



February 8, 2023

Hon. Senator Janeen Sollman, Co-Chair  
Hon. Representative Janelle Bynum, Co-Chair  
Hon. Joint Committee Members  
Joint Committee on Semiconductors  
900 Court Street NE, Room 453  
Salem, OR 97301

**Re: Supplemental Cornelius Testimony: Recommendation for Industrial Land for Semiconductor Manufacturing and Suppliers**

Dear Senator Sollman, Representative Bynum and Joint Committee Members,

Attached is a research brief prepared by our project consultant and submitted with this letter in support of Cornelius's Urban Growth Boundary (UGB) expansion request via 2023 Legislation. Thank you for receiving and considering this supplemental testimony. We recognize both the importance and challenge of your work, and we feel strongly that our situation presents an opportunity for Cornelius to be part of the statewide solution.

After years of frustrated UGB expansion petitions, Cornelius will do whatever it can to obtain the UGB expansion described in our initial January 30 testimony. This supplemental testimony reflects that commitment.

Hopefully the brief material helps the Committee when it eventually addresses testimonies that contradictory "Grand Bargain" statutes (ORS 195.144 and 145) nevertheless prohibit imminent UGB expansions in Washington County.

We hope it also helps the Committee reconcile UGB expansions recommended by the *Semiconductor Manufacturing Competitiveness Task Force* – and requested by Cornelius in our earlier testimony – to provide sites for large-scale semiconductor manufacturing and for its ecosystem of support companies, with seemingly problematic State UGB management policies and procedures.

We stand ready to help the Committee in whatever ways we can in large part because our proposed UGB expansion has long been and continues to be so very crucial to our City's current and future economic, social and environmental well-being.

Thank you, once again, for your attention to and consideration of these remarks. Please enter this letter and attachments into the record of the Committee's proceedings and when a Committee hearing takes up this matter.

Respectfully,

A handwritten signature in black ink that reads "Jeffery C. Dalin". The signature is written in a cursive style with a large initial "J".

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Jeffery Dalin, Mayor

Cc: Cornelius City Council  
Representative Susan McLain  
Washington County Commissioner Jerry Willey  
Metro Councilor Juan Carlos Gonzalez  
Oregon Semiconductor Competitiveness Task Force

Attachment: Urban Growth Boundary ORS 195.144, ORS 195.145 Research Brief

1 I. INTRODUCTION & QUESTION

2 This research brief responds to favorable and opposition testimonies presented to the 2023  
3 Legislature’s Joint Committee on Semiconductors (“Committee”) re: UGB expansions into Rural  
4 Reserves areas in Washington County recommended by the Oregon Semiconductor  
5 Manufacturing Competitive Task Force (“Task Force”). The brief also speaks to recent (and  
6 pending) Committee discussions re: how to respond to the Task Force’s UGB recommendation  
7 while also addressing applicable State Land Use Management policies and procedures.

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9 The testimonies and discussions seem to center on how to properly apply ORS 195.144 and 145  
10 provisions re: establishment and changes to WashCo. Urban and Rural Reserves (“Reserves”) and  
11 Urban Growth Boundary (“UGB”) in response to the Task Force’s recommended UGB  
12 expansions. Because its recommendation is from a “State agency” seeking action from the  
13 Legislature, it raises

14 this unique, first-impression question:

15  
16 **Does the ORS 195.144(4)<sup>1</sup>, enacted in 2014 in HB 4078 (’14), allow Legislative UGB**  
17 **expansions onto Rural Reserves land in WashCo even though ORS 195.145(4)<sup>2</sup>,**  
18 **enacted in 2011, describes a 50-years Rural Reserves protection timeline?**  
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20 The ensuing discussion addresses that question to which the answer is “Yes” based on statute,  
21 case law and Committee discussion research and analyses set forth hereinbelow. The attached  
22 statute and case law research material inform the findings, analysis and recommendations in this  
23 brief.

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<sup>1</sup> “(4) Land in a county in Metro that is planned and zoned for farm, forest or mixed farm and forest use and that is *not designated as urban reserve* may not be included within the urban growth boundary of Metro before at least 75 percent of the land in the county that was designated urban reserve in this section has been included within the urban growth boundary and planned and zoned for urban uses. [2014 c.92 §3; 2015 c.150 §1; 2019 c.199 §1; 2021 c.184 §1]” (emphasis added)

<sup>2</sup> “(4) Urban reserves designated by a metropolitan service district and a county pursuant to subsection (1)(b) of this section must be planned to accommodate population and employment growth for at least 20 years, and not more than 30 years, after the 20-year period for which the district has demonstrated a buildable land supply in the most recent inventory, determination and analysis performed under ORS 197.296. [1993 c.804 §19; 1999 c.622 §6; 2007 c.723 §6; 2011 c.150 §1; 2011 c.726 §1]” (emphasis added)

[Note: 195.145 (1) enables Metro to establish Urban & Rural Reserves. 195.145(1)(b) enables Metro and a county to “enter into an agreement . . . to designate Urban Reserves”.]

1 **II. RELEVANT FACTS & CONSIDERATIONS**

2 Enacted in 2011, ORS 195.145(4) applied to regionwide Urban & Rural Reserves designated by Metro Ord.  
3 11-4245 ('11). In 2014 the Legislature enacted 195.144(2), (3) and (4) which altered WashCo. Reserves  
4 designations set by Metro Ord. 11-4245 as follows and set a 75% UGB addition threshold in WashCo.:

- 5 • Reduced some Urban Reserves in WashCo. reverting that land to County Rural Reserves.
- 6 • Removed an “Undesignated” land area in Cornelius, WashCo. adding that land to Rural Reserves.
- 7 • Added some Urban Reserves sites to the Metro UGB. <sup>3</sup>

8 ORS 195.144(4) and 195.145(4) appear contradictory as to when, but not whether, the Legislature may add  
9 WashCo. Rural Reserves to the Metro UGB. The non-time-sensitive 75% UGB expansion permission  
10 threshold in 195.144(4) plainly applies to WashCo. land “*NOT designated Urban Reserves*” thus allowing  
11 UGB expansions into WashCo. Rural Reserves but only by subsequent legislation.<sup>4</sup>

12  
13 Through HB 4078 ('14) the Legislature intervened in and resolved a stalemated Metro effort to established  
14 Reserves per ORS Chap. 195 due to across-the-board public-sector and private-sector dissatisfaction about  
15 where and how much Reserves should be set in WashCo. (The intervention was an once-only, extraordinary  
16 Legislative act as statutes direct contested Reserves designations and UGB expansions to LCDC and,  
17 ultimately the Oregon Courts for resolution):

18  
19 In response to WashCo. agriculture-industry stability concerns, the “Grand Bargain” added more land to  
20 WashCo’s Rural Reserves by reducing the amount of County Urban Reserves and changing an  
21 “Undesignated” area in Cornelius set by Metro Ord. 4245 to Rural Reserves.

22  
23 In response to WashCo-centered regional economy and housing needs, the “Grand Bargain” added some  
24 of the remaining Urban Reserves land to the UGB. (Most of that land has already been planned, zoned for  
25 urban uses (and much of these areas appear also to be largely developed for industrial or housing uses) thus,  
26 reaching the 75% threshold in 195.144(4)).

27  
28 In deference to long-established Oregon Land Use System requirements that Reserves designations and  
29 UGB expansions comply with applicable State Planning Goals<sup>5</sup>, the Legislature expressly “acknowledged”  
30 compliance of its HB 4078 Reserves designations and UGB expansions with those Goals.

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<sup>3</sup> See. ORS 195.144 (2) and (3) (attached)

<sup>4</sup> See. *Methods to Change Land Use Designations Established by House Bill 4078 (2014)*, Legislative Counsel Committee, State of Oregon (April 18, 2016)

<sup>5</sup> State Planning Goals are implemented by Oregon Administrative Rules (“OARs”) adopted by the Oregon Land Conservation & Development Commission (LCDC). Goal 9, Economic Development, is implemented

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The 2023 Legislature’s *Joint Committee on Semiconductor* discussions included Committee Members’ concern about “modernizing”, but not abandoning or entirely ignoring, Oregon’s land use growth management system toward greater nimbleness and flexibility to address Oregon’s urban land shortages.<sup>6</sup>

**III. ANALYSES & FINDINGS:**

**A. ORS 195.145(4) and 195.144(4) seem contradictory regarding when Rural or Urban Reserve land in WashCo. may be added to the UGB, thus, ORS 174.020 rules of statutory construction and related Court decisions inform reconciling that contradiction.<sup>7</sup>**

The first step in interpreting the applicability of 19.144(4) or 195.145(4) is to examine their text and context to see if there is ambiguity about which statute controls when UGB expansions by the Legislature into Rural Reserves areas may be done. *State v. Gaines*, 346 Or 160 (2009), *Land Watch Lane County v. Lane County*, 364 Or 724 (2019). There’s no such ambiguity: the enactment sequence of 195.145(4) in 2011 and 195.144(4) in 2014, coupled with the absences of the term “Rural Reserves” in 195.144(4), make clear that the Legislature intended to allow itself the ability to add Rural Reserves land to the UGB whenever it determines that such an expansion to be needed.

Moreover, ORS 174.020 (2), cited below, supports that Legislative ability as 195.144(4) (’14) is a particular provision applicable only to the management of Reserves in Washington County,

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by OAR 660-009 Rules. Goal 10 (Housing) is implemented by OAR 660-010 Rules. Goal 14 (Urbanization) is implemented by OAR 660-024 Rules.

<sup>6</sup> Joint Committee on Semiconductors Discussions on January 18 and 30, 2023.

<sup>7</sup> **Construction of Statutes: ORS 174.020, Legislative intent:**

(1) (a) In the construction of a statute, a court shall pursue the intention of the legislature if possible.  
(b) To assist a court in its construction of a statute, a party may offer the legislative history of the statute.

(2) When a general provision and a particular provision are inconsistent, the latter is paramount to the former so that a particular intent controls a general intent that is inconsistent with the particular intent.

(3) A court may limit its consideration of legislative history to the information that the parties provide to the court. A court shall give the weight to the legislative history that the court considers to be appropriate. [Amended by 2001 c.438 §1; 2017 c.17 §16]

1 whereas 195.145(4)(11) is a general provision intended to apply Regionwide and is still applicable  
2 to Rural Reserves elsewhere in the Metro Region:

3  
4 “(2) When a general provision and a particular provision are inconsistent, the latter is  
5 paramount to the former so that a particular intent controls a general intent that is  
6 inconsistent with the particular intent.”  
7

8 Application of ORS 174.020(2) to this matter supports a non-time-sensitive 75% UGB expansion  
9 threshold in 195.144(4) allowing UGB expansions when deemed needed by the Legislature  
10 notwithstanding the 50-year UGB timeline in 195.145(4) to the contrary; however, only the  
11 Legislature can expand the UGB accordingly in WashCo.  
12

13 **B. In enacting HB 4078, the Legislature added land to the UGB in WashCo. to respond**  
14 **to extraordinary land needs or circumstances. An Oregon need for various**  
15 **semiconductor manufacturing sites identified by the Oregon Semiconductor**  
16 **Competitive Task Force presents another such extraordinary land need**  
17 **circumstance.**  
18

19 In making HB 4078 Reserves designations and UGB additions in WashCo the Legislature was not  
20 constrained by the 50-year time limit in 195.145(4). A then-existing Reserves approval stalemate  
21 blocking completion of the Metro Reserves establishment process apparently created an  
22 extraordinary circumstance of a magnitude that merited the Reserves modifications and UGB  
23 expansions intervention by the Legislature in 195.144.  
24

25 Oregon’s high-priority State commitment to attract and accommodate new semiconductor  
26 manufacturers to the State, potentially in WashCo. as recommended by its Task Force, presents  
27 another such extraordinary circumstance meriting expanding the WashCo. UGB into certain Rural  
28 Reserves areas. ORS 195.144(4) supports a Legislative UGB expansion to favorably respond to  
29 this extraordinary circumstance.  
30

31 **C. ORS 195.144’s emphasis on “acknowledging” compliance of the Reserves and UGB**  
32 **designations therein with applicable State Planning Goals manifests a Legislature**  
33 **commitment to address and obtain Goals compliance in any UGB expansion in**  
34 **response to the Task Force’s need for semiconductor manufacturing sites in WashCo.**  
35

36 ORS 197.250 requires all “*plans, programs, rules or regulations affecting land use adopted by a*  
37 *state agency or special district*” to comply with applicable State Planning Goals. In 195.144,

1 every Reserves modification and UGB expansion made by the Legislature is described as  
2 “acknowledged” – a reference to each such modification or expansion providing only as much  
3 land as may be needed and reasonably “acknowledgeable” as compliant with State Planning Goals  
4 9 and 14.<sup>8</sup> Clearly, in deference to Oregon’s ORS Chap. 197 and implementing administrative  
5 rules, the Legislature wanted to expressly respond to and affirm such Goals compliance  
6 “acknowledgement” determinations required by ORS 197.250.

7  
8 It’s reasonable to expect the Legislature will want Goals compliance information and analyses to  
9 support any UGB expansion into WashCo. Rural Reserves areas to address/accommodate the Task  
10 Force’s various land needs recommendations:

- 11 • two (2) sites of 500+ acres sites for advanced R&D or production fabrication operation;
- 12 • four (4) sites of 50-100 acres for device manufacturers or equipment manufacturers; and,
- 13 • eight (8) sites of 15-35 acres for key suppliers to the (semiconductor) ecosystem

14  
15 These recommendations create a Task Force need to demonstrate compliance with Goal 9  
16 (Economic Development)<sup>9</sup>. and Goal 14 (Urbanization) and their implementing Administrative  
17 Rules Legislative deference to compliance with Goals 9 and 14 would seem to compel the Task  
18 Force, a single-issue State advisory body administered by a State Agency (Business Oregon), to:

- 19 • prepare an economic opportunity analysis (EOA) per Goal 9 to verify the amount and  
20 locations of land needed to accommodate the Task Force’s recommendation;
- 21 • demonstrate that the chosen sites to meet the land need are sufficient and suitable for, and  
22 will efficiently accommodate the listed semiconductor uses per the UGB expansion criteria  
23 and requirements in Goal 14 and the land priority hierarchy in ORS 197.298;
- 24 • obtain LCDC approval of the EOA and the Goal 14 and 197.298 land priority analysis.

25  
26 Testimonies already given before the Legislature’s *Joint Committee on Semiconductors*  
27 (“Committee”) by Task Force staff, industry consultants and many existing semiconductor  
28 manufacturers and supply chain companies representatives in Oregon confirm that applicable Goal  
29 9 requirements in its Administrative Rules would be met: These requirements include confirming  
30 that:

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<sup>8</sup> The Task Force recommends enactment of legislation that “*amends ORS 195.144 to allow expedited planning to bring rural reserve designated lands into the urban growth boundaries . . . within the next 12-24 months.*” The specific land needs identified by the Task Force are for two (2) sites of 500+ acres; four (4); and, Eight (8) sites of 15-35 acres. (Task Force Letter dated Feb. 1, 2023)

<sup>9</sup> Goal 9 is implemented by OAR 660-009. Although is applies to Oregon cities, its provisions would inform the preparation and contents of an EOA prepared by the Task Force.

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- such companies can be “reasonably expected to locate on proposed UGB expansion sites based on “national (i.e., CHIPS Act national funding goals) and state (prospective Legislative appropriations in 2023) and local (confirmed industry interest in available large and smaller suitable sites in WashCo.) trends” (660-009-0012(1));
- the Cities of Cornelius (ecosystem supply chain companies), North Plains and Hillsboro (major, large semiconductor plants) can reasonably accommodate such companies on their respective UGB expansion sites (660-009-0015(2));
- the locations of the proposed UGB expansion sites close to heart of Oregon’s Silicon Valley technology Cluster present such advantages as “availability of transportation access and freight mobility, labor market factors, access to suppliers and utilities” that cannot be met on sites elsewhere in the Portland Region and State (66-009-0015(4)).

16 Goal 14, Factor 2 requires the Task Force to demonstrate an “*employment opportunities*” need for  
17 any UGB expansion(s) and demonstrate that the need “*cannot be reasonably accommodated on*  
18 *land already inside the urban growth boundary*”.<sup>10</sup> OAR 660-024-0050(1) requires the latter  
19 demonstration to include “*suitable vacant and developed land designated for industrial or other*  
20 *employment use and must be conducted in accordance with OAR 660-009-0015*” cited directly  
21 above.<sup>11</sup> Again, testimonies given before the Committee provide data and alternative Oregon sites  
22 evaluations that amply address these Goal 14 requirements.

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**D. The Task Force’s identified semiconductor manufacturing and ecosystem land needs qualify as “specific types of identified land needs” under ORS 197.298(3) enabling their location on certain “higher priority” WashCo. Rural Reserves land added to the UGB.**

29 ORS 197.298(3) reads as follows:

- 30 “(3) Land of lower priority under subsection (1) of this section maybe included in an urban  
31 growth boundary if land of higher priority is found inadequate to accommodate the amount  
32 of land (need) estimated in subsection (1) of this section for one or more of the following  
33 reasons:
- 34 (a) *Specific types of identified land needs cannot be reasonably accommodated on higher*  
35 *priority lands;*
  - 36 (b) *Future urban services could not reasonably be provided to higher priority lands due to*  
37 *topographical or other physical constraints; or*

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<sup>10</sup> See. OAR 660-015-0000(14). OAR 660-024 contains implementing Goal 14 Administrative Rules.  
<sup>11</sup> OAR 66-024-0050(1).



1 (c) *Maximum efficiency of land uses* within a proposed urban growth boundary requires  
2 inclusion of lower priority lands in order to include or to provide services to higher priority  
3 lands.” (*italicized text added*)  
4

5 While facts and several arguments can be made to justify adding certain Rural Reserves and  
6 Undesignated lands to the UGB under paragraphs 3(b) and (c), the various types of semiconductor  
7 manufacturing ecosystem uses sought by the Task Force (and by the Cities of Cornelius, North  
8 Plains and Hillsboro) fit the definition of “specific types of identified land needs”. Thus,  
9 197.298(3) provides a pathway to obtain such UGB expansions. Additionally, the Task Force (and  
10 Cities) will have to provide land use site-adequacy needs and infrastructure delivery efficiency  
11 facts and considerations that provide 197.298(3) justifications for needed UGB expansions into  
12 Rural Reserves prime farmland in WashCo.  
13

14 \*\*\*\*\*

15 Prepared by:  
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17 PR Land Use Strategies LLC  
18

19 Attachment: