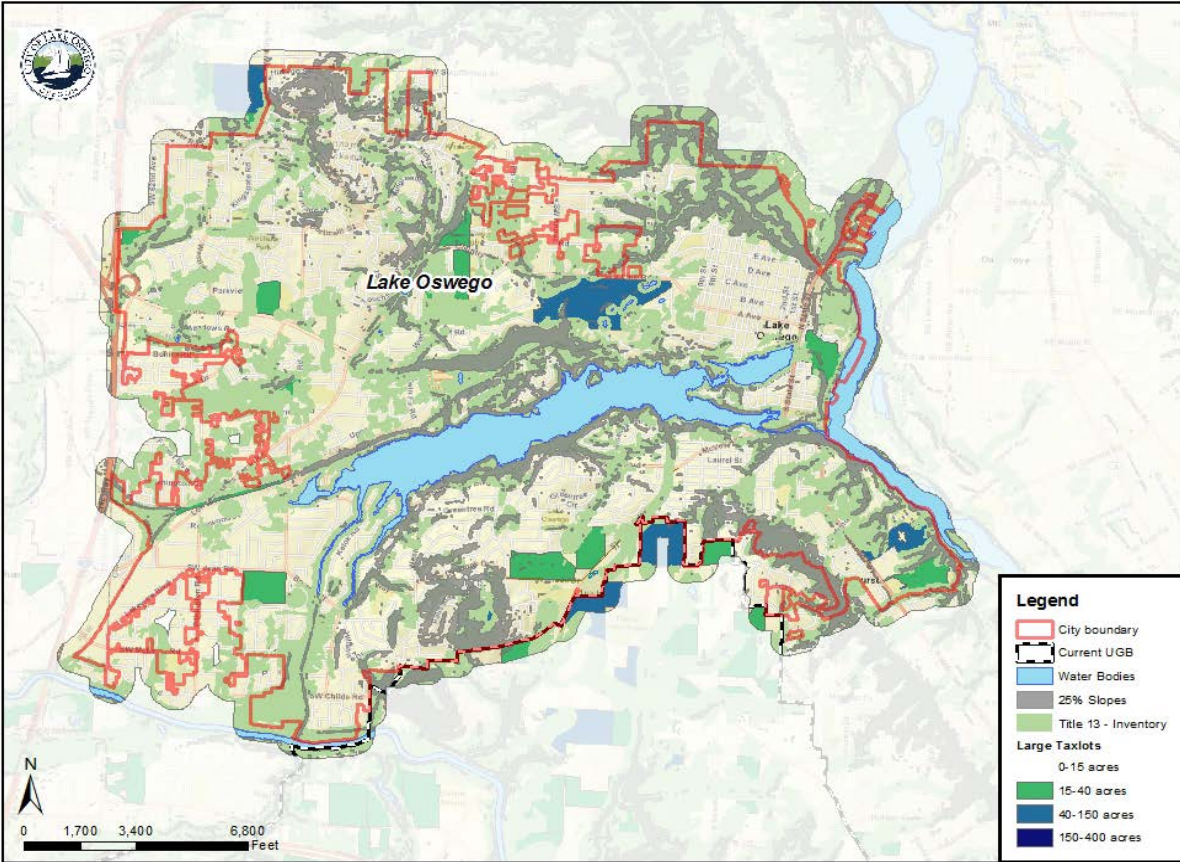
Petitioner Response:

Land within the UGB, specifically within the City limits, cannot provide enough land for the agricultural uses envisioned at Luscher Farm. Existing vacant or city owned land is either too steep or too small in acreage for the urban agriculture uses envisioned in the Luscher Farm Area (see application Figure 8 below). The twenty-six existing lots greater than 15 acres within the UGB which are within or adjacent to the City limits are either currently used for schools, city parks, golf courses, country clubs, community colleges, cemeteries, apartment and condo complexes, and senior living. Most city parks are too steeply sloped to allow any agricultural uses. Flatter land within the City limits are already developed with the uses listed, and none of the land within the City limits is considered usable for agriculture.

Figure 1: Potential sites within UGB³

² In February 2020 an appraisal firm hired by the City contacted Metro staff seeking land use information on parcels to the east of Luscher Farm that the City wanted to purchase for additional park land.

³ Areas were identified as any lot larger than 15 acres (identified using natural breaks in GIS) within or adjacent to the City UGB. Site uses, slopes, and natural resources were analyzed to identify any potential disqualifying factors which prevent the same uses planned for the Luscher Area.



Metro Staff Analysis:

The City indicates that all vacant and city owned land is either too steep or too small in acreage for the urban agriculture uses envisioned in the Luscher Farm area. However the petition does not identify a needed acreage amount for the future urban agriculture uses, thus it is unclear how that conclusion can be made. Also as noted before, the proposed agricultural uses can occur under the current rural zoning. The petition also notes that twenty-six existing lots greater than 15 acres within the UGB which are within or adjacent to the city limits are either currently used for schools, city parks, golf courses, country clubs, community colleges, cemeteries, apartment and condo complexes, and senior living. It is unclear the rationale for only analyzing lots greater than 15 acres, especially those that are already developed, when there is no identification of the acreage needed to meet the proposed uses in the petition beyond the fact that the 83 acre proposed expansion property is city owned. The petition notes that the city parks are too steep for agriculture use and none of the land within the city limits is considered usable for agriculture. However there is no comparison of the topography of those city parks to the proposed Luscher Farm site to verify that determination and it is clearly evident by nearby agricultural uses within the Stafford Basin that agriculture can occur on land that is not flat. Finally, this section only addresses one of the six identified proposed uses and is silent on whether the other proposed uses could occur on land currently within the UGB.

Conclusion:

The petition does not meet this criterion.

SUMMARY AND RECOMMENDATION

The petitioner request the UGB be expanded to include approximately 83 acres east of SW Stafford Road and north of S Rosemont Road to be used as open space, park and recreational uses. Specifically the proposed use of the Luscher Farm property is for a combination of passive and active recreation facilities and programs including: urban agriculture (community gardens, CSA, etc.); educational programs related to urban agriculture, environmental, and historic and cultural resources at Luscher Farm; protection and enhancement of open spaces and resources, including orchards, tree groves and wetland and riparian areas; event and community meeting space; active recreation facilities; and local and community trail and pathway improvements and connections.

Metro staff determined that the petition does not meet the “cannot wait” component of Metro Code section 3.07.1440(a) as some of the identified needs can occur on rural land without a UGB expansion and the other identified needs were either not addressed or no reasoning was provided why they couldn’t wait for the next buildable land analysis. The petition also did not meet Metro Code sections 3.07.1425(b)(1-3), related to a demonstrated need consistent with a 20-year population range forecast, a demonstrated need for land suitable to accommodate the need and a demonstration that the need cannot reasonably be accommodated on land already inside the UGB. Therefore Metro staff concludes that the petition failed to show there is a need to amend the UGB. As no need to amend the UGB is demonstrated the remaining factors contained in Metro Code section 3.07.1425(c)(1-9) are not addressed in the staff report as they are used to determine which areas better meet the identified need, when a need to amend the UGB is established. Similarly, Metro Code sections 3.07.1425(d-f) and 3.07.1440(b)(1-3) are not addressed as they also are predicated on a determined need to amend the UGB.

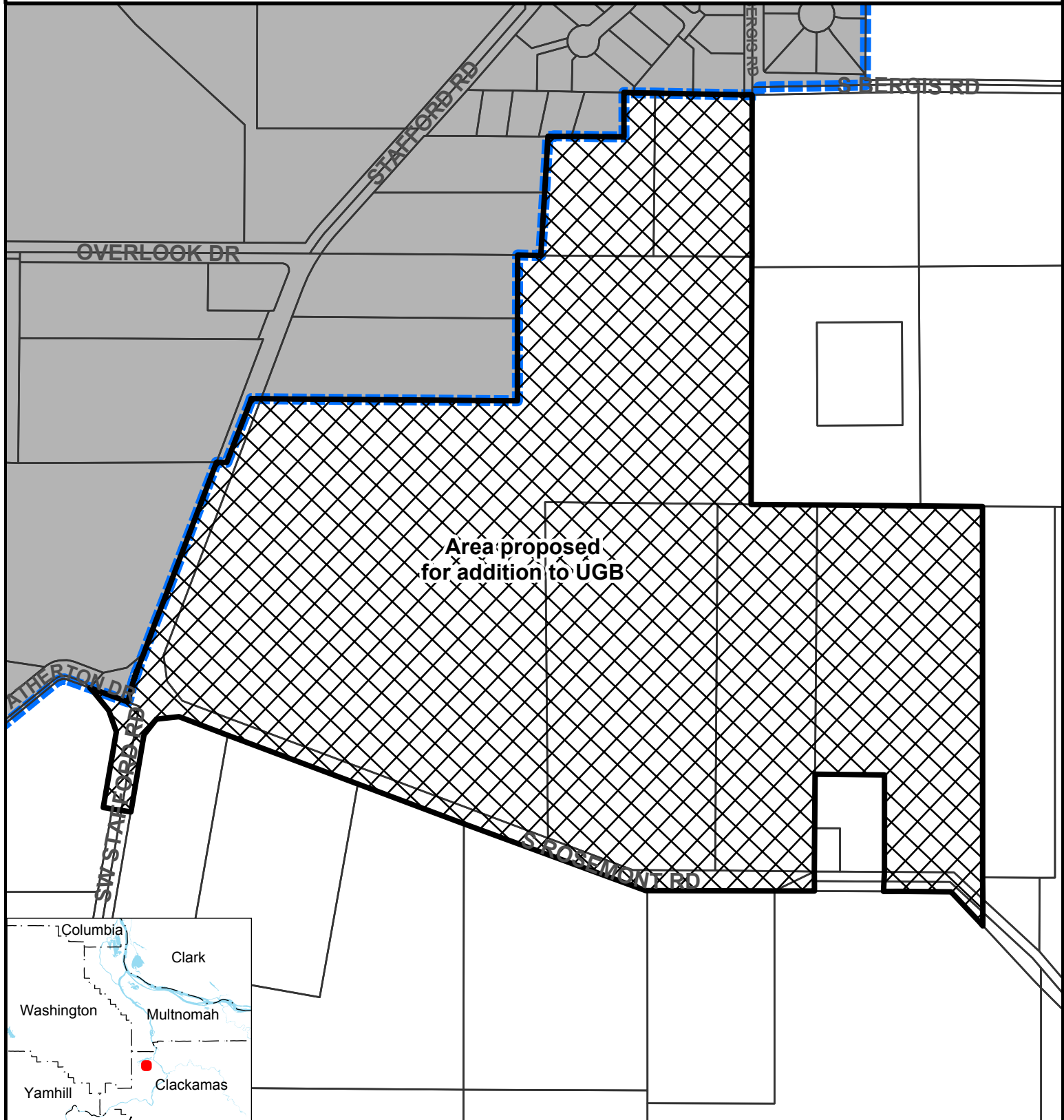
Staff recommends, therefore, that the Hearings Officer forward a recommendation to the Metro Council for *denial* of this petition.

ATTACHMENTS

Attachment 1: Subject Property Map

Case No. 20-01

Clackamas County




<http://www.oregonmetro.gov/drc>

Case No. 20-01 UGB Major Amendment



A horizontal number line with a black bar from 0 to 500. The number line is labeled 0, 500, and 1,000. The word "Feet" is at the right end. Above the bar, "1,500" is written.

 Area proposed for addition to UGB

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.