

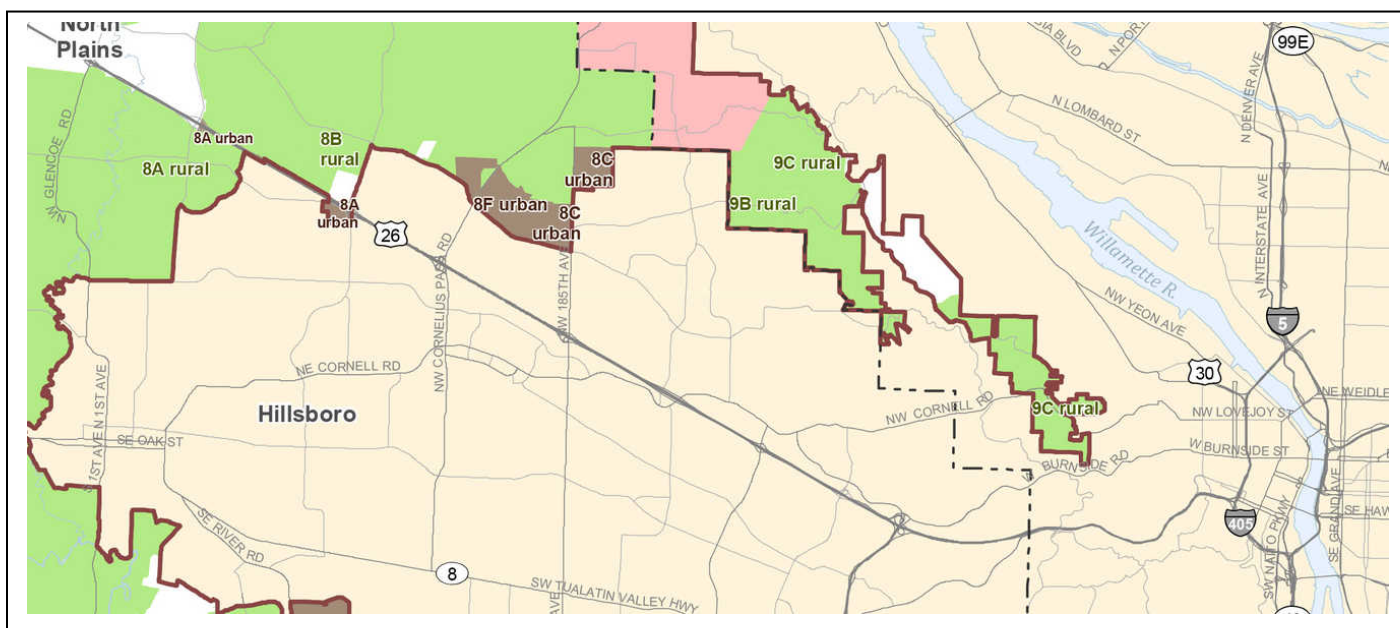
A 50-year map: Years of research, public input led to agreement on reserves plan

Metro

By Nick Christensen

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Creating a 50-year growth plan is not as simple as drawing a line on a map. It took years of analysis, hours of input from the public and months of debate among elected leaders.

On a bright winter afternoon in 2010, common sense was getting drowned out in Oregon's land use system.

An effort to chart a half-century of greater Portland's growth was nearly complete. Advocates for growth, land conservation, cities and farms had agreed on 90 percent of a map showing what areas would be first to see growth in the coming half century, and what areas would be off-limits to growth in that same timeframe.

That map was based on on-the-ground realities, a significant improvement, leaders thought, from the existing system. That 30-year-old system required new urbanization to occur on the lowest-quality farmland in the region, even if that land was a rocky slope on the side of a hill.

But the final 10 percent, the red-zone drive to a touchdown that would direct growth for five decades, was daunting. The players couldn't agree on pass or run.

Some wanted to punt.

On that January afternoon, at a meeting of the Metro Policy Advisory Committee, a clearly exasperated David Bragdon started pointing at a map of the Portland region. He explained the clear difference between the Old Way and the proposed new urban and rural reserves system.

"We'll study all this area going out to Estacada," said Bragdon, who was Metro Council President from 2003 to 2010. "That's great planning," he snarked.

The hillsides around Stafford, Bragdon said, would be studied for UGB expansions. The flat area near I-205 in the Stafford Basin would not be studied.

Then he pointed to a big, flat, urban-on-two-sides parcel south of Hillsboro, once owned by St. Mary's of the Valley. We wouldn't study St. Mary's, which virtually everybody in this process has come to the conclusion ought to be an urban reserve. We'd quit studying that. "This," Bragdon said, "is just a reminder of why did we go and ask for permission to do things differently."

The touchdown was scored in February 2010, when Clackamas, Multnomah and Washington counties, and Metro, agreed on a map. It designated about 28,000 acres of urban reserves, areas that Metro agreed to look at first for UGB expansions through 2060. Another 271,000 acres were marked as rural reserves, land that would be off limits to developers until 2060. Scattered in between were undesignated areas, essentially the release valve in case the region ran out of room for growth.

In pro football, every touchdown is automatically reviewed by a replay crew. And in the case of reserves, too, a replay crew looked at the record of what happened.

They found mistakes.

Now, with the ball a yard from the goal line, the clock still ticking, Metro, Clackamas County and Multnomah County are trying to make a final effort to get things done.

But just like in 2010, there's debate about which play to call.

Pass? Run? Or give up on the game completely?

The model shows its weaknesses

Oregon's land use system has been hailed as a national model for balancing urban growth and rural preservation. It was a child of the 1970s, an era of super-sized Brady Bunch ranch homes and the glorification of the suburban California lifestyle. Who wouldn't want five bedrooms on three levels on a huge lot at the end of a cul-de-sac?

But Oregon's leaders saw a cost to that lifestyle, and a threat to Oregon's character. In a speech to the Legislature in 1973, Gov. Tom McCall set the tone. "The interests of Oregon for today and in the future must be protected from the grasping wastrels of the land," McCall said. "We must respect another truism – that unlimited and unregulated growth, leads inexorably to a lowered quality of life."



Metro councilors Carlotta Collete and Kathryn Harrington, and Council President David Bragdon, listen to a 2010 meeting of the Metro Policy Advisory Committee.

While the farms of the Santa Clara Valley were transforming into subdivisions, Oregon passed laws to protect the Tualatin Valley from the same fate.

"Tom McCall and others were envisioning a strip of development down Interstate 5, all the way to Eugene, and we would lose the best of the agricultural land of the Willamette Valley," said former Clackamas County Chair Charlotte Lehan.

Oregon's land use laws gave every city an urban growth boundary, with one exception – the cities of greater Portland would share a common boundary, with enough room inside the line for the next 20 years of growth. As Portland's population grew, the boundary would gradually expand outward – a balance of allowing room for growth, without running roughshod over Oregon's agriculture industry.

There were flashpoints of disagreement. For Oregon's land conservation advocates – spearheaded by 1000 Friends of Oregon – allowing growth between Wilsonville and Salem was verboten. They wanted desperately to avoid what was happening in Colorado, Utah and Southern California, creating a city that extends 100 miles along the most convenient interstate.

It was a system born out of a concept, though, and most of the finer details were left to the courts and regulators to figure out. The system, over time, evolved from a comprehensive idea to a tangled web of regulations. In the Metro region in particular, some clarification was needed..

"The land-use program had evolved, in some ways, in sort of a piecemeal fashion – through legislation, court cases, administrative rule – and the whole reason behind the land-use bill was to be comprehensive," said former Metro planning director Robin McArthur.

Still, the system mostly worked. The Portland urban growth boundary had piecemeal expansions in its first 20 years, enough to handle steady growth and fine-tune the original 1979 boundary. The original boundary generally met the region's needs for growth – as of 2015, 94 percent of all the region's new development was within that 1979 boundary.

But the 1990s brought a boom that the Portland region had never seen. The area's Silicon Forest tech industry was burgeoning, more than making up for the economic toll the region paid from the decline of the timber industry, which had shed nearly 40,000 jobs from its peak.

Metro's analysis and state law said another piecemeal expansion would not meet the 20-year land supply.

The math said the UGB had to expand by 28 square miles, an area bigger than the size of Gresham.



The rolling hills of Damascus made bringing urban services to the area extremely expensive.

Development costs, constraints plague the 2002 expansion

The Metro Council's 2002 urban growth boundary expansion was not overwhelmingly popular.

First, it was a lot of land – more than double what had been added to the boundary in the history of the land use planning program.

Under Oregon's land use hierarchy, the first priority for urban growth boundary expansions was land that wasn't very useful for farming or forestry – areas with "rural sprawl," poor soil or heavy parcelization.

The Damascus area fit the bill. While historically a rural community, it already had a grocery store, an identity, and close to 10,000 residents.

And while there were plenty of good reasons to expand to the steep hillsides of Bethany and the buttes and dales of Damascus, there were tremendous challenges, as well.

For a large UGB expansion, Damascus seemed to make sense. Bethany would be more challenging, but its proximity to Intel and Nike in Washington County would compensate for its topographic challenges, leaders thought.

But their thinking was based on an old model – one where the federal government gave out fat stacks of cash for new infrastructure. Local leaders – and local taxpayers – weren't used to a pay-as-you-go model that saw the bills for pipes and roads footed by local governments.

In many cities outside Oregon, that was an easy adjustment. A quarter-cent sales tax here, a development impact fee there, and you've got a manageable balance of resources for the public services needed to serve new development.

Oregonians, of course, are notoriously prickly about sales taxes. In most of the country, a tax bill shows up a quarter-cent at a time at the grocery store or the drive-thru. In Oregon, the government could collect the same amount for public services – but it shows up in one chunk on an October property tax bill..

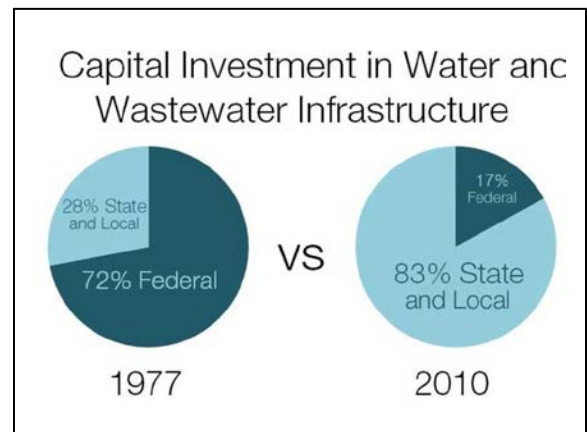
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This was not popular in Damascus.

It was soon obvious that the 2002 UGB expansion was not going to meet the regional need for growth. Damascus residents were just too divided about the fate of their community to come together with a growth plan, which was required to turn dirt and build communities.



According to the Congressional Budget Office, federal spending in sewer and water facilities has dropped dramatically from the 1970s. Graphic from Circle of Blue.

"Expansions of the UGB, and developing undeveloped land, is far more expensive than people imagine," Bragdon said in a recent interview. "That's true on the westside or the eastside. The expansion areas on the westside, like North Bethany, they also didn't develop. Those who say you should have expanded on the westside, they're also living in a world of the past where all greenfield development is subsidized, and we're getting free roads and free sewers and free water pipes like they were in the 70s, 80s and 90s."

It was clear that the old way – expand the UGB onto rocky soil first and look at everything else later – was no longer going to work.

Creating a 50-year outlook, and a half century of balance

Urban reserves had always lived in the books in Oregon land use law. The Portland region was allowed to identify certain land, meeting certain criteria, for future UGB expansions.

But every attempt Metro and its cities had made at designating reserves had been tossed by regulators or courts. In order to get a comprehensive reserves plan, land conservation advocates would need to be on board with the idea of turning some prime farmland into a city some day.

That meant pro-growth advocates would have to concede some land as off-limits to development – rural reserves that would be protected as farms or forests for generations to come.

"We really needed to make sure we preserve the rural lands, too, and send a message for where urbanization will occur if we need more land, and where it will not occur," said Mary Kyle McCurdy, policy director for 1000 Friends of Oregon.

In 2007, the Oregon Legislature passed Senate Bill 1011, which allowed the counties to develop a 50-year growth plan. The undertaking was massive. Planners went acre-by-acre analyzing how land around the region might fit as an urban or rural reserve. Leaders and negotiators attended hundreds of public meetings. The public comment reports on the reserves plan were more than 80 pages long. The key group negotiating the map, called the Core 4, consisted of Metro Councilor Kathryn Harrington, Washington County Chair Tom Brian, Multnomah County Chair Jeff Cogen and Clackamas County Commissioner Charlotte Lehan. They had a steering committee advising them and elected bodies to answer to.

By sharing the power of designating reserves, there wasn't one party on the hook for decisions – everyone had a role in accepting responsibility for the choices they made.

"It involved every level – at individual municipal levels, community levels, the citizen planning organizations in the counties, the stakeholder groups – there were so many public hearings and so much participation," said Lehan. "Metro really went the distance to get public input in all the mechanisms they had available to them, and the citizens participated at a very high level."

In the summer of 2009, most of the technical work was done. Planners released maps showing what areas were best



Metro and the three counties held dozens of meetings to go over proposals for the region's long-range growth plan.

suiting for urban reserves, and what areas were best suited for rural reserves.

There was some overlap. Other areas weren't particularly well suited for either urban or rural reserves. It was time for decision-makers to make some choices.

In the Tualatin Valley, Washington County's analysis said areas north of U.S. 26 near Hillsboro and north of Council Creek near Cornelius would be well suited for urban development – but as core farmland, they also could be protected. Many of Washington County's leaders, bullish on future development, wanted them to be urban reserves.

The opposite happened near Forest Park, in areas also well suited for both urban and rural reserves. Multnomah County leaders had little interest in turning the west side of the Tualatin Mountains into an urban reserve.

Areas around Stafford – a triangle between Tualatin, Lake Oswego and West Linn – also presented a mixed bag. Those areas were neither particularly well-suited for urban development, nor rural preservation. But Clackamas County had few obvious areas for long-term growth, and Metro officials thought the areas along Interstate 205 between West Linn and Tualatin made the most sense.

Meanwhile, officials got to agreement on some areas relatively easily. Leaders quickly decided to designate French Prairie – areas south of the Willamette River along I-5 – as rural reserves. But even there, not everyone was happy. The owners of the Langdon Farms Golf Club, south of Wilsonville, wanted their area to be urbanized. They retained former Hillsboro Mayor Tom Hughes, who later became the Metro Council President, to lobby for their cause.

But there was little appetite among leaders to extend urban reserves south of the Willamette. "Wilsonville ... made a conscious decision not to develop any further south of the Willamette," said Lehan, a former Wilsonville mayor who is now on that city's council. "Our plans for infrastructure and other urban services ended there." To this day, Lehan says, the pipes that serve Charbonneau hang underneath the I-5 bridge. "They're both at capacity," she says, "and ODOT has said we're not allowed to add any more or expand anything."

On the west side, land conservation advocates were incensed at the proposed urban set-asides in Washington County. A new group, Save Helvetia, was formed to fight urban reserve designations north of U.S. 26. Ranchers near Cornelius argued that their lifestyle would end if that city urbanized north of Council Creek.

Disagreement caused entrenchment, and by early 2010, the deal looked like it might just fall apart.



Washington County Chair Tom Brian, left, Metro planner John Williams center, and Metro Councilor Kathryn Harrington review proposed urban and rural reserves at a meeting in 2009.

A near stalemate

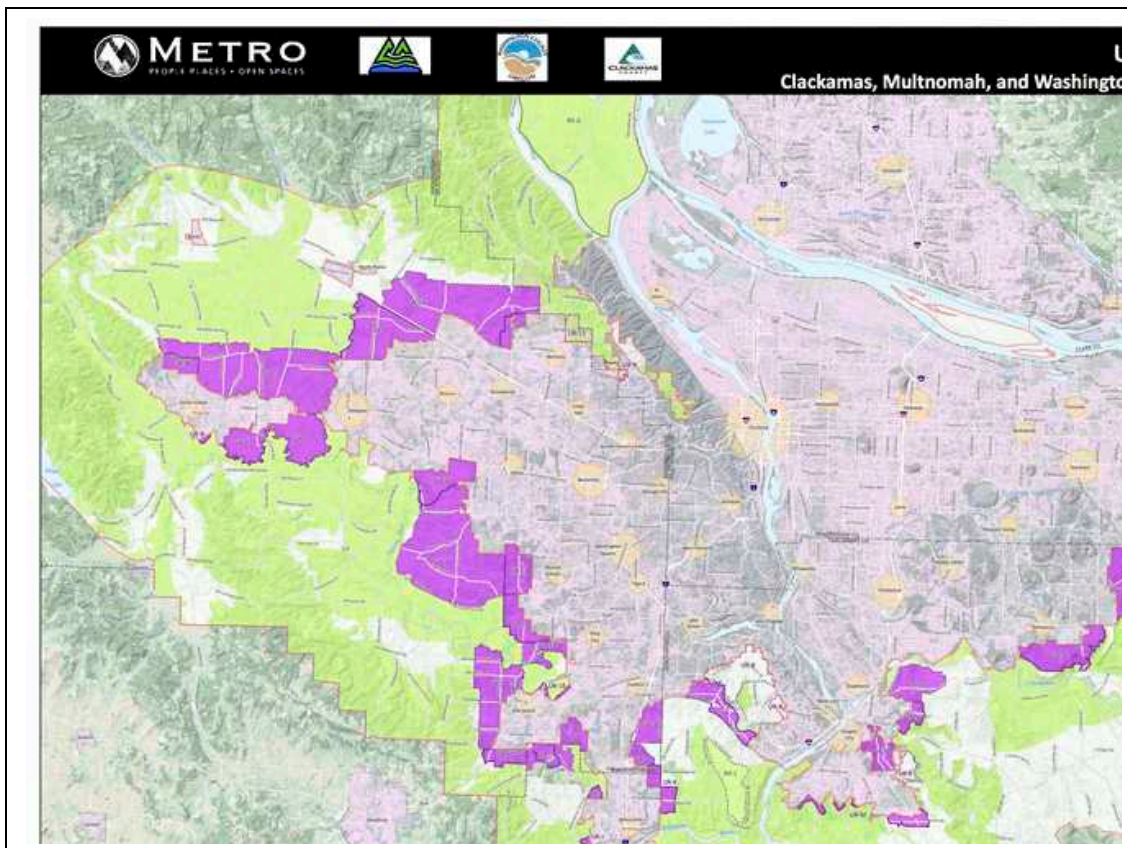
The fertile Tualatin Valley has always been an economic engine for the Portland area. In the 19th century, a plank road connected its farms to the ships waiting on the Willamette. In the late 20th century, Beaverton became home of Oregon's flagship company, Nike, and Hillsboro became the hub of Intel's industrial operations.

Even in the depths of the Great Recession, Washington County leaders saw no reason to be conservative with their future. But rural residents in the area weren't eager to embrace that future. While the tech and sportswear industries might be the bread and butter of Washington County's economy, they said, agriculture was the meat and potatoes – the county's hearty soul food.

The farmland in Washington County, says Helvetia community leader Cherry Amabisca, is among the finest in the world. "Farmland doesn't move, and high tech moves," Amabisca says. "We already see tech industries going where there's tax benefits, and laying off employees, and moving facilities. Farmland stays. You can't just move it as you wish. As we keep seeing companies come and go, it behooves us to maintain the farmland in place."

Washington County's mayors initially asked for much of the Helvetia area to be included in an urban reserve, but most dismissed the Washington County mayors' initial proposal of a 100,000-acre urban reserve as an ambit claim. "I don't blame the cities for showing large tracts where they wanted, but immediately we knew, it was not reachable," Brian said.

County staff, Brian said, winnowed that amount in half, to about 50,000 acres. "At that point, the cities started expressing concern that the county was heading to a number that was too low," Brian said. "Others felt that we were still way, way, way too high." The Washington County Farm Bureau, for example, came up with their own blue sky proposal: The urban growth boundary should be condensed, and some parts of the city should be returned to farmland. And at Core 4 meetings,



Washington County leaders initially proposed an urban reserve of more than 100,000 acres.

Lehan fought to keep Washington County's foundation farmland from being an urban reserve. Some thought it was an effort to make sure Clackamas County had more land for urbanization than Washington County did.

"I always tried to make it clear that there was a line we could not go past," Brian said. "But, I never gave up on the process. This is too important. It protected farmland and natural resources, and gave some predictability and logical growth patterns to the jurisdictions who have the responsibility of trying to manage growth efficiently and at the lowest cost."



At a 2010 meeting of the Metro Policy Advisory Committee, regional leaders debated the 50-year growth plan.

At last, agreement

The Metro Council is directly elected by residents of the six council districts to manage the regional government. But councilors are also obligated to get input from the Metro Policy Advisory Committee, which consists of leaders of cities, counties and special districts inside those districts.

Perhaps no time in the past seven years has the Metro Council leaned so heavily on MPAC to advise it as it did on the night of Feb. 3, 2010.

At the meeting, which lasted longer than some marathons, leaders went around the map, deciding which areas should be recommended for approval as urban or rural reserves.

Within a month, a final proposal was adopted. It had 28,000 acres of urban reserves scattered around the region, and 271,000 acres of rural reserves locked from development for a half century.

The map needed approval from all three county commissions and the Metro Council.

"It's quite a feat to say 'OK, you're going to have four different elected bodies – 22 individuals but on four different bodies, had to have a majority vote in each of the four bodies,'" Bragdon said. "In theory you could have 19 of them vote yes, but if there were three who voted no and those three all happened to be on the same county commission, the whole thing would be tanked."

Washington County came first. Their county commission voted Feb. 23 on their reserves agreement, which included 13,567 acres of urban reserves and set aside most of the rest of the Tualatin Valley as rural reserves.

The agreement held. The commission voted 5-0 to adopt the plan.

Multnomah County voted 5-0 on Feb. 25 to approve the plan, as well.

But on the morning of Feb. 25, it was still unclear whether Clackamas County would sign off on 13,750 acres of urban reserves – more than were designated in Washington County. Some of their commissioners vehemently opposed a 624-acre urban reserve north of Cornelius in Washington County.

The agreement had been designed as a 4-party agreement, with each of the counties approving the others' urban and rural reserves. But because of Clackamas County's opposition to Washington County's urban reserves, the rules were changed. Instead, each county would agree individually with Metro on the reserves plan, not with each other.

That compromise got a 5-0 vote on the Clackamas County Commission. One of the yes votes, Commissioner Jim Bernard, said he was still disappointed in the amount of farmland in Washington County that would be set aside for future growth. "We need to look at some of that foundation farmland over in Washington County and work to preserve that. I'm sure we'll hear a lot about it in the court system," Bernard said, foreshadowing the future.

That afternoon, in Portland, the Metro Council had the final vote on the plan.

"We know full well that each of us would make changes to this resolution, to make it better fit our individual hopes for the region," said Harrington, Metro's lead councilor on the reserves process. "Each of us would prefer that at least some part of the agreement would be changed or different. ... Ultimately, I believe we've achieved a historic accomplishment."

Two of her councilors disagreed. "We're so close," said Councilor Rod Park, a farmer from Gresham. But the 624 acres north of Cornelius troubled him. "I look at that one particular area," he said. "To me, it epitomizes the failure of what we're doing at this particular stage."

But the opposition wasn't enough to sway the vote. The Metro Council voted 5-2 to adopt the Washington County reserves package, and unanimously approved the Clackamas and Multnomah plans.

"It was a calculated risk on our part, and the risk paid off," Bragdon said. "If a majority of these people want to have some kind of solution and a majority of them think it's better to come away with something they want rather than everything they want, then this is going to work."

The rest was in the hands of the regulators and the courts.



Members of the Oregon Land Conservation and Development Commission meet in 2012 to review the Portland region's urban and rural reserves plan

The state says no

Those regulators, the governor-appointed members of the Oregon Land Conservation and Development Commission, intensely scrutinized greater Portland's 50-year plan for growth.

They made their first pass at the reserves plan in late 2010, and quickly rejected one of the most contentious areas of urban reserves. They rejected the 624 acres north of Cornelius beyond Council Creek, and some land north of Forest Grove.

Metro and Washington County moved quickly to reach a deal on a new plan, to make up for the urban reserves rejected by LCDC. In March 2011, the two boards met in Hillsboro for a nine-hour meeting to hash out a new deal to send back to the state.



Metro attorney Dick Benner watches as the Metro Council and Washington County Commission debate the urban and rural reserves plan in 2011

The boards made minor adjustments to the reserves plan north of U.S. 26 while meeting LCDC's mandate to cut down on urban reserves on the far west side.

Using the deal with Washington County as a baseline, the Metro Council took their new ride out for a drive. They used urban reserves for a 2,018-acre UGB expansion around Hillsboro, Beaverton and Tigard.

In 2012, LCDC took up the final reserves plan, and debated whether it had met the state's land use rules.

"What's the worst case scenario if we approve this?" asked Commissioner Bart Eberwein.

"In my mind, that (LCDC's) approval is appealed to the Court of Appeals that is remanded with new case law that is even worse than what we have now," replied staffer Rob Hallyburton. Hallyburton's warning proved prescient.

On Jan. 16, 2013, 22 opponents of the reserves plan made their case to a three-judge appeals panel in Salem. They challenged just about every aspect of the reserves plan, arguing that it was too broad, that it wasn't broad enough, that Metro had exceeded its authority, but mostly that certain areas across the region hadn't properly been analyzed by Metro and the counties.

The appeals court had a mountain of paperwork to work through. "In hundreds of pages of briefing, they raise 25 assignments of error that are predicated on a record that consists of approximately 36,000 pages," wrote Chief Judge Rick Haselton.

Six months went by without a ruling. A year went by. After 13 months, the Oregon Legislature started talking about intervening, a move that was blasted by Metro Council President Tom Hughes. Seemingly every week, there was a rumor that a ruling was "close." But every week, legislative action moved closer, as well.

With days left in the 2014 Legislature, the court spoke. On Feb. 20, 2014, it issued a 126-page ruling, approving almost all of the reserves plan but rejecting three key parts, one in each county.

The ruling said Metro and Clackamas County hadn't done enough to respond to issues raised by Tualatin and West Linn about future traffic in the Stafford area. It said Multnomah County hadn't fully explained why it designated land near Forest Park as a rural reserve.

But most importantly, it said that Washington County didn't use the proper methods in its analysis of what lands should be rural reserves. It struck down the reserves designations in the county – meaning there were also no urban reserves, since the two were adopted in tandem.

The court's ruling presented a problem. Because the court rejected the urban reserves in Washington County, an appeal of Metro Council's 2011 urban growth boundary expansion was likely to be upheld. Suddenly, there was widespread support for a bill that would get state lawmakers into the local zoning business.

The negotiations on the so-called "land use grand bargain" were quick, mostly over one weekend. Key players in Washington County's reserves designations met in the Capitol and in Hillsboro to try to strike a deal. Representatives from Hillsboro, Washington County, the Washington County Farm Bureau, 1000 Friends of Oregon, house builders, land conservation opponents, representatives from Forest Grove and Cornelius and Metro gathered to hash out details of a plan that everyone could agree to.

Everyone entered the room knowing they'd have to compromise to get what they wanted for the long term. But at the end of the two-day bargaining session, everyone was able to leave the room in agreement on a map that would end the stalemate.

The compromise had reached consensus. "This is (a) good compromise for agriculture, residential and industrial interests in the county, and brings certainty (to) future urban and rural land decisions," Washington County Chair Andy Duyck told the Portland Tribune. The bill was quickly passed by both houses of the Legislature. It settled the reserves map and the UGB in Washington County, which had been the most contentious part of the reserves debate.

The legislation, though, didn't address the issues in Clackamas County. For the most part, that was because there wasn't a consensus to be had there. New leadership on the Clackamas County Commission – elected in 2012, after the reserves map had been approved – wanted dramatic changes to the urban and rural reserves map, including undoing rural protections along Interstate 5 between Wilsonville and Salem. They saw that area as key for job growth in Clackamas County.

But land conservation advocates say they can't agree to any plan that allows growth to extend south of the Willamette.



Wilsonville (foreground) is inside the Portland UGB; south of the Willamette River, Interstate 5 crosses the French Prairie (background) on the way to Salem.

The future of reserves

The Langdon Farms Golf Club is a familiar landmark for drivers on the east side of I-5 between Portland and Salem. It's been there for decades, and its owners, Chris and Tom Maletis, really want to turn it into land for jobs.

They've tried a few methods, including an attempt at selling the golf course to the Klamath Tribes.

The Maletis brothers, who own one of Oregon's largest liquor distributorships, appealed the rural reserve designation of Langdon Farms, but the Court of Appeals denied their claim. Since then, though, the Clackamas County Commission has taken up their cause, asking that Langdon Farms be dropped from the rural reserve. They want to leave it as undesignated – not a first target for development, but not off-limits, either.

Few of the parties who hammered out the initial agreement like the idea of opening the map back up.

"I think they're really foolish to try to reopen four years worth of agreements and unravel that," Bragdon says. "There's a whole lot more that unravels which I don't think they would like the ultimate result of that." That complicates efforts to wrap up the reserves designations in Clackamas County, which should otherwise be a simple fix.

Metro's attorneys say a revised set of "findings" – a report to state land use regulators on why they designated reserves the way they did – would be a satisfactory fix to the original reserves mistakes in Clackamas and Multnomah counties. But those findings would have to be accepted by the Clackamas County Commission, which wants to re-negotiate much of the Clackamas County reserves map.

Where land conservation advocates see the Willamette south of Wilsonville River as a line that shouldn't be crossed, Clackamas County Chair John Ludlow recently disagreed. "What's so special about this river?" Ludlow recently told the Oregonian.

For greater Portland's urban growth management, the stakes are high. Wilsonville is expected to ask the Metro Council to expand the urban growth boundary near there in 2018. The area was designated as an urban reserve in 2010, meaning Metro and Clackamas County agreed it was a good candidate for urbanization.

But without a reserves agreement, Metro is forced to do things the old way, and look to low-quality farmland for any future urban growth boundary expansions in Clackamas County. Steep slopes. Rocky soils. Areas like the hillsides near West Linn and Lake Oswego. All the land between Carver and Estacada.

And more than a decade after lawmakers tried to get them out of their bind by creating the urban and rural reserves process, they still wouldn't be able to allow growth into an urban reserve near Wilsonville, on the one parcel just about everyone involved in the process concluded made sense.