

**Agenda**  
**Aurora Planning Commission Meeting**  
Tuesday, March 3, 2020, 7 P.M.  
City Council Chambers, Aurora City Hall  
21420 Main Street NE, Aurora, OR 97002

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**1. CALL TO ORDER OF THE AURORA PLANNING COMMISSION MEETING**

**2. ROLL CALL**

Chairman Joseph Schaefer	Commissioner Craig McNamara
Commissioner Bud Fawcett	Commissioner Tim Shea
Commissioner Jonathan Gibson	Commissioner Jim Stewart

**3. CONSENT AGENDA**

a) Planning Commission Minutes – February 4, 2020

**4. VISITORS**

Anyone wishing to address the Aurora Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora Planning Commission could look into the matter and provide some response in the future.

**5. CORRESPONDENCE**

a) ODOT/DLCD Transportation and Growth Management Program  
b) Marion County Ehlen Road Traffic Engineering  
c) City Letter of Support for Marion County 2020 INFRA Grant Application for I-5 Aurora/Donald Interchange Improvement Project

**6. PUBLIC HEARING-N/A**

**7. NEW BUSINESS**

a) Review of Proposed Code Changes  
b) Marion County Sheriff's Office Speed Trailer Data  
c) Updated Development Project Timeline and Map

**8. OLD BUSINESS**

a) New Member Discussion  
b) Development Allowed Inside the UGB but Outside the City  
c) Aurora Airport Master Plan LUBA and Circuit Court Appeal Update

**9. ADJOURN**

**Minutes**  
**Aurora Planning Commission Meeting**  
Tuesday, February 4, 2020, 7 P.M.  
City Council Chambers, Aurora City Hall  
21420 Main Street NE, Aurora, OR 97002

**STAFF PRESENT:** W. Scott Jorgensen, City Recorder; Renata Wakeley, City Planner

**STAFF ABSENT:** None

**VISITORS PRESENT:** Tara Weidman, Aurora; Gayle Abernathy, Aurora; Samantha Justice, Oregon City; Corey Barton, Canby; Janae Barton, Canby; TJ Gorman, Aurora; Craig Plummer, Aurora; Dalton Justice, Oregon City; Jan Peel, Aurora; Dean McGregor, Butteville; Cindy Stutzman, Canby; Shane Stuzman, Canby; Jennifer Sturm, Aurora; John Moore, Aurora; Dillon Smith, Aurora; Jill Morris, Canby; Nate Morris, Canby; Zach Long, Canby; Annie Harris, Aurora; Willis Mathieu, Aurora; Todd McDonald, Aurora; Marcy Andersen, Aurora; Tina Zech, Aurora; Micah Moore, Aurora

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**1. CALL TO ORDER OF THE AURORA PLANNING COMMISSION MEETING**

Chair Joseph Schaefer called the meeting to order at 7:01 p.m.

**2. ROLL CALL**

Chairman Joseph Schaefer-Present	Commissioner Craig McNamara-Present
Commissioner Bud Fawcett-Present	Commissioner Tim Shea-Absent
Commissioner Jonathan Gibson-Present	Commissioner Jim Stewart-Present

**3. NEW MEMBER WELCOME**

Schaefer introduced Jim Stewart. He was appointed to the commission by the city council at its January meeting.

**4. CONSENT AGENDA**

- a) Planning Commission Minutes – January 7, 2020
- b) Historic Review Board Minutes – December 19, 2019

Commissioner Jonathan Gibson moved to approve the consent agenda. That motion was seconded by Commissioner Craig McNamara and adopted unanimously.

**5. VISITORS**

There were no visitors at this time.

**6. CORRESPONDENCE-N/A**

**7. PUBLIC HEARING**

- a) Legislative Amendment—LA 2019-01—Marijuana Retail Uses in the Historic District  
Schaefer described the boundaries of the city’s historic district.

Schaefer opened the public hearing at 7:06 p.m.

Schaefer explained that the commission will make a recommendation to the council, which will make a decision on the proposed legislative amendment at its meeting the following Tuesday.

Planner Renata Wakeley said that she received an email from City Recorder W. Scott Jorgensen earlier in the day that will be entered into the record as Exhibit C6. Notice of the hearing was published in the *Canby Herald* and mailed to property owners in the commercial portion of the historic district. The council's public hearing is scheduled for February 11. The application for the proposed legislative amendment was initiated by council at its December meeting. Those minutes are included as an exhibit. The commission needs to find that the proposed amendments comply with statewide planning goals and the city's comprehensive plan. Goal 1 is met. Goal 5 pertains to historic places. Ordinance 480 amended the city's code to apply the changes that were previously made to state law. The community decided to only allow marijuana dispensaries outside of the historic district in commercial zoning and adopted time, place and manner restrictions. There is nothing in the city's comprehensive plan to contradict the permission to remove the current restrictions. The State Historic Preservation Office was contacted and had no comment, as the proposed change didn't have to do with design standards in the historic district. The minutes of the commission's comments from its January meeting are included in the meeting packet. Based on the guidance from the council, she proposes applying the same time, place and manner restrictions in the city's commercial zone to the historic district.

Schaefer said that under Goal 5, there's a state administrative rule that requires an Energy, Social and Environmental Analysis to be done. He asked if anyone had any objections to the notice that was provided and said that if tenants want notices in the future, they can talk to himself or Jorgensen about it. There were no objections to the city's jurisdiction to decide on this matter. Jan Peel asked if this is approved, would there still be some review by the Historic Review Board (HRB)? Schaefer said there would be. Samantha Justice said she and her husband Dalton are the potential applicants. They grew up in Canby and are familiar with the city and its historic district. They're not looking to promote marijuana use in town, merely the opportunity for people to purchase a regulated product. The industry is regulated by the Oregon Liquor Control Commission, which has high standards. Security is important and they want to have a neutral impact. They want the opportunity to be good neighbors and contribute to the community. Peel said she's been a business owner in the historic district for 18 years. She's the director of the Aurora Colony Visitors Association and chair of the HRB. Why, after working with the HRB years ago on the existing restrictions, is this change being proposed now? The historic district has a national designation. Much time and money has gone into promoting it and the HRB works to maintain it. The city has been named a top historic destination by many media outlets. There is limited parking and police presence. Jennifer Sturm cautioned against labeling potential patrons as riff raff. Peel said she has nothing against dispensaries, she just doesn't think they fit in the historic district. Dean McGregor said he's lived in the area since 2003 and is opposed. The nature of its

presence will promote use. It doesn't fit the historic district and belongs in other commercial areas. Corey Barton said marijuana has historically been used. Gayle Abernathy said that no other historic districts in Oregon allow dispensaries. It's not the place for it and is not appropriate. It would be fine for the commercial area but not the historic district. Tina Zech said there have been plans to have a dispensary at Top of the Hill and asked why it would be necessary to have one in Aurora. Schaefer said they are different jurisdictions. Zech said that if it was put to a vote of the residents, they would oppose it. Justice said she looked into Top of the Hill and doesn't think they'll be able to do recreational. Commissioner Jim Stewart said the sign on the building says it's going to be selling CBD. Schaefer asked about the difference. Justice said CBD has nothing to do with THC, the psychoactive chemical in marijuana. CBD is licensed and regulated by the Oregon Department of Agriculture. Dalton Justice said they don't want to disturb what's been created with the historic district. They're everyday people and would do everything to uphold that standard. Micah Moore said that most dispensaries are discreet. There aren't people smoking on the sidewalk. If you drive by, you don't see them. This won't be thrusting marijuana on everyone in town. He doesn't see any negative impacts. It will be just another business in town that provides for its customers. Gas stations aren't historic, but one is located in the district. He knows the landlords and thinks they're high quality people. If there's a 1,000 foot buffer, it would be the only one in town. Schaefer said the council could alter that rule. Abernathy asked about proximity to churches. Schaefer said the code language uses the word "adjacent," meaning the next property and reminded everyone that the amendment would not apply to any particular property. McGregor invited the commissioners to tour 50<sup>th</sup> and Division and 34<sup>th</sup> and Alberta in Portland. People consume marijuana on the streets and it's unrestricted. Shane Stuzman said there's a dispensary in Hubbard and no open use there. McGregor said there's more pedestrian traffic in Aurora. Dalton Justice said public consumption is against the law. Barton said Aurora will never be like Portland. Abernathy said there is inadequate lighting in the historic district and a lack of police presence in town. She asked if the Marion County Sheriff's Office has a policy on responding to alarms. Jorgensen said the city wouldn't be charged if deputies respond to an alarm going off at a business. Dillon Smith said he's a proponent for any legitimate business. A vote of the people is sometimes necessary, but business owners have the right to operate where it's legal. Schaefer said it's rare that land use laws going to a vote. Changing code is a big process and the commission does it once a year. The city's code is usually stable. Title 17 was adopted in 2013 and most of the code was written in 2002. Marcy Anderson said she works with a juvenile drug court. Marijuana is not harmless. It's a different business than antiques and the historic district doesn't need it. Peel asked about the security requirements. Samantha Justice said there must be cameras covering the entrances and exits, commercial door locks, a vault and panic buttons which are silent alarms that call the police. The cameras are required to record 24 hours a day and they must keep the footage for 90 days. Schaefer said the OLCC inspects buildings prior to licenses being issued. Peel asked if there was a minimum square footage required for dispensaries. Dalton Justice said there is not. Jenae Barton said she is in favor of the amendment. Alcohol is sold in multiple locations in the historic district and people aren't drinking it in the streets. The OLCC regulates

marijuana heavier than it does alcohol. They love Aurora and this will bring people to town.

Schaefer closed the public hearing at 7:50 p.m.

Commissioner Bud Fawcett said Aurora is a unique town. The historic overlay covers much of the developable property. The town is very small and the overlay takes up much space. He's talked to residents and store owners and there's a mixed reaction. He went to some dispensaries. There are three really close to each other in Hillsboro. He's in favor of having a dispensary in town, it's legal. The challenge here is that few properties are eligible to host it because of the overlay. If it's allowed, the applicants may have issues with the sign code, as giant green crosses on the side of the building are not permitted in the historic district. The HRB will have some control over the aesthetics and has kept the town from being a tacky eyesore. There are four businesses in the historic district that sell alcohol and he doesn't think a dispensary is far-fetched. Schaefer said the historic district has a branding and this doesn't fit it. He does not support the amendment. The purpose of zoning is to prevent conflict between neighbors. The proposed use is not a good fit for the historic district. If the district was branded more towards night life or entertainment, it would be different. McNamara asked if a liquor store would be allowed in the historic district. Wakeley said that in her experience, they are considered general retail. They aren't specifically called out in the city's code and could be permitted. Gibson said he agrees on the branding of the historic district and feels it's in the city's best interest to maintain it.

Fawcett moved to recommend approval of the legislative amendment with the changes as presented by the planner, but with allowable hours of operation from 10 a.m. to 10 p.m. That motion was seconded by McNamara and passed on a 3-2 vote. Fawcett, Stewart and McNamara were in favor and Schaefer and Gibson were opposed.

## **8. NEW BUSINESS**

- a) Building Codes Division Rulemaking Advisory Committee  
Jorgensen said he is a member of the committee and it recently had its first meeting. This issue has been discussed for years, but the meeting was productive. The next meeting will take place in March, after the short legislative session adjourns.
- b) HRB Recommendations on Administrative Processes for Roofing Applications  
Abernathy said there have been issues with roofs and different definitions of black. The HRB is trying to provide clarity by cleaning up the verbiage in code and simplifying it. Schafer suggested that it be added to the list of code updates.  
Commissioners agreed by consensus.

## **9. OLD BUSINESS**

- a) New Member Discussion  
Jorgensen said he reached out to Tina Zech about submitting a letter of interest. She attended tonight's meeting and he can follow up with her. Schaefer agreed.
- b) County Hearings Officer Recommendation on TLM Holdings Application  
There have been no new developments.

- c) Aurora Airport Master Plan LUBA and Circuit Court Appeal Update  
Schaefer said that the Oregon Department of Justice is representing the airport and filed a response to the city's record objection. He filed a reply to that. LUBA has until the end of February to decide the record dispute.

**10. ADJOURN**

Schaefer adjourned the meeting at 8:37 p.m.

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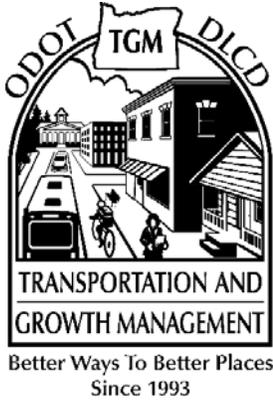
Joseph Schaefer, Chair

ATTEST:

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W. Scott Jorgensen  
City Recorder

DRAFT



# Transportation & Growth Management Program

## 2020 Pre-Application Packet

The Transportation and Growth Management (TGM) Program is jointly managed by the Oregon Department of Transportation (ODOT) and the Department of Land Conservation and Development (DLCD). TGM is primarily funded by federal transportation funds, with additional funding provided by the State of Oregon.

TGM serves local governments through a competitive grant program and other non-competitively awarded community assistance programs. TGM services include:

- **Grants** for transportation and land use planning projects ([page 2](#))
- **Community Assistance** ([page 6](#))
  - **Code Assistance** for zoning ordinance updates to better integrate land use and transportation planning
  - **Education and Outreach** community workshops, conferences, and speakers
  - **Quick Response** to help communities implement adopted transportation and land use plans and assist with small-scale, multi-modal problem solving
  - **TSP Assessment** to review whether and how to update Transportation System Plans and what to focus on

All TGM projects must be consistent with the TGM Objectives ([page 7](#)).

Although a [Pre-Application](#) is not required, we encourage you to submit one for potential 2020 grant projects. A TGM representative will contact all pre-applicants to discuss project ideas and assist with submitting a qualifying grant project application.

**Pre-Application Deadline: Thursday March 5, 2020**

<https://www.cognitofrms.com/ODOT2/TGMProgramPreApplication2020>

### TGM MISSION

Oregon's Transportation and Growth Management Program supports community efforts to expand transportation choices. By linking land use and transportation planning, TGM works in partnership with local governments to create vibrant, livable places in which people can walk, bike, take transit, or drive where they want to go. <https://www.oregon.gov/LCD/TGM>

## TGM Grants

TGM grants fund planning projects that accomplish TGM Objectives ([page 7](#)). Grants are awarded annually and have a two to three-year period for projects to be negotiated and completed. Awards are on a competitive basis within ODOT regions.

Award amounts generally range between \$75,000 and \$250,000. Grants may be used for consultant services and to reimburse local governments for staff time and materials. If consultants are used, TGM will hire them on the grantee's behalf.

### Key Requirements for TGM Grants

TGM grants are for planning work leading to local policy decisions. Projects should result in the development of an adoption-ready plan or land use regulation amendment. Projects that primarily do research or outreach, study an issue, compile data, or inventory information are not eligible for grant funding. TGM grants also cannot fund preliminary engineering, engineering, or construction work.

Eligible applicants include cities, counties, councils of government on behalf of a city or county, and tribal governments. Certain special districts are eligible, such as transportation districts, metropolitan planning organizations, ports, mass transit districts, parks and recreation districts, and metropolitan service districts. School districts, and public colleges and universities, may be eligible as part of a joint application with a local government for an otherwise eligible project. Eligible applicants may join together to propose a project, such as a multi-county TSP or multi-city or city-county corridor plan.

TGM requires a local grant match of 12 percent of the total project cost. Grantees must provide a project manager who has the time and the capability to oversee project work, which at a minimum includes helping to develop the project work scope, coordinating the review of project deliverables, keeping local decision-makers informed, making logistical arrangements, and providing public notification for meetings and public events. An intergovernmental agreement will be required.

### Eligible Projects

Applicants may choose from one of two grant categories: Transportation System Planning or Integrated Land Use and Transportation Planning.

#### Category 1- Transportation System Planning

##### *Purpose*

To help local governments develop and update transportation system plans (TSPs) and implementing measures that implement the Transportation Planning Rule (OAR 660-012-0045); implement the Oregon Transportation Plan and other statewide modal and topic plans; increase opportunities for walking, biking, and transit; or reduce reliance on the state highway for local travel needs.



Thinking about a TSP or TSP update? Don't forget about ODOT's *TSP Guidelines*.

<https://www.oregon.gov/ODOT/Planning/TSP-Guidelines/Pages/default.aspx>

### *Eligible Uses*

Projects in this category will result in a transportation decision. Projects will plan for transportation facilities inside Urban Growth Boundaries (UGBs), in urban unincorporated communities, and along rural highway corridors. Projects proposed for areas being considered in a UGB amendment process may be eligible, but must demonstrate they are timely and reasonably achievable. Category 1 projects typically include preparation and adoption of:

- TSPs, including analysis to determine transportation needs, and planning for such elements as local street networks, bicyclists and pedestrians, safety including safe routes to school, transit, and freight.
- TSP updates, in whole or part, to address new needs, comply with new state or federal regulations, maintain consistency with a regional transportation plan, plan for areas newly brought into the UGB, reduce greenhouse gas emissions, or make the transportation system more resilient to the impacts of natural hazards.
- TSP implementation, such as streetscape plans, cost estimate refinement, capital improvement and other funding plans, and land use regulations required by the Transportation Planning Rule.
- TSP refinement, such as corridor plans, multimodal safety plans, interchange area management plans, or other planning to implement Oregon statewide modal and topic plans.
- Transit Development Plans that provide long term vision and policy for existing and future transit service.
- Other innovative transportation-related planning projects that are consistent with TGM objectives.

### *Recent Category 1 Projects*

TGM has funded a wide range of projects in locales of all sizes. Here are a few recent examples:

#### *TSPs and TSP Updates*

- City of Heppner TSP Update
- City of Mosier TSP
- Benton County TSP Update

#### *TSP Implementation*

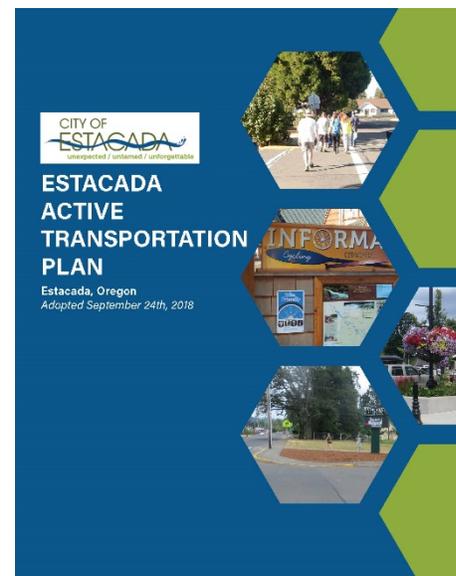
- City of Salem Winter-Maple Bicycle and Pedestrian Plan
- Washington County Rightsizing Parking
- City of Portland Truck Parking and Loading Plan
- Metro Transit System Expansion Strategy

#### *TSP Refinement*

- City of Reedsport Dean to Dunes Trail Plan
- City of St. Helens Riverfront Connector Plan

#### *Transit Development Plans*

- Rogue Valley Transportation District 2040 Master Plan
- Lincoln County Transportation Service District TDP



## Category 2- Integrated Land Use and Transportation Planning

### *Purpose*

To help local governments develop integrated land use and transportation plans and implementing measures that encourage livable, affordable, and accessible communities for all ages and incomes; promote compact, mixed-use, walkable development to increase walking, biking, and transit; or support physical, social, and economic needs.

### *Eligible Uses*

Projects in this category will result in a land use decision. Projects will combine land use planning with supportive transportation facility planning inside UGBs, urban unincorporated communities, and urban reserve areas. Category 2 projects typically include preparation and adoption of:

- Specific area plans for land uses in a downtown, main street, commercial area, employment area, neighborhood, corridor, or interchange area.
- Land use and transportation concept plans for areas brought into a UGB.
- Transportation-efficient land use plans for an entire urban area, such as location efficiency of housing and employment or reducing greenhouse gas emissions from transportation.
- Implementing measures, such as code amendments, infill and redevelopment strategies, and intergovernmental agreements.
- Other innovative land use and transportation-related planning projects that are consistent with TGM objectives.

### *Recent Category 2 Projects*

TGM has funded a wide range of projects in locales of all sizes.

Here are a few recent examples:

#### *Specific Area Plans*

- City of Medford Liberty Park Neighborhood Plan
- City of Hood River and Hood River County Westside Area Concept Plan
- City of Newberg Downtown Improvement Plan

#### *Concept Plans*

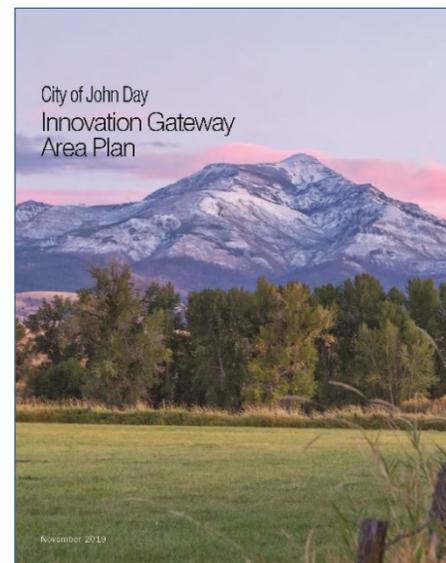
- City of Phoenix Urban Reserve Concept Plan

#### *Land Use Plans*

- Coquille Indian Tribe Empire Comprehensive Plan

#### *Implementing Measures*

- City of Keizer Revitalization Plan
- City of Redmond Neighborhood Revitalization Plan



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*Adopted in November 2019, this project has already born fruit: the City of John Day has signed a letter of intent with a hotel developer.*

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## Grant Timeline

TGM has an annual grant award cycle. The application, award and project timeline is as follows:

- April 6, 2020 - Grant application period begins
- June 11, 2020 - Applications due
- Mid-late August 2020 – Awards announced
- 2021 - Projects underway
- June 2022 - Most 2020 TGM projects completed
- September 2023 - All 2020 TGM projects must be completed

## More Information

More information on TGM grants is on our website, including draft 2020 Grant Eligibility Requirements and Scoring Criteria, information on current and completed grant projects, and the previous grant application packet: <https://www.oregon.gov/lcd/TGM/Pages/Planning-Grants.aspx>.

The following ODOT staff can provide additional guidance specific to their regions:

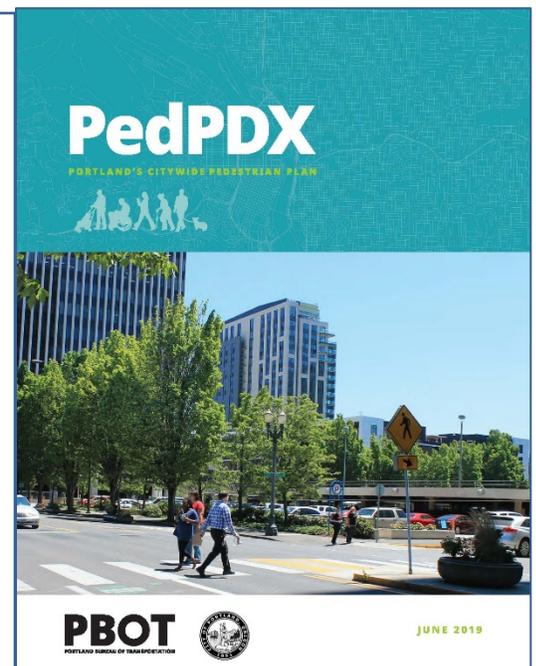
Region 1	Glen Bolen (Portland)	503-731-8284	<a href="mailto:glen.a.bolen@odot.state.or.us">glen.a.bolen@odot.state.or.us</a>
Region 2	David Helton (Eugene)	541-726-2545	<a href="mailto:david.i.helton@odot.state.or.us">david.i.helton@odot.state.or.us</a>
Region 3	Virginia Elandt (Roseburg)	541-957-3635	<a href="mailto:virginia.elandt@odot.state.or.us">virginia.elandt@odot.state.or.us</a>
Region 4	Devin Hearing (Bend)	541-388-6388	<a href="mailto:devin.hearing@odot.state.or.us">devin.hearing@odot.state.or.us</a>
Region 5	Cheryl Jarvis-Smith (La Grande)	541-963-1574	<a href="mailto:cheryl.jarvis-smith@odot.state.or.us">cheryl.jarvis-smith@odot.state.or.us</a>

City of Portland's PedPDX is a winner!

- [International Association for Public Participation 2019 USA Core Values Award Winner Project of the Year Award & General Project Category](#)
- [Oregon Walks 2019 Weston Winner](#)
- [Oregon Public Health Association 2019 Award for Champion for Healthy Environments \(Coalition\)](#)
- [WTS 2019 Innovative Project of the Year](#)

*PedPDX is in essence, an action plan and an investment strategy. The plan has already resulted in visible changes in our city, and is an example of how much impact a planning project can have in the community. The City of Portland is grateful to ODOT TGM for funding planning work that is already leading to meaningful change for people walking in Portland!*

Michelle Marx, Pedestrian Coordinator  
City of Portland



## TGM Community Assistance Programs

In addition to grants, TGM provides several other services to help resolve land use and transportation planning issues. Community Assistance projects have a more narrow scope and shorter timeline than grant projects. They are awarded throughout the year on a non-competitive basis.

### Code Assistance

Local governments use TGM Code Assistance to help identify and remove barriers to smart growth in their zoning and development codes. TGM staff or planning consultants hired by TGM work with communities to:

- review and revise local planning policies and code standards; and
- solve specific code problems identified by the community.

Cities can also use TGM’s Model Development Code for Small Cities to update their codes independently or with the support of a consultant.

### Education and Outreach

Through workshops and presentations, TGM helps communities identify solutions to community design, land use, and transportation challenges. TGM workshops and presentations are generally tailored to meet the specific needs of a community.

### Quick Response

Quick Response focuses on bridging the gap between long range transportation planning and subsequent actions affecting specific properties. Design consultants hired by TGM identify ways to facilitate readiness for development and improve access to local destinations, while encouraging walking, biking and using transit.

### TSP Assessment

TSP Assessment helps local governments evaluate their existing transportation systems plans. TGM will identify the TSP's strengths and weaknesses, discuss the need for and timing of a potential update, and help develop a scope of work.

### More Information

More information on Community Assistance is on our website, including program brochures, eligibility requirements, and information on completed projects: <https://www.oregon.gov/lcd/TGM>.

The following DLCD staff can provide additional guidance specific to their program:

<a href="#">Code Assistance</a>	Laura Buhl	503-934-0073	<a href="mailto:laura.buhl@state.or.us">laura.buhl@state.or.us</a>
<a href="#">Education and Outreach</a>	Evan Manvel	503-934-0059	<a href="mailto:evan.manvel@state.or.us">evan.manvel@state.or.us</a>
<a href="#">Quick Response</a>	Stacey Goldstein	503-934-0048	<a href="mailto:stacey.goldstein@state.or.us">stacey.goldstein@state.or.us</a>
<a href="#">TSP Assessment</a>	Bill Holmstrom	503-934-0040	<a href="mailto:bill.holmstrom@state.or.us">bill.holmstrom@state.or.us</a>

## **TGM Objectives**

The TGM Program works in partnership with local governments and other stakeholders to accomplish the following interrelated goals and objectives:

1. **Provide transportation choices** to support communities with the balanced and interconnected transportation networks necessary for mobility, equity, and economic growth.
  - 1.1. A balanced, interconnected, and safe transportation system that provides a variety of transportation options and supports land uses.
  - 1.2. Appropriately sited, designed, and managed local, regional, and state transportation facilities and services that support the movement of goods and provide for services.
  - 1.3. Mobility choices for underserved communities and those with limited options.
  - 1.4. Safe and convenient walking, biking, and public transportation opportunities to support a healthy, active lifestyle.
  
2. **Create communities** composed of vibrant neighborhoods and lively centers linked by accessible transportation.
  - 2.1. Livable towns and cities with a mix of housing types, work places, shops, schools, and parks for people of all ages, incomes and abilities.
  - 2.2. Well-located activity centers, including schools and other government services, which are accessible to pedestrians, bicyclists, and transit users.
  - 2.3. A safe and appealing physical environment supportive of the social, cultural, and health needs of all the community residents.
  
3. **Support economic vitality** and growth by planning for land uses and the movement of people and goods.
  - 3.1. Thriving existing neighborhoods and centers and well-planned new growth that accommodate existing and future residents, businesses, and services.
  - 3.2. Well-located and accessible industrial and employment centers.
  - 3.3. Housing with access to education, jobs, and services.
  
4. **Save public and private costs** with compact land uses and well-connected transportation patterns.
  - 4.1. Urban growth accommodated within existing communities, thus minimizing, delaying, or providing an alternative to an urban growth boundary expansion.
  - 4.2. Future transportation needs accommodated within the existing or improved system, thus minimizing, delaying, or providing an alternative to constructing additional major infrastructure projects.
  
5. **Promote environmental stewardship** through sustainable land use and transportation planning.
  - 5.1. Transportation systems and land use patterns that protect valuable natural resources, promote energy efficiency, and reduce emissions of air pollution and greenhouse gases.



Better Ways To Better Places  
Since 1993

# Transportation & Growth Management Program 2020 Pre-Application Packet

Find the Pre-Application link and other resources at  
<https://www.oregon.gov/lcd/TGM/Pages/Planning-Grants.aspx>

**Pre-Application Deadline: Thursday March 5, 2020**



TGM @ ODOT  
555 13<sup>th</sup> ST NE  
Suite 2  
Salem, OR 97301

**From:** [Bill Ovchinnikov](#)  
**To:** [Recorder](#)  
**Subject:** Fwd: Re: EHLEN RD NE - Traffic Engineering - Event Number: 35604  
**Date:** Thursday, February 20, 2020 10:52:09 AM  
**Attachments:** [Dispatch.PDF](#)

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Scott,

Here's a bit of good news if you can get it added to the next counsel meeting packet.

Thanks,  
Bill.

>>> David Jensen 2/20/2020 10:43 AM >>>

Hi Bill,

Thank you for facilitating this request with the City of Aurora for additional speed limit signs on Ehlen Rd. Traffic Engineering has reviewed the existing signing, crash experience, and roadway layout and determined that we are good with moving forward to install an additional speed limit sign for eastbound and for westbound drivers. These signs should help to remind road users of the speed limit that is applicable (MUTCD Section 2B.13, paragraph 4). We will arrange with our Sign Shop to install these 2 new SPEED 35 signs on Ehlen Rd at location between Kahle Ln and Airport Rd within the next few weeks.

Best Regards,

David Jensen  
Traffic Operations Engineer  
Marion County Public Works  
[\(503\) 588-5036](tel:5035885036)  
[\(503\) 365-3172 \(direct\)](tel:5033653172)  
[djensen@co.marion.or.us](mailto:djensen@co.marion.or.us)

>>> Bill Ovchinnikov 2/20/2020 7:09 AM >>>

Good Morning,

I'm following up on the attached request. Are there any update I can forward to city?

Thank You,

Bill

503-991-7055

>>> Roxanne Fleming 2/5/2020 3:38 PM >>>

You have been assigned a dispatch from the Dispatch Log. For more information, please open the attached file.

>>> Bill Ovchinnikov 2/5/2020 3:43 PM >>>

Hi David,

I just left you a voice mail regarding speed signs on Ehlen Rd in Aurora... The main complaint is not enough warning of the speed zone for the area between Kahle Ln and Airport Rd which is 35 mph.

There is one sign at Kahle Ln NE stating the speed is reduced from 45mph to 35mph... No other signs until you get past Airport Rd NE which shows the speed is reduced to 25mph... the distance between signs is over 1/4 mile. Is there anything we can do to add one more sign in between?

Thank you,

Bill.

## Assigned Event

2/5/2020 15:38:13

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**35604** **District** WOODBURN **Dispatch To** Lani Radtke, David Jensen, Bill Ovchinnikov  
**EHLEN RD NE** **From** AIRPORT RD NE **To**

---

2/5/2020 03:24 PM Sign Issues Request for a new sign

Why is a new sign needed? Citizen requests

**Caller** Deputy Bill 503-991-7055 rfleming  
Ovchinnikov (MCSO)

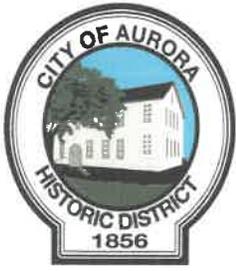
### Call Notes

MCSO Deputy Sheriff assigned to the City of Aurora; received citizen requests/complaints to add additional signage on Ehlen Rd near Airport Rd; heading to the area to take some measurements. Would like to know what is needed to add additional signage at the above location. Available by phone or email: BOvchinnikov@co.marion.or.us

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**Action:** Traffic Engineering

**Cleared**



# City of Aurora

FOUNDED IN 1856  
"National Historic Site"

Thursday, February 13, 2020

Subject: I-5: Aurora/Donald Interchange Improvement Project, Marion County, Oregon  
Re: Marion County's 2020 INFRA Grant Application

Dear Selection Committee,

On behalf of the Aurora City Council and the City itself, I am pleased to submit this letter in support of Marion County's 2020 INFRA Grant application.

Even though Aurora city limits do not extend directly to the freeway corridor, its residents and visitors to the community are impacted by the ongoing safety issues and concerns surrounding the interchange.

Many of our residents use the interchange to commute to jobs either south in Salem or north in the Portland area. As the area continues to grow, it becomes more critical that the interchange be upgraded to reflect that reality and handle the added infrastructure demands.

Officials who are working on this project have done an outstanding job of reaching out to the city and providing regular updates on its progress. The City and its officials were pleased to see this project rightly receive its first round of funding. However, proper planning of a project of this scale and significance is important. Knowing that funding for its future phases is secure will better allow those planning processes to continue, and for communities such as Aurora and its neighbors to have the kind of input that they've had thus far.

For all these reasons, and many more, The City of Aurora strongly supports the county's application.

All My Best,

W. Scott Jorgensen, Executive MPA

City Recorder

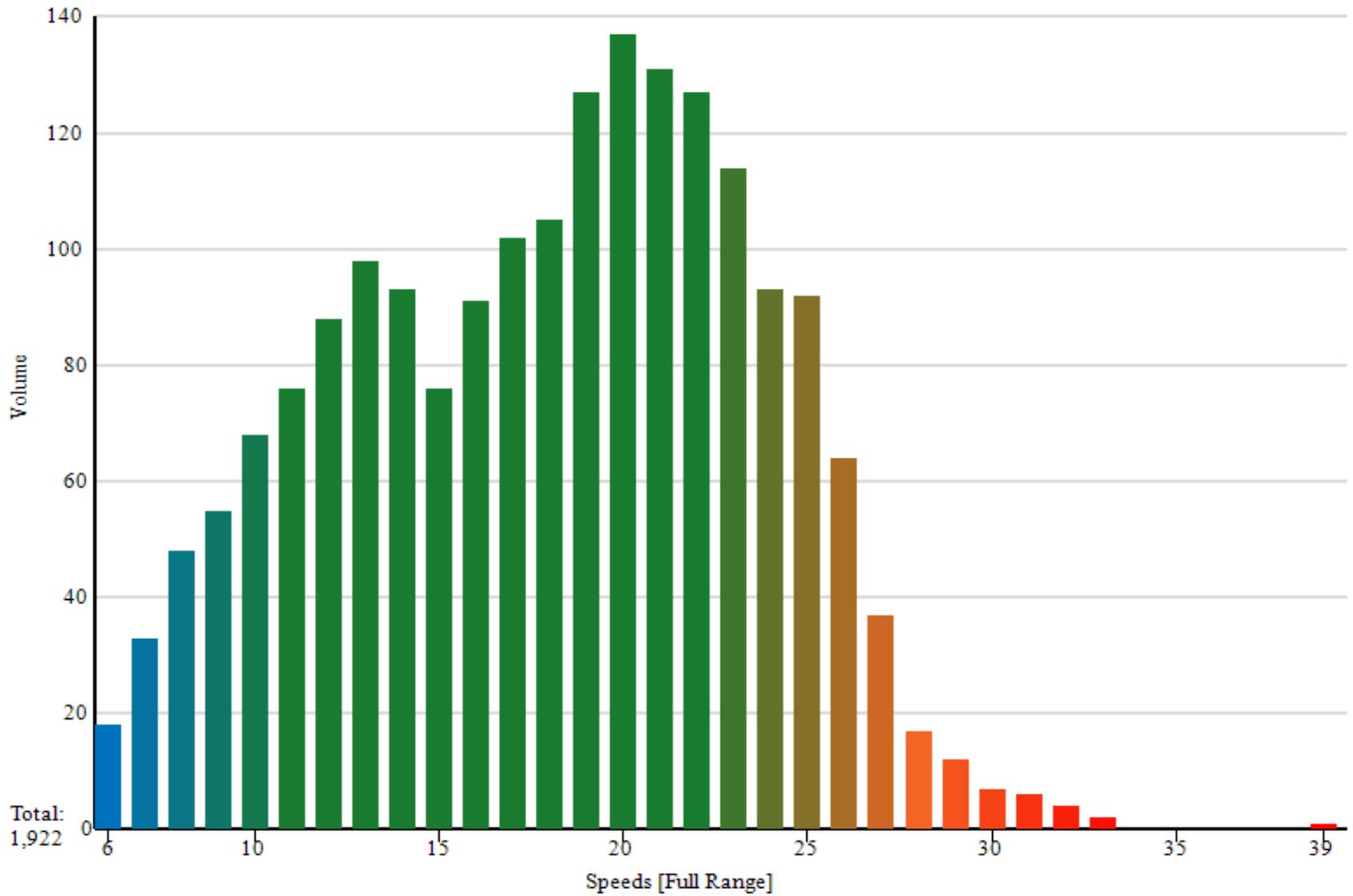
City of Aurora

Place Currently Not Set  
Speed/Volume Graph

Location: City Hall  
Dates: 1/23/2020 to 1/30/2020

Zone: Commercial  
Speed Limit: 25 MPH

Travel Direction: N

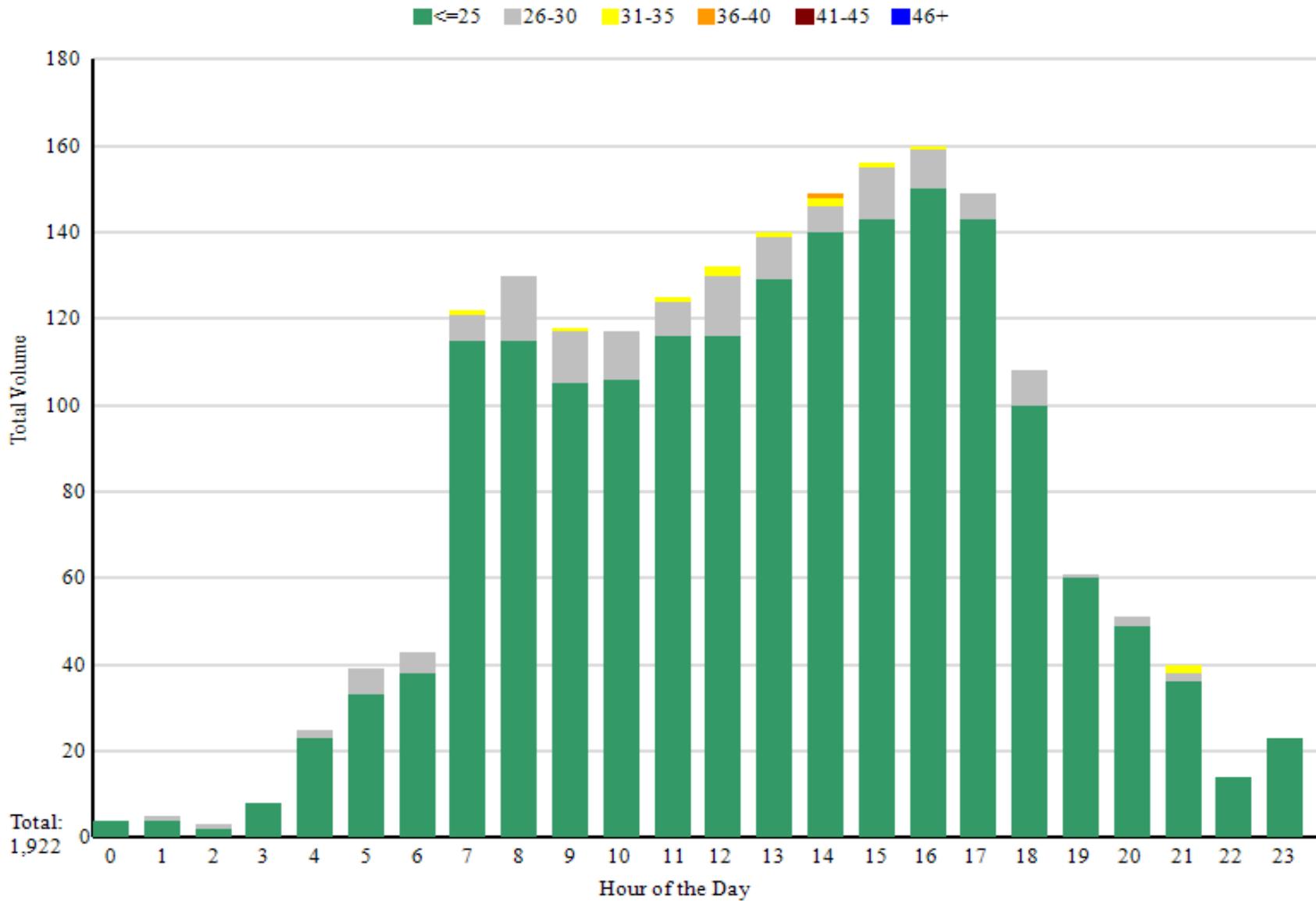


### Place Currently Not Set Speed/Time/Volume Graph

Location: City Hall  
Dates: 1/23/2020 to 1/30/2020

Zone: Commercial  
Speed Limit: 25 MPH

Travel Direction: N



**Place Currently Not Set  
Traffic Survey Summary**

Location: City Hall  
Start Date: 1/23/2020  
End Date: 1/30/2020

Zone: Commercial  
Start Time: 09:45:24  
End Time: 08:03:20  
Travel Direction: N

Speed	1 - 21	22 - 23	24 - 25	26 - 27	28 - 29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 41	42 - 999
Volume	1346	241	185	101	29	13	6	0	0	1	0	0
% of Total	70.03%	12.53%	9.62%	5.25%	1.5%	0.67%	0.31%	0%	0%	0.05%	0%	0%
									Total Vehicles: 1922			

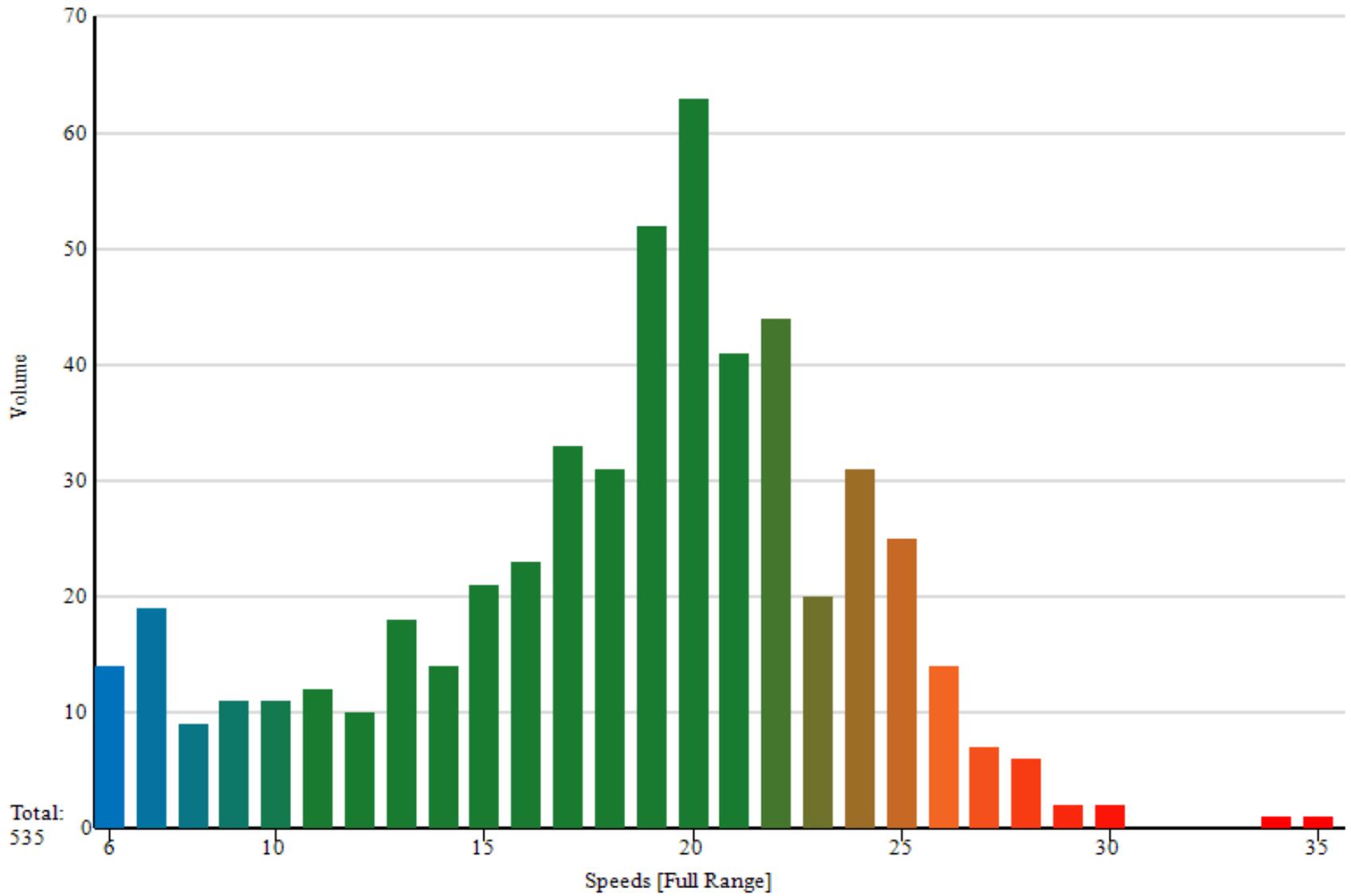
Speed Statistics		10 MPH Pace		Number Exceeding Limit				
Posted	25	Pace Speed	16 to 25	Speed	25+	35+	45+	Total
#At/Under Limit	1772	# in Pace	1119	Number	149	1	0	150
# Over Limit	150	% in Pace	58.22%	Percent	7.75%	0.05%	0%	7.8%
Average Speed	17.97	85% Percentile	24					

Place Currently Not Set  
Speed/Volume Graph

Location: City Park  
Dates: 1/31/2020 to 2/4/2020

Zone: Residential  
Speed Limit: 25 MPH

Travel Direction: N

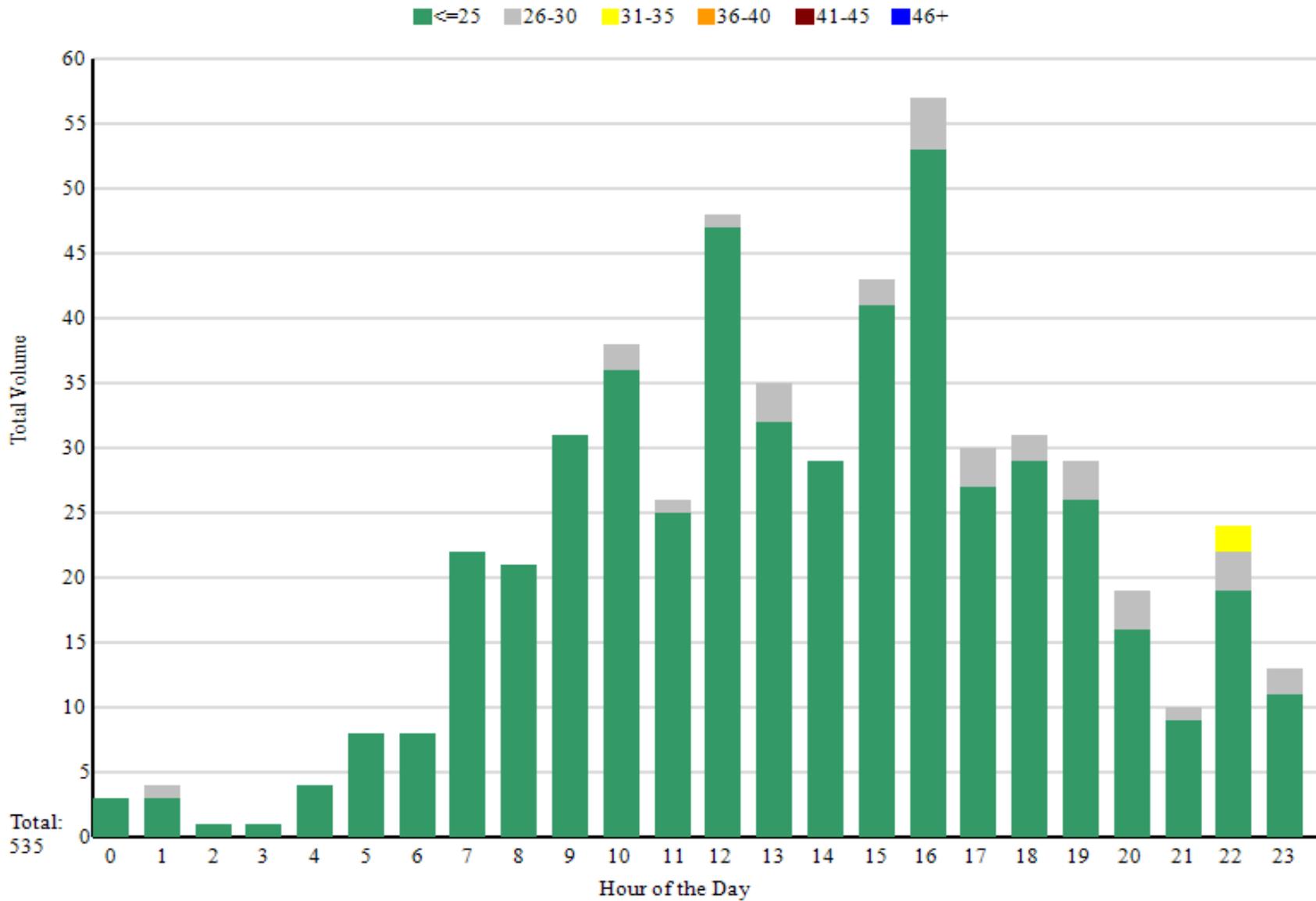


Place Currently Not Set  
Speed/Time/Volume Graph

Location: City Park  
Dates: 1/31/2020 to 2/4/2020

Zone: Residential  
Speed Limit: 25 MPH

Travel Direction: N



**Place Currently Not Set  
Traffic Survey Summary**

Location: City Park  
Start Date: 1/31/2020  
End Date: 2/4/2020

Zone: Residential  
Start Time: 07:37:50  
End Time: 11:25:23  
Travel Direction: N

Speed	1 - 19	20 - 21	22 - 23	24 - 25	26 - 27	28 - 29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 999
Volume	278	104	64	56	21	8	2	0	2	0	0	0
% of Total	51.96%	19.43%	11.96%	10.46%	3.92%	1.49%	0.37%	0%	0.37%	0%	0%	0%
									Total Vehicles: 535			

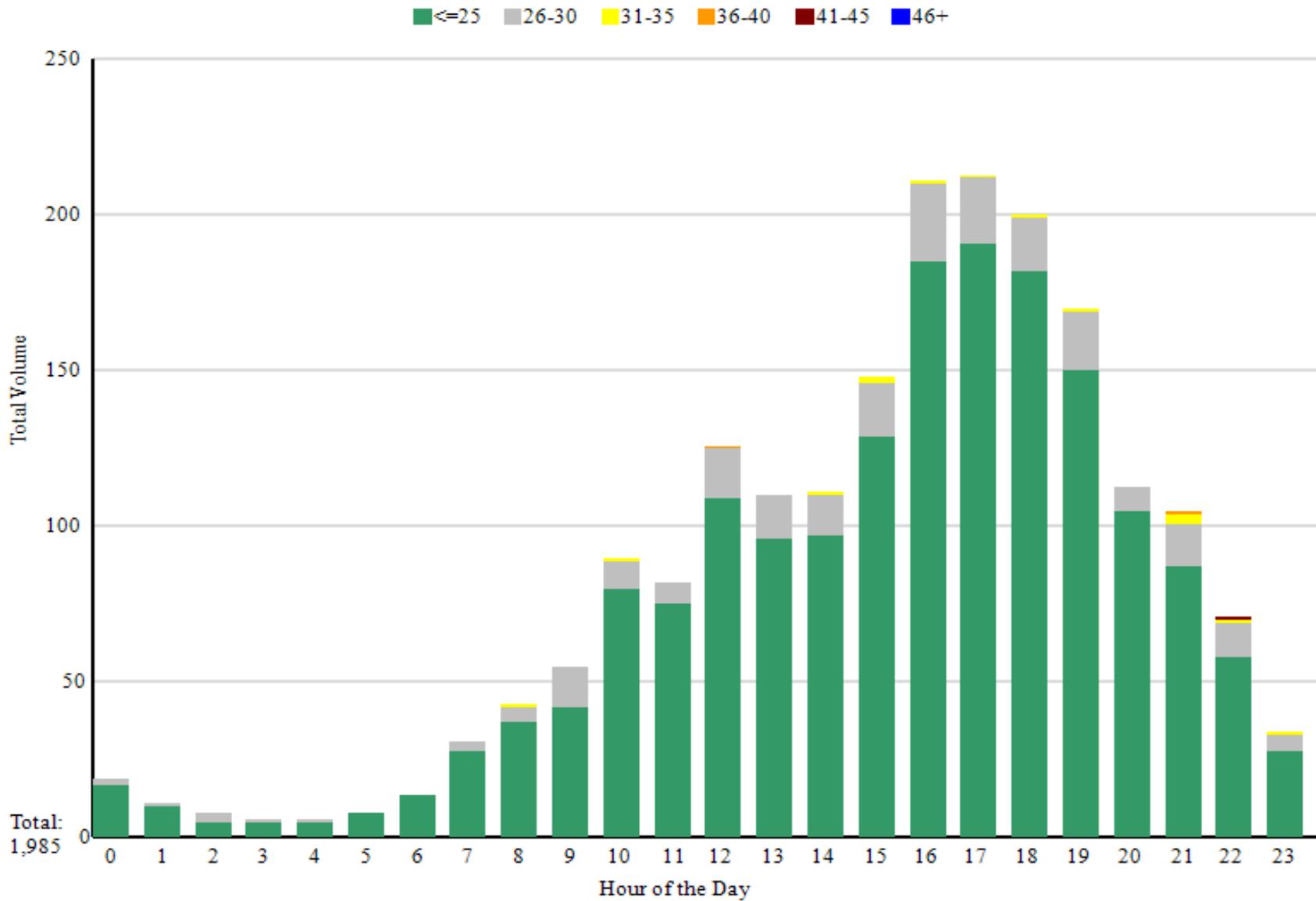
Speed Statistics		10 MPH Pace		Number Exceeding Limit				
Posted	25	Pace Speed	16 to 25	Speed	25+	35+	45+	Total
#At/Under Limit	502	# in Pace	363	Number	33	0	0	33
# Over Limit	33	% in Pace	67.85%	Percent	6.16%	0%	0%	6.16%
Average Speed	18.31	85% Percentile	24					

Place Currently Not Set  
Speed/Time/Volume Graph

Location: Liberty @ Park  
Dates: 2/5/2020 to 2/11/2020

Zone: Residential  
Speed Limit: 25 MPH

Travel Direction: S

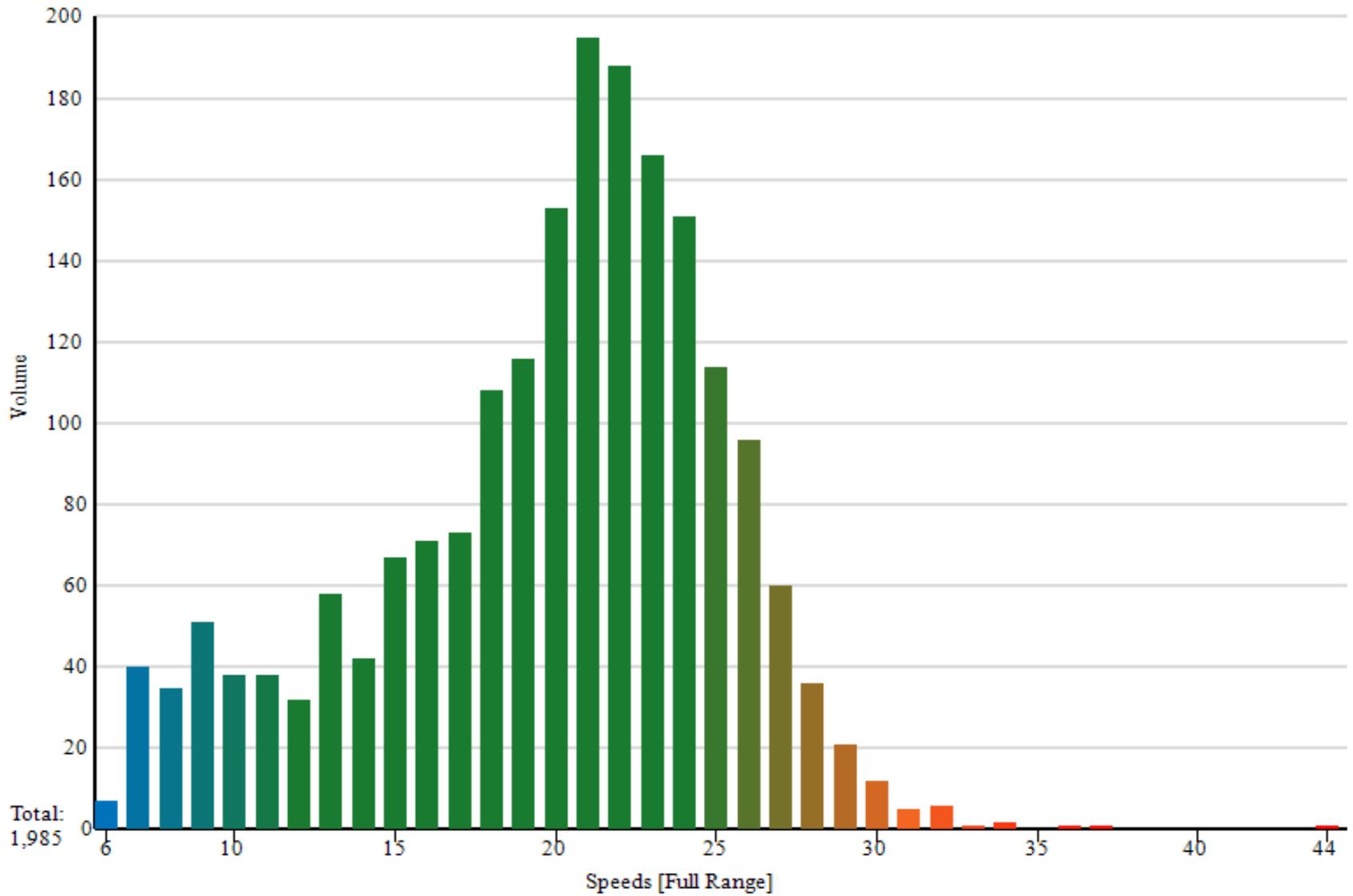


Place Currently Not Set  
Speed/Volume Graph

Location: Liberty @ Park  
Dates: 2/5/2020 to 2/11/2020

Zone: Residential  
Speed Limit: 25 MPH

Travel Direction: S



**Place Currently Not Set  
Traffic Survey Summary**

Location: Liberty @ Park  
 Start Date: 2/5/2020  
 End Date: 2/11/2020

Zone: Residential  
 Start Time: 14:13:03  
 End Time: 13:11:48  
 Travel Direction: S

Speed	1 - 19	20 - 21	22 - 23	24 - 25	26 - 27	28 - 29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 999
Volume	776	348	354	265	156	57	17	7	2	2	0	1
% of Total	39.09%	17.53%	17.83%	13.35%	7.85%	2.87%	0.85%	0.35%	0.1%	0.1%	0%	0.05%
									Total Vehicles: 1985			

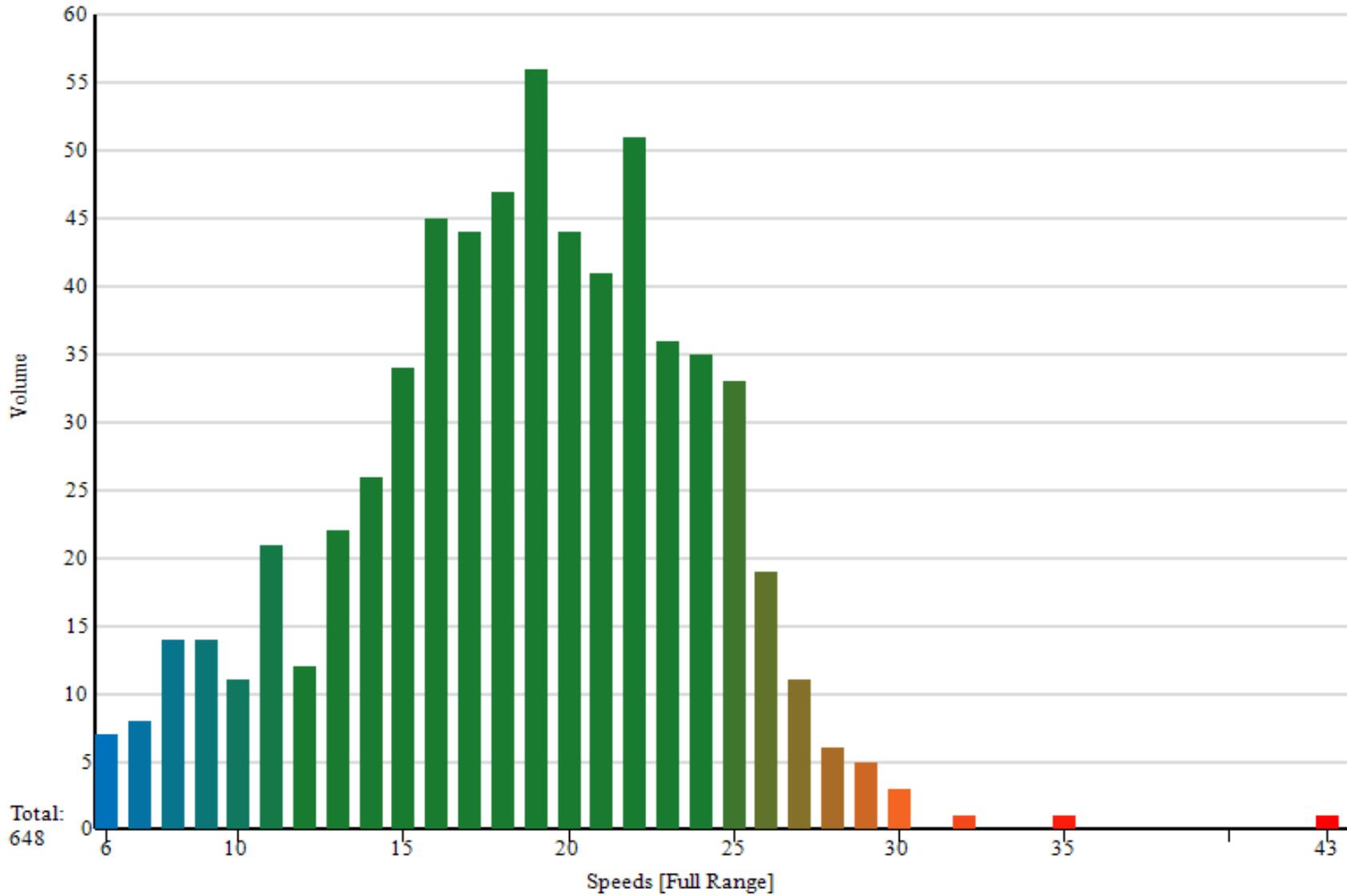
Speed Statistics		10 MPH Pace		Number Exceeding Limit				
Posted	25	Pace Speed	17 to 26	Speed	25+	35+	45+	Total
#At/Under Limit	1743	# in Pace	1360	Number	239	3	0	242
# Over Limit	242	% in Pace	68.51%	Percent	12.04%	0.15%	0%	12.19%
Average Speed	19.82	85% Percentile	25					

Place Currently Not Set  
Speed/Volume Graph

Location: Ottawa @ Yukon  
Dates: 2/11/2020 to 2/13/2020

Zone: Residential  
Speed Limit: 25 MPH

Travel Direction: W

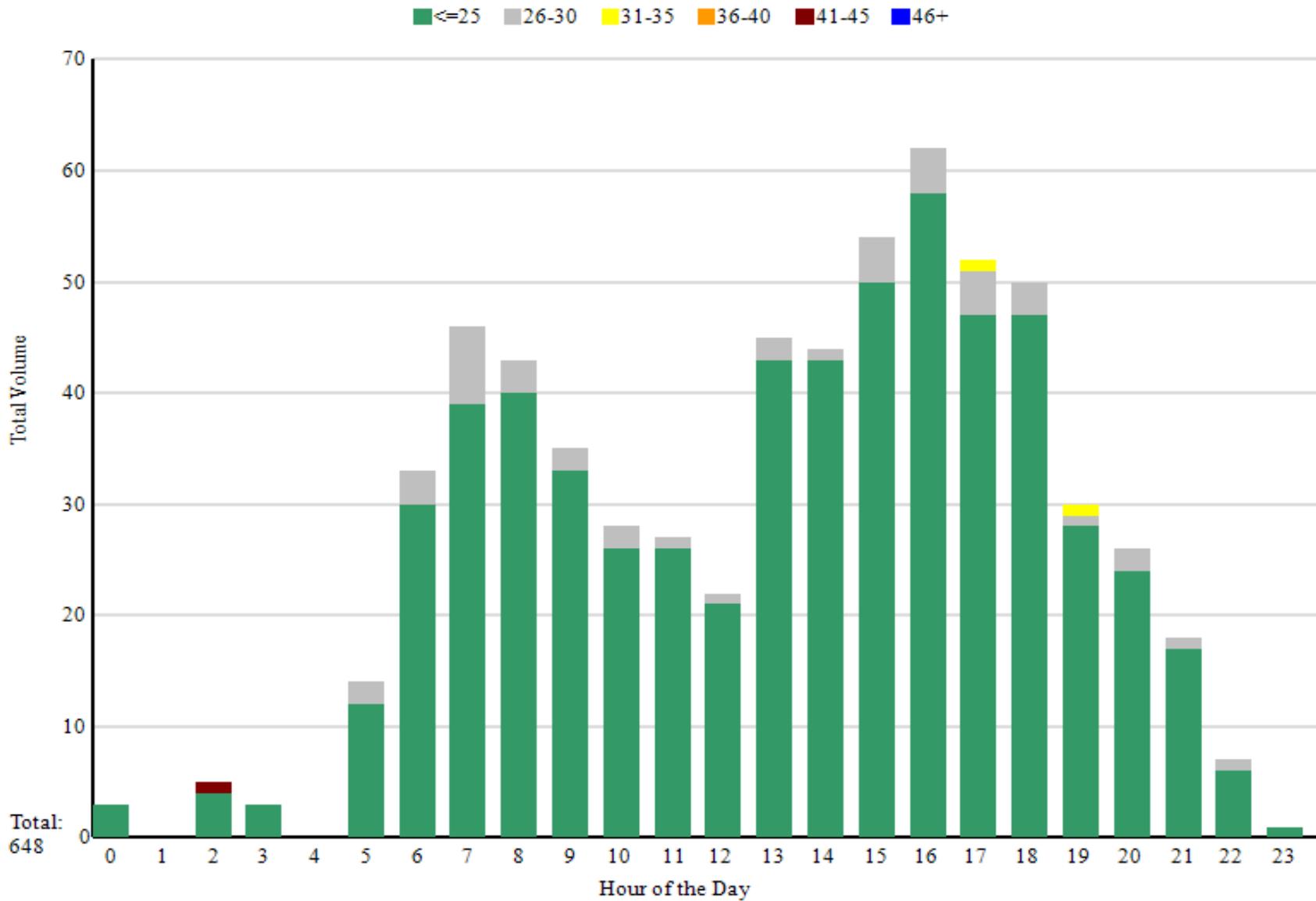


Place Currently Not Set  
Speed/Time/Volume Graph

Location: Ottawa @ Yukon  
Dates: 2/11/2020 to 2/13/2020

Zone: Residential  
Speed Limit: 25 MPH

Travel Direction: W



Total:  
648

**Place Currently Not Set  
Traffic Survey Summary**

Location: Ottaway @ Yukon  
 Start Date: 2/11/2020  
 End Date: 2/13/2020

Zone: Residential  
 Start Time: 13:24:06  
 End Time: 08:18:51  
 Travel Direction: W

Speed	1 - 19	20 - 21	22 - 23	24 - 25	26 - 27	28 - 29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 999
Volume	361	85	87	68	30	11	3	1	1	0	0	1
% of Total	55.7%	13.11%	13.42%	10.49%	4.62%	1.69%	0.46%	0.15%	0.15%	0%	0%	0.15%
									Total Vehicles: 648			

Speed Statistics		10 MPH Pace		Number Exceeding Limit				
Posted	25	Pace Speed	15 to 24	Speed	25+	35+	45+	Total
#At/Under Limit	601	# in Pace	433	Number	46	1	0	47
# Over Limit	47	% in Pace	66.82%	Percent	7.09%	0.15%	0%	7.25%
Average Speed	18.54	85% Percentile	24					

## City of Aurora Development Project Timeline

February 11, 2020

1. Aurora Architectural Salvage—14971 First St NE  
Project Description: Replacement of current Quonset hut structure with a new building  
Project Classification: Commercial  
Status: Permits are ready to be issued. Revised engineering was submitted February 11. The demolition process for the Quonset hut has not yet started. The address for the new building has officially been assigned by the city. It will be 14973 First St NE.
  
2. Portland Electrical Construction, Inc.—21187 Highway 99E  
Project Description: New commercial structure for a family-owned business currently located in Oregon City. This project will also involve the upgrade of an existing water city and the city is partnering with the applicant on that.  
Project Classification: Commercial  
Status: Preliminary engineering was submitted and comments have been returned to the applicants
  
3. Conroy Classics—21520 Main St NE  
Project Description: New three-story mixed use commercial and residential structure on a vacant lot. There will be a classic car showcase on the first floor and apartments on the other two.  
Project Classification: Mixed Use  
Status: Applicants have submitted for Site Development Review
  
4. Peyton Circle—21200 Highway 99E  
Project Description: Four new single family homes on individual lots  
Project Classification: Residential  
Status: Engineering has been submitted for review. Staff has begun the preliminary process of assigning addresses to the individual residential lots
  
5. Ensign Investments—20978 Highway 99E  
Project Description: Addition of residential units to an existing residential lot  
Project Classification: Residential  
Status: An application has been submitted to partition the lot into three separate lots
  
6. Portland Laser Engraving—21028 Highway 99E  
Project Description: Addition of a 50x80 structure and a lot line adjustment for a small sliver of residential on the property  
Project Classification: Commercial

Status: Inquiries have been made to staff; no applications have been received as of February 11, but are anticipated

7. Portland Laser Engraving—21028 Highway 99E  
Project Description: Addition of a coffee cart to a commercial parking lot  
Project Classification: Commercial  
Status: Potential applicants have been advised on planning requirements
  
8. Boss Exteriors—Highway 99 (the old Bixler property)  
Project Description: Potential new industrial, commercial and residential structures for a construction business currently located in Canby  
Project Classification: Mixed use  
Status: The property has been sold. An architect representing the potential applicant has made preliminary inquiries regarding zoning requirements
  
9. Linen Tablecloth—14723 Ehlen Road  
Project Description: New commercial structure for a business currently located in Tigard  
Project Classification: Commercial  
Status: The owner is currently focusing his efforts on building a vineyard at his residence in West Linn. He is expected to begin further work on this project once that is completed
  
10. Ensign Investments—Highway 99 (south of the post office)  
Project Description: New residential construction; possibly townhouses  
Project Classification: Residential  
Status: The owner has made initial inquiries regarding planning and zoning

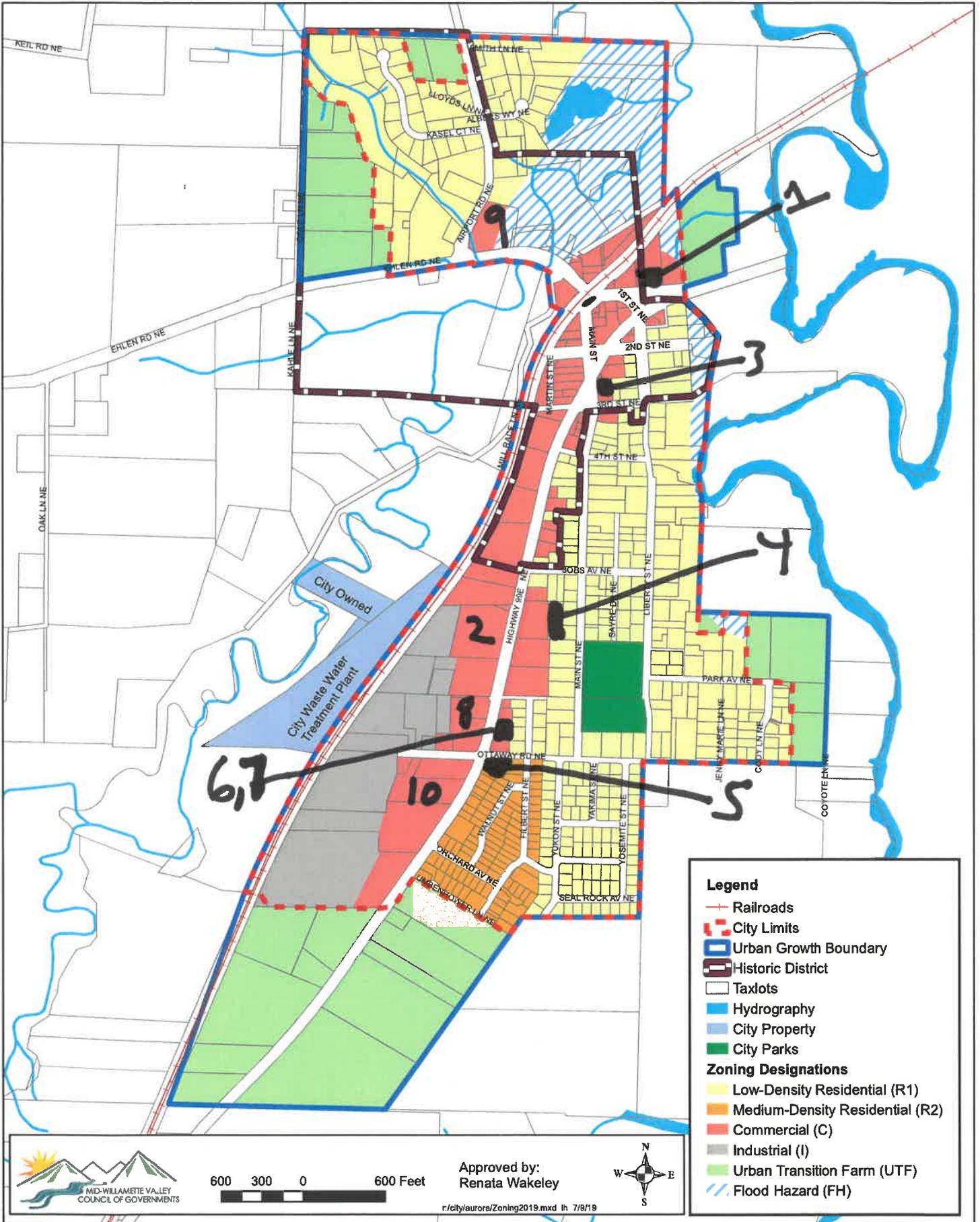
**Totals**

Commercial: 5

Mixed Use: 2

Residential: 3

# City of Aurora Zoning Designations, 2019



**From:** [Wendy Veliz](#)  
**To:** [Recorder](#)  
**Subject:** Planning Commission  
**Date:** Friday, February 21, 2020 9:41:07 PM

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Mr. Jorgensen,  
I would like to express my interest in the Planning Commission position. Please let me know what further information you require.

Kind regards,  
Wendy Veliz

## Wendy Veliz

20944 Yakima St NE, Aurora, OR 97002  
Home (503)776-9126



### ***Strategic Thinker – Listener - Advisor – Collaborator – Leader – Mentor***

I have more than 30 years of electric utility experience including local government affairs, community relations, customer service, field operations, and team management. My experience and professional skills are grounded in my strong work ethic, integrity and commitment for excellence in my work.

## Work Experience

### **Portland General Electric 1989 to Present**

#### **Local Government Affairs Manager Jan. 2006 – present**

My current responsibilities include managing utility and business issues that impact PGE's operations. I work with and alongside local municipalities both within PGE's service and generation operating areas across Oregon. My focus is strategic partnerships with local government and community leaders in support of thriving and healthy communities.

## Education and Training

- Eastern Oregon University  
Bachelor of Science in Business Administration 2004, Summa Cum Laude
- Clackamas Community College  
Associate of Applied Arts Degree in Industrial Technology 2002
- Salem Chamber of Commerce Leadership Salem Program  
Class of 2009 - 2010
- Willamette University, Utility Management Certificate 2005

## Board Service

- Marion County Economic Development Advisory 2017 - 2018
- Oregon Community Foundation Latino Partnership Program 2017 - 2019
- Oregon State Parks Foundation 2017 - 2018
- Stand for Children Oregon Board 2017 - 2019
- Oregon State Parks Commissioner 2013 – 2017

## Awards/Honors

- Wilsonville Chamber of Commerce President's Award of Merit for Outstanding Service to Chamber and Community 2010
- Hispanic Leadership Award by the Hispanic Metropolitan Chamber of Commerce 2009
- Portland Business Journal's 40 Under 40 in 2007
- Portland Monthly Magazine Extraordinary Board Member Award (35 and under) 2006

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

THE CITY OF ALBANY,  
*Petitioner,*

vs.

LINN COUNTY,  
*Respondent.*

LUBA No. 2019-113

FINAL OPINION  
AND ORDER

Appeal from Linn County.

M. Sean Kidd, Albany, filed the petition for review and argued on behalf of petitioner. With him on the brief was Delapoer Kidd, P.C.

Kevan J. McCulloch, Deputy County Attorney, Albany, filed the response brief and argued on behalf of respondent.

RUDD, Board Chair; RYAN, Board Member; ZAMUDIO, Board Member, participated in the decision.

AFFIRMED

02/07/2020

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

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**NATURE OF DECISION**

Petitioner the City of Albany (City) appeals a Linn County Board of Commissioners’ decision adopting amendments to the text of the chapter of the county’s zoning ordinance that regulates development of property within the city’s urban growth boundary (UGB).

**BACKGROUND**

The urban fringe is that area located within the city’s urban growth boundary but outside the city limits. Areas within the urban fringe are intended for future urban expansion, requiring the county and city to establish a structure for working together to facilitate the future transfer of land use management authority over properties within the urban fringe from the county to the city. In 1988, the county and city entered into an Urban Growth Boundary Management Agreement (the Agreement) in order to establish “a joint management procedure \* \* \* for the implementation of the Albany Urban Growth Boundary and plan for the [urban fringe].” Record 124.

The Agreement is referenced in Linn County’s Comprehensive Plan (LCCP). Linn County Code (LCC) 905.600 *et seq.*<sup>1</sup> LCC 905.610(D) explains that “The cities’ right to review and comment on county land use decisions within the planning area is secured within the UGB management agreement.” For

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<sup>1</sup> The county has adopted a unified comprehensive plan and land use code.

1 example, the Agreement provides that the parties must agree in order to change  
2 the zoning of property within the urban fringe. Record 125. The Agreement also  
3 provides that the county will obtain input from the city with respect to  
4 development applications for property in the urban fringe, such as conditional  
5 use permits or variances, but does not require that the city and county agree as to  
6 the appropriate disposition of those development applications. Record 126.

7 This appeal follows two recent LUBA cases in which the city objected to  
8 the county's approval of variances to parcel size for parcels within the urban  
9 fringe. In *City of Albany v. Linn County*, 78 Or LUBA 1 (2018) (*Albany I*), we  
10 reversed the county's approval of a variance from the zone's minimum 20-acre  
11 parcel size, that allowed an existing 1.98-acre parcel to be divided into two  
12 approximately one-acre parcels. Applicable approval criteria for the variance  
13 required that the county find that the variance was consistent with the city's  
14 comprehensive plan. We concluded that the proposed partition allowed an urban  
15 scale of development within the urban fringe in contravention of the city's  
16 comprehensive plan.

17 In *City of Albany v. Linn County*, \_\_\_ Or LUBA \_\_\_, \_\_\_ (LUBA No 2019-  
18 034, June 13, 2019) (*Albany II*), we reversed the county's decision approving a  
19 variance to the zone's 20-acre minimum parcel size and approving the division  
20 of a 16.7 acre parcel into an 11.7-acre parcel and a 5-acre parcel. The zoning code  
21 established four Urban Growth Area/Urban Growth Management (UGA-UGM)  
22 zones distinguished only by their minimum parcel sizes of 2.5, 5, 10 and 20 acres

1 and provided that an interchange of densities between the zones required city  
2 consent. The LCC did not include a definition of “density.” We reversed the  
3 county’s decision approving the variance because we concluded that, applying a  
4 common definition of the word density, the county approved an interchanging of  
5 density within the UGA-UGM zones without city consent.

6 Following our decision in *Albany II*, the county adopted amendments to  
7 its zoning code. The amendments (1) adopt a definition of the word “density” and  
8 (2) modify zoning code provisions relating to modifications of minimum parcel  
9 sizes in certain zones. The city opposed the amendments.

10 The city claimed the amendments violated the Agreement, the city’s and  
11 the county’s comprehensive plans, and the LCC provisions governing text  
12 amendments. The city contended that the county was amending the code to  
13 facilitate the reduction of parcel sizes in the urban fringe through the use of  
14 variances, which, under the Agreement, do not require city concurrence, as  
15 opposed to zone changes, which, under the Agreement, do require city  
16 concurrence. On October 8, 2019, the county adopted the code amendments.<sup>2</sup>

17 This appeal followed.

18 **FIRST ASSIGNMENT OF ERROR**

19 The county amended its code to add a definition of “density”:

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<sup>2</sup> The challenged decision does not amend the Linn County Comprehensive Plan.

1           “Density’ when applied to a zoning district means the minimum  
2           designated property size that may be permitted without a separate  
3           land use decision or property size variance. Unless otherwise stated  
4           in the Comprehensive Plan or the Land Development Code[,]  
5           ‘density’ does not mean ‘dwelling units per acre’ or ‘persons per  
6           acre.’” Record 5.

7           LCC 921.824(A) provides that a zoning code text amendment may be approved  
8           if“(1) [t]he amendment is consistent with the intent and purpose statement of the  
9           affected Chapter or subchapter of the [LCC]; and (2) [t]he amendment is  
10          consistent with the intent of the policies within the applicable section(s) of the  
11          Comprehensive Plan.” The city’s first assignment of error is that the newly  
12          adopted definition of density is inconsistent with the intent of county  
13          comprehensive plan policies and violates the Agreement, city and county  
14          comprehensive plans, and LCC 921.824.

15           **A.     Standard of Review**

16           ORS 197.835 provides in part:

17           “(7) LUBA shall reverse or remand an amendment to a land use  
18           regulation or the adoption of a new land use regulation if:

19                   “(a) The regulation is not in compliance with the  
20                   comprehensive plan; or

21                   “(b) The comprehensive plan does not contain specific  
22                   policies or other provisions which provide the basis for  
23                   the regulation, and the regulation is not in compliance  
24                   with the statewide planning goals.”

25           LUBA will reverse or remand a land use decision if LUBA finds that the local  
26           government improperly construed applicable law. ORS 197.835(9)(a)(D). The

1 county argues that LUBA should defer to the county’s conclusion that the  
2 amendments are consistent with the county comprehensive plan.

3 ORS 197.829 provides in relevant part:

4 “(1) The Land Use Board of Appeals shall affirm a local  
5 government’s interpretation of its comprehensive plan and  
6 land use regulations, unless the board determines that the  
7 local government’s interpretation:

8 “(a) Is inconsistent with the express language of the  
9 comprehensive plan or land use regulation;

10 “(b) Is inconsistent with the purpose for the comprehensive  
11 plan or land use regulation;

12 “(c) Is inconsistent with the underlying policy that provides  
13 the basis for the comprehensive plan or land use  
14 regulation; or

15 “(d) Is contrary to a state statute, land use goal or rule that  
16 the comprehensive plan provision or land use  
17 regulation implements.”

18 We will review a county board of commissioners’ interpretation of its own  
19 regulations under ORS 197.829(1) and affirm it, so long as that interpretation is  
20 not inconsistent with the express language of the regulation or its underlying  
21 purposes and policies. *Siporen v. City of Medford*, 349 Or 247, 259, 243 P3d 776  
22 (2010).

23 The city argues that no *Siporen* deference is afforded to the county’s  
24 decision because ORS 197.829(1) is expressly limited to interpretations and in  
25 this case, the board of county commissioners did not engage in any interpretation  
26 of any relevant provisions. We conclude that in this case, the board of

1 commissioners adopted no reviewable interpretations of any relevant  
2 comprehensive plan provision or land use regulation, so there is nothing to defer  
3 to. *West Coast Media v. City of Gladstone*, 44 Or LUBA 503 (2003), *aff'd*, 192  
4 Or App 102, 84 P3d 213 (2004).

5 **B. The Definition of “Density” is Consistent with County**  
6 **Comprehensive Plan Policies**

7 The city argues that the definition of “density” conflicts with a provision  
8 of the LCCP at LCC 905.600(D), which provides:

9 “It is important not to create a development pattern within or on the  
10 fringe of the UGB which could be detrimental to long-range  
11 community planning goals. An inefficient use of land within the  
12 UGB has two negative effects. First, a sprawling development  
13 pattern results in higher costs when services such as sewer, water  
14 and utilities are extended, and followed by underutilization of the  
15 same services. Underutilization of service occurs because the  
16 random land use and ownership pattern is not easily converted to a  
17 *denser*, and more economical service area. Second, *a poorly*  
18 *managed* UGB will result in the need for additional land to  
19 accommodate community growth. The expansion of an UGB may  
20 result in the loss of productive resource lands. Therefore, the wise  
21 use of an UGB is critical because of its relationship to resource land,  
22 cost of services, and community planning.” (Emphases added).

23 The city argues that put into practice, defining density in a manner which allows  
24 the county to approve substandard size lots will result in the loss of productive  
25 resource lands and a mismanaged UGB.

26 We disagree. The above LCCP policy is a general policy that uses the term  
27 “denser” to describe the relative concentration of development in a water, sewer  
28 and utility service area. In contrast the adopted definition of “density,” by its

1 terms, applies only to instances where the term is applied to a zoning district, in  
2 which case density refers to the minimum property size allowed in a given zoning  
3 district without a variance or other land use action such as a zone change. The  
4 definition of “density” the county adopted does not conflict with LCC  
5 905.600(D).

6 The city also alleges that the definition conflicts with LCC 905.610(E),  
7 which provides that, “The Urban Growth Management (UGM) district is  
8 intended to protect and retain the urban growth area for future urban  
9 development.” We agree with the county that the definition of density does not  
10 conflict with LCC 905.610(E). As the county observes, although LCC  
11 905.610(E) refers to protection of the urban growth area, it also describes the  
12 relevant zone district as a “management” district. LCC 905.610(A) expressly  
13 discusses management of this area as well, providing:

14 “As previously discussed throughout the text of the Plan, the  
15 retention of resource land for resource use is of prime importance.  
16 To that end, various policy and implementation measures have been  
17 established which will separate and in some cases prohibit  
18 conflicting uses from occurring on resource lands. In order to  
19 identify, *manage*, and amend urban growth boundaries, the cities  
20 and county have entered into urban growth boundary management  
21 agreements (on file at the planning department).” (Emphasis added.)

22 Part of the county’s stated policy for the urban fringe is to manage the boundaries  
23 through the use of urban boundary management agreements. “Protect” is not  
24 defined in the LCC. LCC 920.100 provides that a term undefined in the code shall  
25 have its “ordinary accepted meaning within the context in which it has been used.

1 The most current edition of Webster’s New Collegiate Dictionary shall be  
2 considered the source of accepted meanings.” To “protect” is “1 : to cover or  
3 shield from exposure, injury or destruction[.]” *Webster’s Ninth New Collegiate*  
4 946 (1991). Management of the urban fringe is consistent with shielding the  
5 urban fringe from types of development which would result in the need for  
6 additional land to accommodate community growth and potentially the loss of  
7 productive resource lands. As a result, the county may interpret management to  
8 result in protection.

9 In addition, the Agreement sets forth how different types of applications  
10 are processed, and the density definition does not change the process identified  
11 in the Agreement as applicable to variances. Further, LCC 905.600(D) also  
12 references the dangers of a poorly *managed* UGB, lending support to the county’s  
13 position that the county can protect the urban fringe by managing it in a way that  
14 supports its future conversion to efficient urban use. We conclude that the  
15 definition of density is not in conflict with the LCC 905.610(E).

16 **C. The Agreement is Not a Part of the County’s Comprehensive**  
17 **Plan**

18 The Agreement is intended to establish a joint management procedure for  
19 the urban fringe. The Agreement establishes the review process for  
20 comprehensive plan amendments and development proposal review and states  
21 that the city and county agree that the city’s public facilities plan will be the  
22 prevailing guide for planning and improving public facilities described therein.

1 The introductory section of the Agreement includes the statement, “The urban  
2 fringe is defined as the area situated inside the Albany Urban Growth Boundary  
3 and outside the Albany city limits. *Other definitions are located in the glossary  
4 of the Comprehensive Plan.*” Record 124 (emphasis added). The city argues that  
5 this language incorporates the *city* comprehensive plan’s glossary into the  
6 Agreement. The city comprehensive plan glossary defines density as “number  
7 of living units per acre of land.”<sup>3</sup>

8 The city argues that the city definition of “density” is part of the  
9 Agreement, and the Agreement is part of the county comprehensive plan, and so,  
10 the city maintains, the amendment results in the county comprehensive plan  
11 containing two, conflicting definitions of density: the definition from the city  
12 comprehensive plan glossary, and the newly adopted definition. For the reasons  
13 explained below, we conclude that the Agreement is not a part of the county’s  
14 comprehensive plan, and therefore, even if the city’s definition of density is part  
15 of the Agreement, there is no conflict.

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<sup>3</sup> Neither party argues that the term density is defined within the Agreement or discusses whether the Agreement provision, “Other definitions are located in the Glossary of the Comprehensive Plan,” is properly read to limit the applicability of the glossary to terms used in the Agreement itself. Record 124. We therefore assume for purposes of this opinion that the Agreement intended to broadly adopt glossary definitions from the city’s comprehensive plan and apply those definitions to any document which incorporates the Agreement.

1           The city argues that Statewide Land Use Planning Goal 2 (Land Use  
2 Planning), which requires land use planning coordination between affected  
3 governmental units, supports the city’s position that the Agreement is part of the  
4 county comprehensive plan. However, nothing in Goal 2 specifies that an  
5 agreement between a county and city to manage land within an urban growth  
6 boundary is either incorporated by law into a local jurisdictions’ comprehensive  
7 plans or county codes, or mandates that local governments take action to do so.

8           Second, the city argues the Agreement is referenced in a variety of LCC  
9 sections. For example, the Agreement is referenced in Linn County code  
10 provisions LCC 905.610(A) and (D), which provide that the Agreement is  
11 intended to govern the procedure between the city and county, and is on file in  
12 the planning department.

13           However, we see nothing in the LCC that states that the Agreement is  
14 incorporated into the LCCP, and a mere statement that the Agreement is intended  
15 to govern procedures is not sufficient to demonstrate that the Agreement is a part  
16 of the LCC, or LCCP. The LCC states that the Agreement is on file in the  
17 planning department. We decline to find that the Agreement has been adopted  
18 into or incorporated into LCC or LCCP. Accordingly, we reject the city’s  
19 argument that the county has adopted two definitions of “density” that are  
20 inconsistent with each other.

1           **D.     The Amendments are Consistent with City Comprehensive Plan**

2           We understand that the Agreement is attached as an appendix to the city’s  
3 comprehensive plan. Assuming for purposes of this opinion that inclusion as an  
4 appendix to the comprehensive plan makes the Agreement part of the city  
5 comprehensive plan, Goal 2 requires that county comprehensive plans are  
6 consistent with those of local governments, and therefore, the city argues, Goal 2  
7 requires the county to use the city’s definition of density. The city argues that  
8 state law requires that code language be consistent with the city and county  
9 comprehensive plans it implements. Petition for Review 10.

10          On October 1, 2019, a county senior planner submitted to the county board  
11 of commissioners a memo responding to comments received from city. The  
12 senior planner stated in the memo that county comprehensive plan text  
13 amendments do not have to be consistent with the city comprehensive plan.  
14 Record 36. The county argues in its response that LCC 921.824(A) establishes  
15 the standards for legislative code text amendments is consistent with ORS  
16 215.050(1), “which allows counties to revise their comprehensive plans and  
17 zoning ordinances from time to time.” Response Brief 11. The county argues that  
18 LCC 921.824 does not require that the County make a finding of consistency with  
19 the city’s comprehensive plan, and therefore, the county maintains, “it would be  
20 improper to insert one. ORS 174.010.” Response Brief 19. Citing LUBA’s  
21 standard of review at ORS 197.835(7), the county also argues that the statewide  
22 planning goals are not applicable because (1) specific policies and provisions in

1 the comprehensive plan provide the basis for the amendments and, (2)  
2 development applications must be consistent with the affected city’s  
3 comprehensive plan. Response Brief 12–13.

4 We agree with the City that the county comprehensive plan must be  
5 consistent with the city comprehensive plan. Goal 2 provides that “City, county,  
6 state and federal agency and special district plans and actions related to land use  
7 shall be consistent with the comprehensive plans of cities and counties and  
8 regional plans adopted under ORS Chapter 268.” We conclude, however, that the  
9 amendment is consistent with the city’s comprehensive plan because city  
10 comprehensive plan policies will continue to apply to development actions within  
11 the urban fringe. As the county explains, “[L]and use applications for  
12 *development*, as opposed to text amendments, within an urban growth boundary  
13 [area] are required to be consistent with the affected city’s comprehensive plan.  
14 Record 36, 38, 39, 42, 43, 44, 60.” Response 13. By evaluating consistency at the  
15 development stage, the county ensures that the plans are applied in a consistent  
16 manner.

17 **E. The County Has Coordinated with the City**

18 Goal 2 requires that “[a county’s comprehensive] plan and related  
19 implementation measure[s] shall be coordinated with the plans of affected  
20 governmental units.” The city argues that the county’s code revisions violate the  
21 county’s Goal 2 coordination obligation. The city argues that, in adopting the

1 challenged code amendments, the county unilaterally changed the manner in  
2 which the urban fringe is managed without coordinating with the city.

3         The county correctly observes that ORS 197.835(7) governs our review of  
4 the county code text amendments and only requires reversal or remand if the  
5 amendment is “(a) \* \* \* not in compliance with the comprehensive plan,” or “(b)  
6 [t]he comprehensive plan does not contain specific policies or other provisions  
7 which provide the basis for the regulation, and the regulation is not in compliance  
8 with the statewide planning goals.” The county first responds that “[t]he  
9 statewide planning goals are not applicable in this appeal” because the LCCP  
10 contains specific policies and provisions which provide the basis for the  
11 amendments. Response Brief 12. The county argues that the newly adopted  
12 definition of density is consistent with the use of that term in the LCCP and LCC.  
13 Response Brief 14–15. However, ORS 197.835(7)(b) requires more than a  
14 demonstration that a text amendment is not inconsistent with the comprehensive  
15 plan. Instead, ORS 197.835(7)(b) requires the county to identify “specific  
16 policies or other provisions” in the comprehensive plan that “provide the basis  
17 for the regulation.” The county has not identified any such policies or provisions  
18 in the LCCP. Thus, we assume for purposes of this decision that Goal 2 applies  
19 to the text amendments.

20         In *Columbia Pacific Building Trades Council v. City of Portland*, 76 Or  
21 LUBA 15, 49 (2017), *rev'd on other grounds*, 289 Or App 739, 412 P3d 258, *rev*

1 *den*, 363 Or 390 (2018), we applied Goal 2 in our review of legislative text  
2 amendments to the city’s zoning ordinance and explained:

3 “The Goal 2 requirement to coordinate comprehensive plan and  
4 implementing measures with the plans of affected governmental  
5 units is satisfied by (1) inviting an exchange of information between  
6 the planning jurisdiction and affected governmental units, and (2)  
7 using the information gained in that exchange to balance the needs  
8 of all affected government units and the citizens they represent.”  
9 (Internal citations omitted.)

10 The county argues that it coordinated with affected local governments  
11 because it provided notice of the proposed amendments and extended the  
12 comment period to allow local governments additional time to provide input on  
13 the amendments. Although we do not believe that providing notice and an  
14 extended open record period would, alone, necessarily fulfill the requirement to  
15 coordinate if, in a given case, local government input was not given meaningful  
16 consideration, we understand the county to have responded to the issues raised  
17 by city as well as other local affected government units and incorporated some  
18 comments it received into the amendments. Record 35–43. We conclude that the  
19 county has met its Goal 2 coordination requirement.

20 We also agree that in fulfilling its coordination obligation, the county is  
21 only required to consider legitimate interests of the local government. The county  
22 argues that the legitimate interests of the city in the efficient use of land within  
23 the UGB are protected because a request for a variance to allow substandard  
24 parcel sizes requires both a partition application and identification of a proposed

1 use, and both of those procedures allow, and may require, city involvement in the  
2 decision-making process.

3 More specifically, LCC 920.500 provides in part:

4 “(3) Based on zoning district and the uses permitted, an applicant  
5 seeking approval for a partitioning of land must at the same  
6 time file an application in which the applicant seeks approval  
7 for a proposed use that is allowed or permitted on such  
8 property in the zoning district.

9 “(a) Approval of an application for a partition does not grant  
10 approval for any use.

11 “(b) Approval of any proposed use permitted on the parcel  
12 must be sought in an independent application at the  
13 same time as the application for partitioning.”

14 LCC 924.200(10) in turn provides for city review and comment on a partition  
15 application:

16 “When property proposed for partitioning is within a city’s urban  
17 growth area (UGA), appropriate time shall be given for a city’s  
18 review and comment pursuant to the urban growth boundary  
19 management agreement. Partitions within an urban growth area may  
20 require an urban conversion plan approved by the city.”

21 LCC 924.200(10) ensures that the city will have an opportunity for input  
22 regarding any specific request for a variance for a reduction in parcel size.

23 More importantly, the approval criteria for a variance include a  
24 requirement that the county find the variance is consistent with the city  
25 comprehensive plan. LCC 938.340. Under LCC 920.500(3)(b), the city will know  
26 what use is proposed for the reduced size parcel and will be given an opportunity

1 to comment on the proposal, including its consistency with the city  
2 comprehensive plan.

3 In an argument under the first assignment of error, and in a portion of the  
4 third assignment of error, the city argues that, based on our decisions in *Albany I*  
5 *and II*, the county will conclude that after adoption of these amendments, the  
6 county will be free to grant variances to all property owners seeking to create a  
7 parcel at least five acres in size.<sup>4</sup> The city overstates this risk.

8 The city and county originally agreed to the zoning of land within the urban  
9 fringe and applied UGM-UGA zoning to parcels where the only difference in the  
10 regulations applicable to the properties was the minimum parcel size. As we  
11 explained in *Albany II*, modifications to the *zoning* of these areas may only be  
12 made through the zone amendment process and only upon written concurrence  
13 of both the city and county. Record 125. The city argues that the UGA-UGM  
14 zones with 2.5, 5, 10 and 20-acre minimum lot sites were applied to properties  
15 through a coordinated city and county effort and the amendments undermine  
16 these revisions. Presumably, the physical characteristics of a property zoned  
17 UGA-UGM-10 differ from the characteristics of a property zoned UGA-UGM-

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<sup>4</sup> The city also complains the new definition of density essentially amends the Agreement unilaterally, and that the county failed to follow the amendment process set forth in the Agreement. The Agreement is a contract between the city and the county and resolving that city's contractual claim is not within LUBA's scope of review.

1 20. Given the specifics of a given case, a variance to create a new 5-acre parcel  
2 may not be consistent with the city’s comprehensive plan.<sup>5</sup>

3 The first assignment of error is denied.

4 **SECOND ASSIGNMENT OF ERROR**

5 The city argues that county amendments to “vital purposes statements” in  
6 LCC 930.600 and LCC 930.700 are inconsistent with the city and county  
7 comprehensive plans, the Agreement, and the LCC. Petition for Review 17. Prior  
8 to the amendments, LCC 930.700(E) provided “[t]he density of one UGA-UGM  
9 zoning district is not interchangeable with the density of another UGA-UGM  
10 zoning district without prior review and approval by the affected city and Linn  
11 County.” The amendment changed this section to provide “Land use actions  
12 within the UGA-UGM zoning district are subject to the provisions of the urban  
13 growth management agreement between the County and the affected city.” A  
14 similar change was made with respect to the UGA-RR zone with amendments to  
15 LCC 930.600(C).<sup>6</sup>

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<sup>5</sup> As we held in *Albany I* and *Albany II*, *Siporen* deference is not due to the county’s interpretation of the city comprehensive plan provisions because the county is not the enacting governing body. The city’s definition of density will necessarily apply when the county evaluates consistency with the city comprehensive plan because the county’s new definition of density is limited by its terms to cases where the LCCP or the LCC do not provide otherwise.

<sup>6</sup> UGA-RR is the rural residential zone in the urban fringe.

1 Pursuant to LCC 921.824(A), a zone code text amendment must be  
2 consistent with the policy section of the applicable code section and with the  
3 county comprehensive plan. The city does not argue that the amendments result  
4 in internal inconsistencies within the purpose statements. We concluded in our  
5 discussion of the first assignment of error that the city has not established that the  
6 Agreement is part of the county comprehensive plan. Assuming that the  
7 Agreement is part of the city comprehensive plan, to the extent Goal 2 requires  
8 city and county comprehensive plan consistency, we explained in our discussion  
9 of the first assignment of error that there is not a conflict with the city  
10 comprehensive plan and the zone code text amendments. Variance applications  
11 are required to establish consistency with the city comprehensive plan. We  
12 therefore focus on the consistency of the amendments with the county  
13 comprehensive plan.

14 LCC 930.700(B) provides that the intention of the zoning district is to  
15 protect the urban fringe for future urban density development. As revised, the  
16 purpose statement provides that the intent is to manage uses within the UGA in a  
17 manner that allows for effective development. The city focuses on county  
18 comprehensive plan policy LCC 905.610(E), which provides that “The Urban  
19 Growth Management (UGM) district is intended to protect and retain the urban  
20 growth area for future urban development.” This policy may not, however, be  
21 read in isolation. Another comprehensive plan policy, LCC 905.600(D),  
22 recognizes: “It is important not to create a development pattern within or on the

1 fringe of the UGB which would be detrimental to long-range community  
2 planning goals.” The same policy also recognizes that “a poorly managed UGB  
3 will result in the need for additional land to accommodate community growth.”  
4 LCC 905.600(D). Other comprehensive plan policies anticipate managing the  
5 urban fringe. “The UGB lands surrounding cities are expected to develop during  
6 the planning period and provide most new home sites, and commercial and  
7 industrial opportunities.” LCC 905.600(B). “In order to identify, manage, and  
8 amend urban growth boundaries, the cities and county have entered into urban  
9 growth boundary management agreements (on file at the planning department).  
10 LCC 905.610(A). We conclude that the amendments focus on managing the  
11 urban fringe in a manner which will support its conversion to urban use, and that  
12 those amendments are consistent with the county’s comprehensive plan’s  
13 purpose statement.

14 The second assignment of error is denied.

15 **THIRD ASSIGNMENT OF ERROR**

16 The city’s third assignment of error is that the county erred in removing all  
17 review criteria within certain zones, thereby creating a situation where the county  
18 will be unable to make decisions consistent with the county and city’s  
19 comprehensive plans, the LCC, the Agreement and statewide planning goals.  
20 Petition for Review 26.

21 As an example of what the city argues is the removal of decision criteria,  
22 the city points to pre-amendment provisions in LCC 930.730 providing (1)

1 additional conditions or restrictions may be applied in accordance with the  
2 Agreement, (2) conditional uses in the urban fringe will be subject to review by  
3 the city to ensure compliance and compatibility with the city’s comprehensive  
4 plan, future zoning and city plans for provision of urban services, and (3) noting  
5 that consistency with the city comprehensive plan is vital given the urban fringe’s  
6 importance to future city expansion and urbanization. The amendments deleted  
7 those sections from LCC 930.730.

8 We reject the city’s arguments. First, as the county points out, the fact that  
9 LCC 930.730 was previously entitled “Decision Criteria” is not determinative.  
10 LCC 110.300 establishes that headings do not constitute part of the law and do  
11 not describe the scope of the text. Further, the amendments added to LCC  
12 930.010(F), 930.600(C), and 930.700(E), which provide that review of  
13 development applications in the urban fringe are subject to the procedures of the  
14 Agreement. Thus, to the extent the Agreement provides for imposition of  
15 conditions, that power remains. The city also retains the ability to comment and  
16 make recommendations and suggest conditions of approval provided in LCC  
17 933.100(A) (“Any land development decision resulting from a review required  
18 by the [LCC], may be subject to the imposition of permit conditions.”) We also  
19 note that conditional use permits in the UGA-UGM zone still require a county  
20 finding of consistency with the city’s comprehensive plan and zoning map  
21 designation for the property. LCC 933.260(B).

1           The city also argues that by removing the requirement in the code that  
2 required city *concurrence with* certain development applications, the county is  
3 removing provisions for coordination with the city and therefore was required to  
4 comply with Goal 2. The city argues that the zoning applied to the UGA-UGM  
5 parcels resulted from a coordinated process and the amendments undermine that  
6 process. However, we do not understand the city to dispute that the Agreement is  
7 intended to establish how the parties will coordinate land use actions. Reliance  
8 on the Agreement to govern these interactions and provide for coordination is  
9 consistent with LCC 905.600(D) and 905.610(B), which provide that the  
10 Agreement will govern city and county review of land use actions and newly  
11 adopted zoning code text.<sup>7</sup>

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<sup>7</sup> In this assignment of error, the city repeats its argument from *Albany II* that county approval of parcel size variances in the UGA-UGM (or-RR) zones should instead be handled as zone changes requiring city consent. The city explains that it has an overarching policy direction to discourage low density sprawl and create a compact city that allows for the efficient provision of urban services. The city maintains that it accomplishes this in part by minimizing the amount of development in the urban fringe until urban services are available. The city complains that the amendments will ultimately allow a variance process that would enable a substandard size property to be partitioned into additional substandard lots, encouraging premature urban development. Citing *Lovell v. Independence Planning Commission*, 37 Or App 3, 7, 586 P2d 99 (1978), the city argues: “[I]f the [local government] believes the lot size that would be left after the proposed partitioning is sufficient for its R-1 residential areas, then it should change its zoning restrictions to reflect that belief.” As we explained in *Albany II*, the case law supporting a restrictive view of variances involved cases where the underlying code made hardship a prerequisite to a variance. Hardship is not a prerequisite to a lot size variance in the UGA-UGM (or R-R) zones.

1           Lastly, the city argues that in adopting the amendments the county  
2 removed “all” review criteria for variances in certain zones. Petition for Review  
3 36. We disagree. Review criteria remain. For example, LCC 938.340(A)  
4 incorporates LCC 938.300(B)(2) and (3). LCC 938.300(B)(2) requires a finding  
5 that, “Granting a variance \* \* \* will not have a significant adverse [e]ffect on  
6 property, improvements, or public health or safety in the vicinity of the subject  
7 property[.]” LCC 938.300(B)(3) requires that, “Approval of the variance is  
8 limited to the minimum necessary to permit otherwise normal development of  
9 the property for the proposed use.” LCC 938.340(B) requires that the proposal be  
10 consistent with the affected city’s comprehensive plan.

11           The third assignment of error is denied.

12           The county’s decision is affirmed.