

Exhibit B - Appellants

Section 1 Criteria and Notes and Evidence for land use zoning, SEC and environmental concerns

Summary T2-2019-12701

1. MCC code 39.7725 General requirements

(J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, Grading and Erosion Control, Flood Hazard, and Significant Environmental Concern.

2. MCC § 39.7740 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(2) Radiofrequency Standards. The applicant shall comply with all applicable FCC RF emissions standards (FCC Guidelines). (3) Noise. Noise levels shall not exceed 5 dBA above ambient levels or 55 dBA Sound Pressure Level (SPL), whichever is greater, on adjacent properties. Operation of a back-up generator in the event of power failure or the testing of a back-up generator between 8 AM and 8 PM are exempt from this standard. No testing of back-up power generators shall occur between the hours of 8 PM and 8 AM. (4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs: (a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature; (b) The facility shall comply with ground disturbing activities regulations of MCC 39.6200 through 39.6235 when applicable; (c) The facility shall comply with Flood Hazard regulations of MCC 39.5000 through 39.5055 when applicable; and (d) Alteration or disturbance of native vegetation and topography shall be minimized.

3. MULTIPLE USE AGRICULTURE MUA-20 § 39.4300

PURPOSE The purposes of the Multiple Use Agriculture District are to conserve those agricultural lands not suited to full-time commercial farming for diversified or part-time agriculture uses; to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density residential development and appropriate Conditional Uses, when these uses are shown to be compatible with the agricultural uses, natural resource base, the character of the area and the applicable County policies

§ 39.4310 ALLOWED USES

Uses listed in this section may be permitted after required review as Type II decision pursuant to MCC 37.0510 through 37.0800, or as specified for the use.

(F) Wireless communication facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through 39.7765.

§39.7705 (A) Siting for a personal wireless communications facility is a use of land, and subject to the County's zoning ordinance and all other applicable ordinances and regulations. (B) The requirements of 36.6175 through 36.6188 shall apply to all new wireless communications facilities (WCFs).

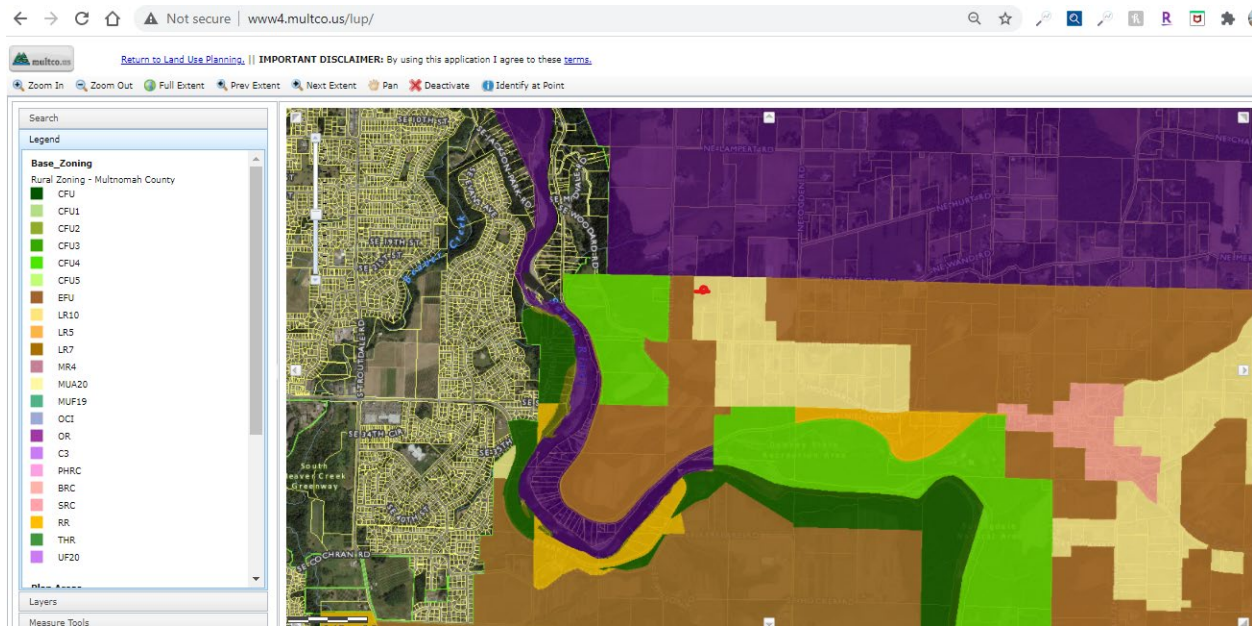
Comment: 36.6175 -6188 refers to west of the sandy river. I went to 35.6175 which refers to east of the sandy river.....see 35.6175 below

4. East of the Sandy River rural area

§ 35.6175 WIRELESS COMMUNICATIONS FACILITIES. The purpose and intent of 35.6175 through 35.6188 is to provide a process and uniform comprehensive standards for the development and regulation of wireless communications facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare, and the aesthetic quality of unincorporated Multnomah County as set forth within the State-wide Oregon Planning Goals and policies of the Comprehensive Plan; while at the same time not unduly restricting the development of needed wireless communications facilities and encouraging managed development of the evolving wireless communications network. It is furthermore intended that, to all extent permitted by law, the County shall apply these regulations to specifically accomplish the following: (A) Protect the visual character of the County from the potential adverse effects of wireless communications facilities development; (B) Insure against the degradation of the County's scenic corridors and ridgelines and rural communities designated under local, state or federal law; (C) Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives by requiring a review of any proposed WCF in a public right-of-way; (D) Protect the environmental resources of Multnomah County;

In the figure below: EFU = brown areas, CFU green areas, Scenic Gorge purple areas, Tan are MUA

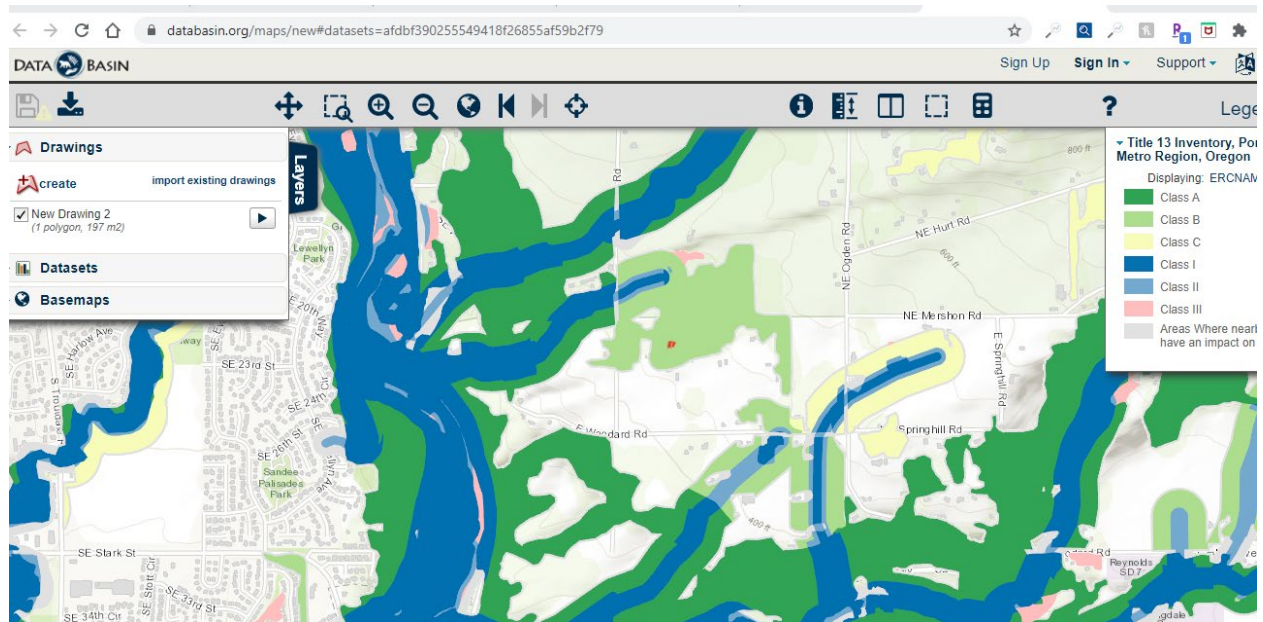
Majority of lands in our area are zoned EFU, CFU and/or Scenic Gorge and they should be protected



5. Metro title 13

Title 13: Nature In Neighborhoods 3.07.1310 Intent The purposes of this program are to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region. This program: (a) Will achieve its purpose through conservation, protection, and appropriate restoration of riparian and upland fish and wildlife habitat through time, using a comprehensive approach that includes voluntary, incentive-based, educational, and regulatory elements; (b) Balances and integrates goals of protecting and enhancing fish and wildlife habitat, building livable Region 2040 communities, supporting a strong economy, controlling and preventing water pollution for the protection of the public health and safety, and complying with federal laws including the Clean Water Act and the Endangered Species Act; (c) Includes provisions to monitor and evaluate program performance over time to determine whether the program is achieving the program's objectives and targets, to determine whether cities and counties are in substantial compliance with this title, and to provide sufficient information to determine whether to amend or adjust the program in the future; and (d) Establishes minimum requirements and is not intended to repeal or replace existing requirements of city and county comprehensive plans and implementing ordinances to the extent those requirements already meet the minimum requirements of this title, nor is it intended to prohibit cities and counties from adopting and enforcing fish and wildlife habitat protection and restoration programs that exceed the

requirements of this title. [Ord. 05-1077C, Sec. 5.] 3.07.1320 Inventory and Habitat Conservation Areas The purpose of this section is to describe the geographic information system (GIS) data and maps that form the basis of Metro's fish and wildlife habitat protection and restoration program. This data and maps are referenced in various ways in this title, but may or may not be relevant within a city or county depending upon which implementation alternative the city or county chooses pursuant to Metro Code Section 3.07.1330(b). The maps referred to in this title are representations of data contained within Metro's GIS system, operated by the Metro Data Resource Center, and references to such maps shall be interpreted as references to the maps themselves and to the underlying GIS data that the maps represent. (a) The Regionally Significant Fish and Wildlife Habitat Inventory Map (hereinafter the "Inventory Map"), attached hereto³, identifies the areas that have been determined to contain regionally significant fish and wildlife habitat. The Inventory Map divides habitat into two general categories, riparian and upland wildlife, and further differentiates each habitat category into low, medium, and high value habitats. (b) The Habitat Conservation Areas Map, attached hereto⁴, identifies the areas that are subject to the performance standards and best management practices described in Metro Code Section 3.07.1340, to the extent that a city or county chooses to comply with Metro Code Section 3.07.1330 by using the Habitat Conservation Areas map, or a map that substantially complies with the Habitat Conservation Areas map. For such cities and counties, the Habitat Conservation Areas Map further identifies, subject to the map verification process described in Metro Code Sections 3.07.1330(g) and 3.07.1340(d), which areas will be subject to high, moderate, and low levels of habitat conservation based on Metro Council's consideration of the results of the economic, social, environmental, and energy (ESEE) consequences of protecting or not protecting the habitat, public input, and technical review, and the Metro Council's subsequent decision to balance conflicting uses in habitat areas. ³ On file in the Metro Council office and copies available from the Metro Data Resource Center. ⁴ On file in the Metro Council office and copies available from the Metro Data Resource Center. (1) Table 3.07-13a describes how (1) Class I and II riparian habitat areas, and (2) Class A and B upland wildlife habitat areas within publicly owned parks and open spaces, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses, located within the Metro boundary on December 28, 2005, were designated as high, moderate, and low Habitat Conservation Areas. (2) Table 3.07-13b describes how Class I and II riparian habitat areas and Class A and B upland wildlife areas brought within the Metro UGB after December 28, 2005, will be designated as high, moderate, and low Habitat Conservation Areas. Metro Code Section 3.07.1360 describes the procedures for how Table 3.07-13b and Metro Code Section 3.07.1340 shall be applied in such areas.



Red dot indicates proposed tower sight clearly is located in a Class B Upland Wildlife Area.

<https://www.oregonmetro.gov/urban-growth-management-functional-plan>

Title 13 again discusses how to protect fish and wildlife

6.

Goal 5 Comprehensive Plan

<https://www.oregon.gov/lcd/OP/Pages/Goal-5.aspx>

Mr, Rithy Khut analysis of goal 5 and multnomah county comprehensive plan

<https://multco.us/file/43116/download>

As part of State Planning goals, Oregon has highlighted the need to protect natural resources and conserve scenic, historic, and open space resources as part of Goal 5. More specifically, the goals highlighted the need to inventory various resources including: a. Riparian corridors, including water and riparian areas and fish habitat b. Wetlands c. Wildlife Habitat d. Federal Wild and Scenic Rivers e. State Scenic Waterways f. Groundwater Resources g. Approved Oregon Recreation Trails h. Natural Areas i. Wilderness Areas j. Mineral and Aggregate Resources k. Energy sources l. Cultural areas Local governments and state agencies are also encouraged to maintain current inventories of the following resources: a. Historic Resources b. Open Space c. Scenic Views and Sites1 Oregon Administrative Rules (OAR) Chapter 660, divisions 16 and 23 outline how the local governments will achieve these goals. Beginning with the compilation of available data, municipalities determine resources to inventory based on location, quality and quantity.

Page 5 of t7 on the MC Background report linked above

EAST OF SANDY As part of the Rural Area Planning Program, Multnomah County conducted an ESEE Analysis for the East of Sandy in 1995, which was revised in 1997. Conducted by

Winterowd Planning Services (WPS), the consultant group looked at both wildlife and stream resources. The study area was limited to watersheds that were within the jurisdiction of Multnomah County that were not within the jurisdiction of the Mt. Hood National Forest, the Columbia River Gorge National Scenic Area, or the USDA Forest Service. Additionally the study did not conduct stream walks on Thompson, Cat, Veil, Donahue and Young creeks due to private access issues and did not look at the previously analyzed Howard Canyon, Knieriem Creek and Big Creek areas. The East of Sandy River Rural Area contract study areas are comprised of five watersheds and stream corridors: Smith, Pounder, Buck, Gordon, Trout and Latourell Creeks. This ESEE analysis concluded in adding additional stream overlays.

WILDLIFE RESOURCES As part of the steam walk process, WPS conducted a Wildlife Habitat Assessment (WHA) that was originally developed for the City of Beaverton. Based on the scoring of the WHA and a determination of location, quality and quantity, WPS determined that more than 80% of the East of Sandy was significant wildlife habitat. Therefore, all land within the East of Sandy River was classified as "1C" wildlife habitat resource. Based on this classification, the ESEE analysis looked at the possible conflicting uses and how best to resolve those conflicts. It was determined that within the more heavily populated areas in the west of the East of Sandy the addition of an SEC overlay would provide insignificant gains in wildlife protection and have negative economic and social impacts. Additionally within the eastern portion of the Plan Area the CFU zoning in place was already providing safeguards so that an additional SEC overlay was redundant. **STREAM RESOURCES** WPS conducted an analysis of the various watersheds and stream corridors. They elected to use the same stream walk methods as the previous Howard Canyon and West Hills Reconciliation Report to provide internal consistency with previous reports. They found that within the five watersheds and stream corridors: Smith, Pounder, Buck, Gordon, Trout and Latourell Creeks that each stream corridor was classified as "1C" significant. Based on this classification, it would seem that an SEC overlay was placed on all of the streams in each of the five watersheds. Additionally based on the zoning map and zoning code, the same restrictions placed as part of the Howard Canyon Reconciliation process were adopted to match the newly added streams in the East of Sandy Plan Area

ORS [OAR 660-015-0000(2)]: goal 2

[OAR 660-015-0000(3)].

Goal 3: Agricultural Lands [OAR 660-015-0000(3)]: GUIDELINES 1. Urban growth should be separated from agricultural lands by buffer or transitional areas of open space.

B. IMPLEMENTATION 1. Non-farm uses permitted within farm use zones under ORS 215.213(2) and (3) and 215.283(2) and (3) should be minimized to allow for maximum agricultural productivity.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces [OAR 660-015-0000(5)]

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces [OAR 660-015-0000(5)]: To protect natural resources and conserve scenic and historic areas and open spaces. Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability. The following resources shall be inventoried: a. Riparian corridors, including water and riparian

areas and fish habitat; b. Wetlands; c. Wildlife Habitat; d. Federal Wild and Scenic Rivers; e. State Scenic Waterways; f. Groundwater Resources; g. Approved Oregon Recreation Trails; h. Natural Areas; i. Wilderness Areas; j. Mineral and Aggregate Resources; k. Energy sources; l. Cultural areas. Local governments and state agencies are encouraged to maintain current inventories of the following resources: a. Historic Resources; b. Open Space; c. Scenic Views and Sites. Following procedures, standards, and definitions contained in commission rules, local governments shall determine significant sites for inventoried resources and develop programs to achieve the goal.

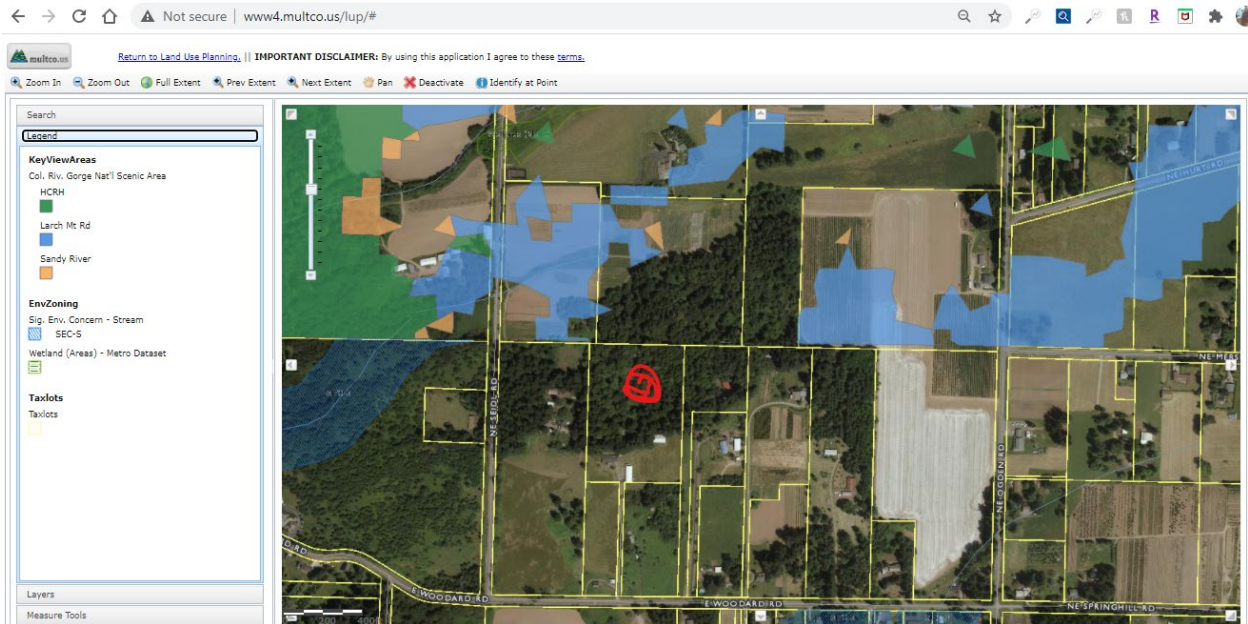
Findings: 1. Goal 5 requires local governments to inventory and protect significant natural and cultural resources. Over the years, this general goal has been interpreted by two administrative rules: the “old” (1986-1995) and the “new” (1996-present) Goal 5 rules.¹ 2. When the County Comprehensive Framework Plan was reviewed by the Land Conservation and Development Commission in the early 1980s, the County was subject to the “old Goal 5 rule” – OAR Chapter 660, Division 016. During the 1980s and 1990s the County completed the Goal 5 process for wildlife habitat and aggregate resources using the old Goal 5 rule. 3. Except for cultural resources which remain subject to the old Goal 5 rule (OAR Chapter 660, Division 016), any amendments to the SIMC Plan are subject to the “new Goal 5 rule” – OAR Chapter 660, Division 023. 4. Multnomah County has applied Goal 5 to three types of resources in the SIMC plan area: wetlands, historic resources and scenic areas. Multnomah County’s natural and cultural resource protection program relies on the SEC overlay zone to protect significant wetlands and scenic areas, and the Willamette River Greenway overlay to protect resources along the Multnomah Channel. The WRG overlay protects significant natural and cultural resources within its boundaries (150’ of the ordinary low water line).

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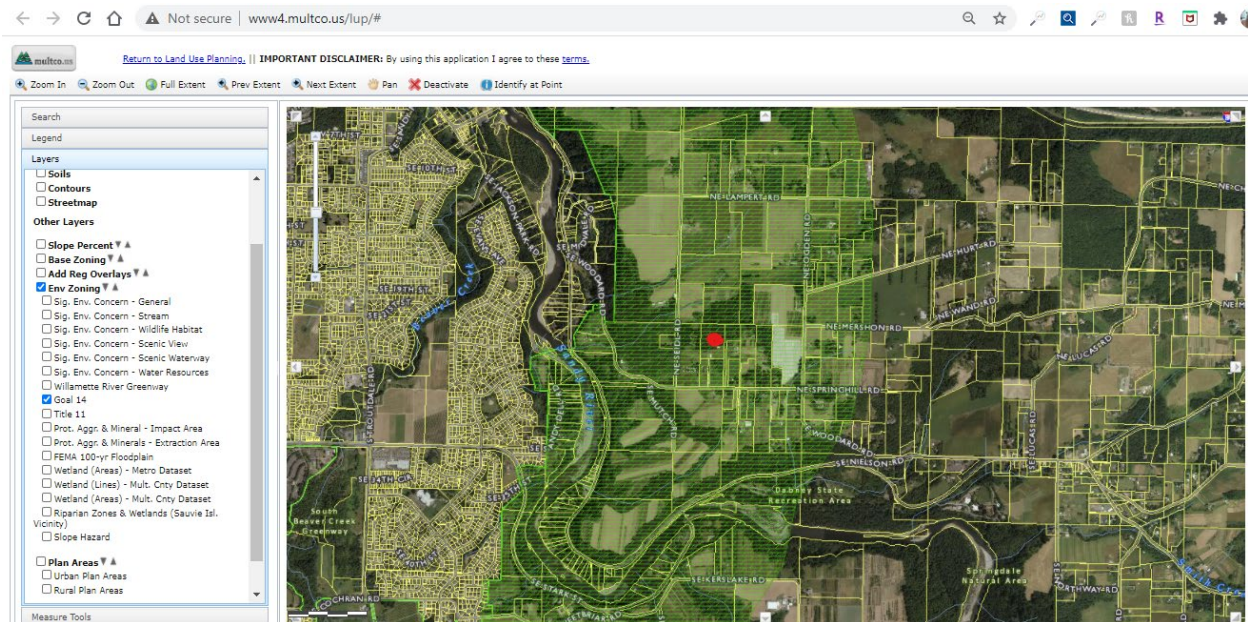
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11. Policy 3.7 commits the county to develop a ‘dark sky’ ordinance. The subcommittee and the CAC fully support the development of a dark skies ordinance. While such an ordinance is currently being developed, the policy is a statement of support for such measures.

evidence/specific proof for environmental analysis Multnomah county overlays
Lightblue SEC V
SEC stream in dashed blue



Goal 14 OAR



[OAR 660-015-0000(14)]

<https://www.oregon.gov/lcd/OP/Documents/goal14.pdf>

Goal 14: Urbanization [OAR 660-015-0000(14)]: 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. Urban growth boundaries shall be established and maintained by cities, counties and regional governments to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land. Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments. An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements, except for the Metro regional urban growth boundary established pursuant to ORS chapter 268, which shall be adopted or amended by the Metropolitan Service District. Findings: 1. The application of Goal 14 is primarily focused on lands within the urban growth boundary (UGB). The entire SIMC plan area is located outside the UGB and as such urbanization is prohibited within the UGB without an exception to Goal 14. 2. Urban housing density is prohibited on lands outside of the UGB (including lands underlying waterways such as the Multnomah Channel). 3. Exceptions to Goal 14 that would allow for urban housing density are not allowed in a designated Rural Reserve. The entire SIMC plan area is located within a designated rural reserve. 4. Policy 2.1 makes clear that with adoption of this new plan, no new floating homes are permitted beyond existing approvals. The policy commits the County to amend the Waterfront Uses section of the Multnomah County (specifically MCC 34.6755 – Density) to comply with Policy 2.1 and state Goal 14.