



January 18, 2022

Washington County Board of Commissioners
155 N. 1st St.
Hillsboro, OR 97123

(submitted via email to lutplan@co.washington.or.us)

Re: Public Comment on Proposed Ordinances No. 882 and No. 883 (TSP Amendments for Tile Flat Road and Cornelius Pass Road Extensions)

Dear Commissioners,

Thank you for the opportunity to provide testimony on proposed Ordinances 882 and 883 (the “Proposal”), which would amend the Transportation System Plan (“TSP”) to allow future extensions of Tile Flat Road and Cornelius Pass Road. The following testimony is submitted by 1000 Friends of Oregon. 1000 Friends of Oregon is a nonprofit membership organization that works with Oregonians to support livable urban and rural communities; protect family farms, forests and natural areas; and provide transportation and housing choices. We have members in all parts of Oregon, including Washington County.

1000 Friends of Oregon requests that the Planning Department include this letter in the record for the January 18, 2022 Board of Commissioners hearing. 1000 Friends opposes Ordinances 882 and 883 and urges the Board not to approve them. In addition to policy and community-based concerns, we believe that the proposed ordinances do not satisfy OAR 660-012-0070’s standards governing goal exceptions for transportation improvements on rural land. The following paragraphs provide more detail on why 1000 Friends believes the Board should reject the ordinances.

Policy and Community Concerns

Guided by Oregon’s 19 statewide planning goals, Oregon’s land use system helps community members collectively shape land use decisions and outcomes. At the heart of this system is community involvement, centered on the principle that the community should be actively engaged in the decision making process and should help identify long and short-term land use goals. In the public hearing before the Planning Commission on December 15th, dozens of Washington County residents testified saying they had not been consulted or advised on the project, and many only found out about the project in the days preceding the hearing on the 15th. In addition, community members expressed concern that the 250-page staff report, released one week before the December 15th hearing, was convoluted, excessively long, and complex enough

to prevent them from engaging in the public process. Many of those who testified also expressed concerns about safety, harm to wetlands and natural areas, disruptions to farm operations, and long-term urban sprawl impacts. To summarize, members of the community directly impacted by the Proposal felt alienated by the public process thus far and believe that the Proposal will take away the rural, agricultural character of the area.

Land, and the ways in which we shape and change it, is a very close-to-home, personal matter to community members and the consequences of land use decisions are almost impossible to reverse once a built environment is constructed. In the period between 1997 and 2017, the amount of land in working farms decreased by 10%, and during the same time period and within the three counties of the Portland metropolitan region, 40,807 acres of farmland were lost from production.¹ Washington County is home to some of the best farmland in Oregon; for example, it is among the top 10 counties *in the nation* in production of blueberries, blackberries, raspberries, grass seed, hazelnuts, and nursery stock.² But is also one of the areas most susceptible to loss of farmland through urban sprawl outwards from the Portland metropolitan region.

Furthermore, the choice to locate an arterial road through productive land zoned for exclusive farm use will have a significant negative impact on the ability of farmers to continue their operations, will likely result in pressure to sell off farmland in favor of rural subdivisions and other non-farm developments, and will exacerbate conflicts between the common agricultural practices and increased urban traffic, trespassing, and more. Community members made clear that farmland is not vacant land waiting to be developed with urban uses – rather it is the land base of an industry that produces food and fiber and is integral to a thriving rural community.

While some development is inevitable, we have choices in how and where that development occurs, and what transportation systems serve the people living there and in the larger community. Historically, the jurisdictions within the urban growth boundary of Washington County have underinvested in accessible, safe, and sufficient pedestrian and bicycle infrastructure and transit service in existing communities, and especially lower income communities and communities of color. Continuing to push the urban footprint outwards is a choice of yesteryear that does not meet the climate, housing, or transportation needs and realities of Oregonians the 21st century.

¹ https://www.capitalpress.com/state/oregon/ag-census-shows-declining-farmland-in-oregon/article_902f9ec0-65fe-11e9-b4e8-c3553f4d11fc.html.

² <https://www.nasda.org/news/oregon-or-counties-rank-high-in-us-agriculture>.

Legal Concerns

1000 Friends opposes approval of Ordinances 882 and 883 because the Proposal fails to comply with goal exception requirements for transportation improvements on rural land. The following paragraphs provide more detail on why the Proposal fails to satisfy approval criteria under OAR 660-012-0070.

Lack of Identified Transportation Needs and Substantial Evidence

To allow transportation improvements on rural lands, OAR 660-012-0070(3) requires a goal exception to identify the need for the proposed facility. Similarly, OAR 660-012-0070(4) requires any proposed exception to “demonstrate that there is a transportation need identified consistent with the requirements of OAR 660-012-0030.” This language requires the transportation need justifying an exception to be identified in the county’s TSP. In *Central Oregon Landwatch*, LUBA considered a similar roadway extension under OAR 660-012-0070 and struck down the proposal because the county relied on information outside of its TSP to justify the extension and because its TSP did not identify the extension in its text or its list of needed projects. *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302, 308-309 (2010).

Like in *Central Oregon Landwatch*, the county’s Capital Project Candidate List, adopted by Ordinance 783 as part of the TSP, does not list the extensions to Tile Flat Road or Cornelius Pass Road as needed transportation improvements. In addition, neither TSP text amendment proposed in Ordinances 882 and 883 would add the proposed road extensions to the Capital Project Candidate List and neither text amendment provides information showing the actual need for the road extensions. Instead, the text amendment in Ordinance 882 includes vague and conclusory language stating that “there is a potential future need for a north-south Collector roadway,” while the language in Ordinance 883 contains no information on transportation needs. Thus, even if the county adopts the proposed amendments, the TSP will not contain any specific information showing the need for the Tile Flat and Cornelius Pass Road extensions.

The staff reports for Ordinances 882 and 883 also fail to show that the TSP demonstrates a need for the proposed road extensions and, instead, they utilize information outside of the TSP to try to justify the Proposal. Section 2.1 in Attachment A of the staff report for Ordinance 883 addresses the need for the Cornelius Pass Road extension by citing the 2018 Regional Transportation Plan (“RTP”), adopted by Metro, and the South Hillsboro Master Plan (“SHMP”), adopted by the City of Hillsboro. Section 2.1 in Attachment A of the staff report for Ordinance 882 also cites the RTP instead of any specific TSP provisions. The county’s TSP does

not appear to incorporate or adopt the provisions of the RTP or the SHMP and the staff reports offer no evidence indicating that the TSP incorporates these plans. Just like in *Central Oregon Landwatch*, where LUBA rejected Deschutes County's reliance on the City of Redmond's TSP to justify its road extension proposal, the county's reliance on information outside of its TSP to demonstrate transportation needs is insufficient to comply with OAR 660-012-0070(4). *Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302, 308-309 (2010).

Finally, Sections 2.1 in Attachment A of both staff reports utilize vague, conclusory language to attempt to show the need for the proposed road extensions. Both sections of the staff reports generally state that roads in the area may eventually exceed their planned capacity and level of service and that improved connectivity resulting from the road extensions will alleviate congestion in the area. However, neither section of the staff reports contain any clear, specific information quantifying current or future levels of capacity, service, and congestion for any particular roads in the area. The county did not provide any specific evidence explaining how it came to its conclusions in Sections 2.1. Without such evidence and explanations, the county does not comply with OAR 660-012-0070(1)(b), which states that "the facts and reasons relied upon to approve or deny a proposed exception shall be supported by substantial evidence." Thus, the staff reports' lack of substantial evidence to show transportation needs fails to meet the requirements for goal exceptions to locate transportation improvements on rural lands.

Adverse Effects on the Surrounding Area

1000 Friends of Oregon opposes the Proposal because it would negatively impact rural land uses in the project area and is not compatible with such uses, which is required under OAR 660-012-0070(8)(b). The staff report states that the proposed extension to Tile Flat Road would impact land used for Christmas tree production, woodlots, an orchard, pasture land, hay and grain, and growing a variety of other crops. Staff Report Ord. 882 Attachment A, Pages 52-53. Similarly, the proposed extension to Cornelius Pass Road would impact land used for grass and hay production, pasture, greenhouses, row crops, nurseries, orchards, and woodlots. Staff Report Ord. 883, Attachment A Pages 49-50. The staff reports also confirm that the majority of the soils in the Tile Flat Road extension corridor are Class II, while the majority of the soils in the Cornelius Pass Road extension area are Classes II and III. Staff Report Ord. 882, Attachment A Page 49; Staff Report Ord. 883, Attachment A Page 47. Thus, the staff reports confirm that the land in and adjacent to the project area is currently used and could continue to be used for productive farm and forest operations.

To obtain a goal exception to site transportation facilities on farm and forest lands, OAR 660-012-0070(8)(a) requires the exception to describe adverse effects on the surrounding area,

“including increased traffic and pressure for nonfarm or highway-oriented development.” The staff reports identify loss of farm/forest land, bifurcation of resource lands, buffer areas beyond the planned right-of-way, and disturbances from noise, emissions, vibration, drainage, trespass, and garbage as potential negative impacts to nearby properties. Staff Report Ord. 882, Attachment A Page 50; Staff Report Ord. 883, Attachment A Pages 48-49. However, the staff reports fail to include a meaningful discussion of the increased traffic that will result from the planned arterials and the specific impacts that such traffic will have on existing farm and forest operations in the area. Nearby property owners and the general public need to know how increased traffic will impact farm and forest operators’ access to property (particularly those properties with flag lot accesses that will be cut off by the roads), ability to use and transport heavy equipment, and ability to collect and transport farm and forest products. Further, 1000 Friends believes that the mitigation measures, including construction of farm access roads, are insufficient to make the proposal compatible with successful farm and forest operations in the area.

In addition, the staff reports fail to adequately address adverse impacts related to pressure for nonfarm or highway-oriented development, which is required under OAR 660-012-0070(8)(a). Adding fully improved arterial roads to these areas will likely tempt developers to buy nearby land and propose subdivisions and other nonfarm uses that the roads could serve. The staff reports do not include discussion of pressure for non-resource development and do not identify measures to protect farm and forest land from such development. Thus, without a deeper discussion of traffic impacts on farm and forest land, non-farm/forest development pressures on the area, and mitigation measures to ensure compatibility between these lands and the roads, the Proposal fails to satisfy OAR 660-012-0070(8)(a) and (b).

To summarize, 1000 Friends does not believe that the Proposal is a wise policy choice for the community or for Oregon agriculture, or that it satisfies the legal requirements of OAR 660-012-0070. Thus, 1000 Friends urges the Board of Commissioners to reject Ordinances 882 and 883.

Sincerely,

Dan Lawler

Dan Lawler
Rural Lands Staff Attorney



1000 Friends of Oregon
(503) 497-1000x139
dan@friends.org

Brett Morgan
Transportation and Metro Policy Manager
1000 Friends of Oregon
(503) 497-1000x122
brett@friends.org

1000 Friends of Oregon is a 501(c)(3) non-profit organization founded by Governor Tom McCall shortly after the Legislature passed Senate Bill 100, which created the land use planning rules that shape Oregon's communities. Since its founding in 1974, 1000 Friends has served Oregon by defending Oregon's land use system—a system of rules that creates livable communities, protects family farms and forestlands, and conserves the natural resources and scenic areas that make Oregon such an extraordinary place to live. 1000 Friends accomplishes this mission by monitoring local and statewide land use issues, enforcing state land use laws, and working with state agencies and the Legislature to uphold the integrity of the land use system.