

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3964, FOR THE PURPOSE OF ADOPTING A 2008 SOUTH/NORTH LAND USE FINAL ORDER AMENDMENT, TO MODIFY THE PROPOSED ROUTE OF THE PORTLAND-MILWAUKIE SEGMENT OF THE SOUTH/NORTH LIGHT RAIL CORRIDOR, RELOCATE PROPOSED LIGHT RAIL STATIONS, ESTABLISH THE LIGHT RAIL ROUTE BETWEEN SE TACOMA STREET AND SE PARK AVENUE IN MILWAUKIE, AND ESTABLISH NEW STATION LOCATIONS, PARK AND RIDE LOTS, MAINTENANCE FACILITIES, AND HIGHWAY IMPROVEMENTS

Date: July 9, 2008

Prepared by: Mark Turpel

BACKGROUND

Overview

In 1996, the Oregon Legislature enabled the Metro region to approve land use final orders (LUFO) to address the multi-jurisdictional land use aspects of light rail projects in the South/North corridor. LUFOs were found to be appropriate so that potential land use impacts could be more efficiently and consistently addressed. In addition, the LUFO process allows for an expedited land use appeal process. However, the LUFO process does not diminish the need for a light rail project to seek and secure local land use and other permits that may include reasonable and necessary conditions of approval.

It has been the practice of the region to follow approval of a Locally Preferred Alternative (LPA) with consideration of a LUFO action, thereby helping to ensure that the two decisions are consistent. It is proposed that upon favorable consideration of a companion resolution – Resolution No. 08-3959, For the Purpose of Approving the 2008 Portland-Milwaukie Light Rail Project Locally Preferred Alternative and Finding Consistency with the Metro 2035 Regional Transportation Plan – that this 2008 LUFO resolution be considered for approval.

There have been three South/North LUFOs approved. The first established the South/North LUFO and the other two were amendments to the original. More specifically, in 1998 a LUFO was approved for the South/North Corridor, which included proposed light rail improvements in the Portland - Milwaukie area. In 1999, an amendment of the South/North LUFO was approved to amend the northern portion of the corridor, establishing the Portland to Expo Center LRT Project. In 2004, the South/North LUFO was again amended to add a two-phase element to the southern portion of the corridor, adding the I-205 alignment and making some changes to the Portland-Milwaukie alignment, including revisions that designated study areas in some locations in Milwaukie where additional LRT alignment analysis was needed.

This proposed 2008 South/North LUFO amendment is intended to address changes from the 2004 LUFO so as to be consistent with the 2008 Portland-Milwaukie Locally Preferred Alternative (LPA). This proposed 2008 LUFO removes the study area designations and revises the LRT alignment, station areas, park and ride lots and adds the Ruby Junction maintenance area – consistent with the 2008 Portland-Milwaukie LPA.

Requirements of House Bill 3478

Section 6(1) of House Bill 3478 requires the Council to "establish the light rail route, stations, lots and maintenance facilities, and the highway improvements for the project or project extension, including their locations." Section 6(1)(a) further provides that the locations for each of these facilities and improvements:

"shall be in the form of boundaries within which the light rail route, stations, lots and maintenance facilities, and the highway improvements shall be located. These boundaries shall be sufficient to accommodate adjustments to the specific placements of the light rail route, stations, lots and maintenance facilities, and the highway improvements for which need commonly arises upon the development of more detailed environmental or engineering data following approval of a Full Funding Grant Agreement."

Section 6(2) of the Act addresses amendments to the original LUFO. As relevant to this Portland-Milwaukie LRT decision, it provides that any siting of the light rail route or a station, lot or maintenance facility outside the boundaries previously established in a LUFO, or any new station, lot or maintenance facility,

"shall require a land use final order amendment or a new land use final order which shall be adopted in accordance with the process provided for in subsection (1) of this section."

Section 7 of HB 3478 requires the Council to apply land use criteria established by the Land Conservation and Development Commission ("LCDC") in making decisions in a land use final order on the light rail route, stations, lots and maintenance facilities, and the highway improvements, including their locations, and to prepare and adopt findings of fact and conclusions of law demonstrating compliance with those criteria. These findings, attached as Exhibit C to Resolution No. 08-3964, serve to demonstrate compliance with LCDC's criteria for the modifications selected in this LUFO amendment.

Section 3(1) of HB 3478 provides that the procedures and requirements set out in the Act are the only land use procedures and requirements to which the Council's decisions on the light rail route, the stations, lots and maintenance facilities, and the highways improvements for the Project, including their locations, are subject. Consequently, these findings focus on the matters identified in HB 3478 as land use actions being taken at this time.

ANALYSIS/INFORMATION

This staff report is intended to meet the requirements of HB 3478. This law requires that the LUFO staff report:

"...set forth and address compliance with the criteria. The staff report also shall include a description of the proposed boundaries within which the light rail route, stations, lots and maintenance facilities, and the highway improvements shall be located, as recommended by TriMet...."

Rather than duplicate the description of the proposed boundaries as proposed by TriMet, this staff report references the TriMet LUFO application, as attached to the 2008 LUFO resolution as Exhibit B.

Compliance with the criteria are provided in the form of draft Findings of Fact and Conclusions of Law that have been prepared and are attached as Exhibit C to Resolution No. 08-3964, For the Purpose of Adopting a 2008 South/North Land Use Final Order Amendment, to Modify the Proposed Route of the Portland-Milwaukie Segment of the South/North Light Rail Corridor, Relocate Proposed Light Rail Stations, Establish the Light Rail Route Between SE Tacoma Street and SE Park Avenue in Milwaukie,

and Establish New Station Locations, Park and Rider Lots, Maintenance Facilities, and Highway Improvements.

1. Known Opposition

The bulk of public comment has been supportive of the Project. However, there are some Project aspects for which there are varying degrees of concern. The City of Milwaukie has expressed a strong preference for a terminus at Park Avenue. However, if sufficient funding cannot be identified for a Park Avenue terminus, a Minimum Operable Segment (MOS) is included in the recommended 2008 LPA and consists of a terminus and park-and-ride at SE Lake Road at the south end of downtown Milwaukie. The City of Milwaukie is very concerned with the potential traffic and parking impacts to the downtown and City associated with the MOS.

With the terminus at Park Avenue, the alignment would cross SE McLoughlin Boulevard south of downtown Milwaukie. An option to cross SE McLoughlin at-grade is opposed by ODOT due to safety and road capacity considerations.

Those public comments with concerns or opposition to the project included:

- Concerns about safety and security, noise and traffic congestion in downtown Milwaukie and in proximity to the schools in Milwaukie near the light rail alignment;
- Expressions of support of one alignment or station over other choices (with many writing in support of the Harold Street Station and some expressing a preference that the light rail line would end north of downtown Milwaukie or go to Oregon City or Clackamas Regional Center);
- Questions about the SDEIS document itself (e.g., how the costs were calculated, how noise impacts were assessed, if the analysis of Kellogg Lake was adequate, etc.).

In addition, the Project has received a letter from a law firm stating that it represents the Milwaukie Transportation Coalition and Amajin Consulting. The letter expresses concerns, some of which are similar to those above. The letter cites six comments including: 1) not considering alternative alignments; having some termini alternatives that conflict with the earlier DEIS; inadequate coverage in the SDEIS that the Mayor of Milwaukie owns property in proximity to the Tillamook Branch alignment; no re-examination of a bus alternative that would be less expensive; the light rail alternative is costly and has modest, at best, benefits; and, that reconfiguration of Kellogg Lake would jeopardize salmon habitat.

2. Legal Antecedents

State

As noted above, at the State level, HB3478 enacted as Chapter 12 of the 1996 Oregon Laws, provides for South/North MAX Light Rail Project land use final orders (LUFO) to decide:

- a. the light rail route for the project or project extension;
- b. stations, lots or maintenance facilities; and,
- c. highway improvements for the project or project extension.

Metro

Following are actions by the Metro Council which relate to the proposed 2008 LUFO:

Resolution No. 98-2633, For the Purpose of Authorizing the Executive Officer to Execute an Intergovernmental Agreement Establishing the South/North Land Use Final Order (LUFO) Steering Committee (adopted May 14, 1998)

Resolution No. 98-2673, For the Purpose of Adopting the Land Use Final Order Establishing the Light Rail Route, Stations, Lots and Maintenance Facilities and the Related Highway Improvements for the South/North Light Rail Project (adopted July 23, 1998)

Resolution No. 99-2853A, For the Purpose of Adopting a Land Use Final Order Amending the Light Rail Route, Light Rail Stations and Park-and-Ride Lots, Including Their Locations, For That Portion of the South/North Light Rail Project Extending from the Steel Bridge to the Exposition Center (adopted October 22, 1999)

Resolution No. 03-3373, For the Purpose of Amending the South/North Land Use Final Order, to Include the Two Phases of the South Corridor Project Consisting of the Addition of the I-205 Light Rail Transit Project from Gateway to Clackamas Regional Center with the Downtown Portland Transit Mall Alignment, and Modification of the Proposed Light Rail Between Downtown Portland and Milwaukie, Deletion of Plans to Extend Light Rail from Milwaukie to Clackamas Regional Center, and to Reflect the Final Interstate MAX Design (adopted January 15, 2004)

Resolution No. 08-3959, Resolution No. 08-3959, For the Purpose of Approving the 2008 Portland-Milwaukie Light Rail Project Locally Preferred Alternative and Finding Consistency with the Metro 2035 Regional Transportation Plan (under consideration for July 24, 2008)

3. Anticipated Effects

Approval of this resolution would advance the Portland-Milwaukie Project by addressing the land use impacts of multiple jurisdictions in one action. Other actions, including preparation of a Final Environmental Impact Statement (FEIS), securing federal funding and a final determination of local match sources remain to be addressed before the Project would be able to advance to construction.

4. Budget Impacts

None at this time. This project is included within the Financially Constrained System of the Metro 2035 Regional Transportation Plan and 2008-2011 Metropolitan Transportation Improvement Program. Preliminary engineering and a final environmental impact statement would have to be completed and, after the record of decision about the project is determined, a full-funding agreement with the Federal Transit Administration would need to be approved. Only then would the allocation of Federal and state funds and local matches, be expended.

Funds for the FEIS will be provided through an intergovernmental agreement with TriMet. There have been no Metro General Fund revenue requests, nor are any anticipated.

RECOMMENDED ACTION

Adopt Resolution No. 08-3964, For the Purpose of Adopting a 2008 South/North Land Use Final Order Amendment, to Modify the Proposed Route of the Portland-Milwaukie Segment of the South/North Light Rail Corridor, Relocate Proposed Light Rail Stations, Establish the Light Rail Route Between SE Tacoma Street and SE Park Avenue in Milwaukie, and Establish New Station Locations, Park and Rider Lots, Maintenance Facilities, and Highway Improvements.