



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager
Steve Koper, Assistant Community Development Director
Kevin McConnell, City Attorney

DATE: February 26, 2024

SUBJECT:
Stafford Area Discussion

RECOMMENDATION:
Staff recommends that the Council consider and discuss the information and provide direction on any appropriate next steps.

BACKGROUND:

The Stafford area is located in northwest unincorporated Clackamas County. It is comprised of over 4,500 acres located, for the most part north of I-205, east of Tualatin, south of Lake Oswego, and west of West Linn (see map). Due to its close proximity to Tualatin's east and south borders, Tualatin has actively engaged in any discussions about the future of the Stafford area for many years, dating back to at least the 1990s.

In early 2000, Metro, the regional government, was actively considering expanding the Urban Growth Boundary (UGB) and was evaluating several areas for inclusion, including a portion of Stafford, closest to Tualatin. Due to the proximity of the area that was being studied, it was determined that Tualatin would likely be the service provider should it be developed. Given the possible responsibility of providing services, Tualatin commissioned a fiscal impact analysis, primarily to determine the fiscal impact to the City's General Fund if the area was annexed, based on several different development scenarios. The analysis concluded that annexation and development would not have a negative impact on the City's General Fund and that revenues generated from the area (property taxes and franchise fees) were enough to cover the costs of extending general government services to that area.

While that study has been referenced in the years following, up until quite recently, as a reason for Tualatin to want to annex into Stafford, the study was actually quite narrow in its purview and assumptions, not taking into account any of the costs and complexities of infrastructure associated with new development, including water, sewer, and transportation, or the impacts of development on existing infrastructure and the built environment (such as traffic). Besides its narrow scope, which limited its usability even then, it is now well over 20 years old, and is no longer relevant in any way. In fact, Tualatin's concerns have remained fairly consistent over the years: the high cost of providing the necessary public infrastructure including functional transportation infrastructure, as well as the potential for severe negative impacts on existing community character and livability based on various development scenarios.

Ultimately, Metro did not expand the Urban Growth Boundary to include the Stafford area in 2000, and the issue went into hiatus of sorts (at least for Tualatin) until approximately 2010 when the entire Metro region went through what is known as the Urban/Rural Reserves process, which was an exercise to agree on a 50-year plan to designate lands that would ultimately be developed to urban standards, and lands that would remain rural in function and character. Through this process, in 2012 the Stafford area was designated by Metro (and approved by the State agency) as an Urban Reserve. The cities of Tualatin and West Linn (among many other interested parties) appealed this designation asserting that Metro did not use the proper criteria in their analysis (essentially that the analysis did not evaluate the transportation criteria adequately), and that it should have been designated as a Rural Reserve. The Court of Appeals agreed with the cities and sent the matter back to the State agency in charge of approving the designation (Land Conservation Development Commission-LCDC) to be relooked at. In 2015, after several years of legal action involving Tualatin, LCDC remanded the decision back to Metro and Clackamas County for proceedings and action consistent with the Court of Appeals opinion.

Based on this remand from LCDC, a series of "facilitated dialogues" were convened in 2015 and 2016 that included Metro, Clackamas County, Tualatin, Lake Oswego, and West Linn. These dialogues covered a lot of ground, but ultimately the 3 cities agreed to drop the litigation efforts contingent on a series of agreements that were memorialized in a 5-party Intergovernmental Agreement. The cities believed that the concessions that were agreed upon provided enough certainty and surety that the cities would be in control of timing and pace of planning and development in the area.

5-Party IGA

The 5-party IGA (attached), which was signed in June 2017 provides for governance of Stafford by one or more of the cities upon expansion of the urban growth boundary and annexation (in other words, there will be no new City and the area will not urbanize as unincorporated Clackamas County). The agreement also requires concept planning and public facilities planning prior to the addition of any part of the Stafford area into the Metro Urban Growth Boundary. Per the 5-party IGA, the timing for commencement and

completion of a concept plan is left to the governing city, as well as the pace and timing of future development with an area to be incorporated onto the Metro UGB. The agreement is effective until 2060.

3-Party IGA

Once the 5-party IGA was signed, the three cities convened to discuss specifics. The goal was to agree on the terms and conditions that the 5-party IGA did not cover, and did not necessarily pertain to Metro and the County. The 3-party Intergovernmental Agreement (attached) was signed in February 2019 and expires, like the 5-party IGA, in 2060.

The cities have always agreed that one of the most significant challenges for urbanization of Stafford in terms of cost and the potential for severe, negative community impacts is providing for adequate transportation infrastructure and transit service (going back to the original legal action on the Urban/Rural Reserves). This concern has long centered on the traffic congestion around I-205. Acknowledging this, the 3-party IGA explicitly states that before the cities can complete concept planning, I-205 must be widened to three lanes in each direction from Oregon City to Stafford Road, and the Abernethy Bridge must be replaced or reconstructed. The area was divided into South and North of the Tualatin River and it was agreed that a city will not complete or adopt a concept plan for any part of Stafford until:

- South of the Tualatin River: the I-205 project has received preliminary design approval; funding has been identified and appropriated; and construction is scheduled to begin in 2 years or less.
- North of the Tualatin River: nothing can happen until December 2028 (even if the I-205 project moves forward before then); after December 2028, the I-205 project conditions listed above must be met.

The 3-party IGA also explicitly outlines coordination of concept planning, appropriate notice, citizen involvement, and factors to consider when entering into concept planning. Finally, the IGA contemplates establishing boundaries, or “areas of interest” for each of the 3 cities who would be doing concept planning; criteria are included for how those boundaries or areas of interest could be drawn. As of this date, no boundaries or areas of interest have been identified, and there are no additional amendments to the 3-party IGA.

Litigation

In 2020, David Marks filed a petition with the Land Conservation and Development Commission (LCDC) requesting that it adopt an enforcement order requiring Metro, Clackamas County, and the Cities to (1) "nullify and invalidate" the 3-Party IGA and (2) amend and clarify the 5-Party IGA to ensure that the concept planning process for Stafford will be implemented in a manner consistent with the applicable statutes, administrative rules and Metro Code. Marks asserted that the IGA's unlawfully created contractual barriers to the development and urbanization of Stafford in violation of Metro's Regional Framework Plan (RFP).

Pursuant to ORS 197.320 (12), the LCDC has authority to issue an enforcement order requiring a local government to take action necessary to bring its land use decisions or actions into compliance with state law, if the LCDC has good cause to believe that a local government within Metro's jurisdiction has engaged in a pattern or practice of decision making that violates the Metro RFP.

After review, the LCDC declined to issue an enforcement order pursuant to ORS 197.320(12), determining that the IGA's did not constitute "land use decisions" under the significant impacts test. Marks sought judicial review of LCDC's decision, appealing the denial to the Court of Appeals. The Court of Appeals reversed the LCDC, agreeing with Marks that the IGA's constituted land use decisions under the significant impact test and remanded the matter back to LCDC for further consideration.

As of today's date, the LCDC has jurisdiction over this matter and we anticipate that a hearing will be set for this spring or early summer.

Current Status

There are a number of interested stakeholders in the Stafford area, besides the parties to the two agreements. Property owners, development interests, residents, the Stafford Hamlet, and others, and opinions vary widely about what should or should not be done in the Stafford area. It is safe to say that there is no coordinated agreement among all of the stakeholders about the appropriate next steps and future of Stafford.

The 3-cities long-standing concerns of cost of public infrastructure (including water, sewer, and stormwater) remain. A study was undertaken in 2017 by Fregonese & Associates along with OTAK that looked at one specific development scenario: developing 1,500 of the 4,500 acres with an estimated 8,000 jobs and 7,000 households. Their estimated cost of public infrastructure for that specific scenario (roads, sewer, water, stormwater) was \$800 million (see attached). Concept planning could certainly give us a more accurate estimate, but there is no question that infrastructure costs and delivery are a vital concern and challenge of who would pay. There is of course the continued concern of traffic and transportation infrastructure that would be needed to serve growth and development in the area. Tolling and diversion are already top of mind in terms of how they will impact the existing environment, much less with added growth and development. The ODOT plans to widen I-205 are now unfunded with no certainty of when that project conversation will be revisited.

The question has been raised as to whether the Stafford area is a needed component for our housing needs, or future job needs. Tualatin's 2019 Housing Needs Analysis (HNA) identified the need for 1,014 dwelling units over the next 20 years. The HNA showed that that within Tualatin's existing city limits and its Basalt Creek urban planning area, there is buildable land with the capacity to accommodate approximately 1,207 new dwelling units. While there were certain individual zoning designations that had a deficit of buildable acres, there were other zoning designations with a surplus of buildable acres, meaning that Tualatin's housing needs over the next 20 years could be

accommodated by rezoning existing land, rather than by urban growth boundary expansion.

Tualatin's 2019 Economic Opportunities Analysis (EOA) identified the need for 634 acres of employment land over the next 20 years. The EOA showed that within Tualatin's existing city limits and its Basalt Creek and Southwest Concept urban planning areas, there is a deficit of 249 acres of employment land. However, the EOA did not recommend that Tualatin meet its employment land needs by urban growth boundary expansion and rather concluded that Tualatin has substantial redevelopment potential due to a majority of redevelopable lots being in areas zoned for employment.

Conclusion & Next Steps

As outlined above, the existing 5-party IGA gives control to the three cities to plan and annex the Stafford area and the 3-party IGA outlines the conditions under which the cities will enter into concept planning. We are still engaged in active and unresolved litigation, and it does not appear (at least according to our Housing Needs Analysis, and Economic Opportunities Analysis) that the Stafford area is required to meet our goals. Concerns remain over provision and cost of public utilities, as well as traffic and transportation needs. One unknown is how the current legislative priority of housing will impact this area; however, the anticipated costs of bringing public infrastructure to the area before any development (housing or otherwise) could happen would most likely dampen the ability to build that housing in Stafford for the foreseeable future, even if dictated by the Governor herself.

A possible next step, should the Council desire, would be to convene with the other cities and Clackamas County to discuss the current status and any short, or long-term plans that include the Stafford area. One possible topic that is called for in the 3-party IGA is setting of boundaries or areas of interest, leading to an amendment of the IGA. Informal conversations with the other cities have gleaned that there is not an immediate desire on their part to move forward with concept planning, or even designating areas of interest, and on Tualatin's part, it is unknown what the staff needs would be to accommodate that discussion and this is not on the current work plan.

ATTACHMENTS:

- A. Stafford Area Map
- B. 5-Party Intergovernmental Agreement
- C. 3-Party Intergovernmental Agreement
- D. Infrastructure Costs from 2017 Scenario Study