

Department of Land Conservation and Development
LCDC Rulemaking Workgroup on Metro Urban and Rural Reserves
Summary of workgroup meeting Thursday, September 20, 2007

The Metro Reserves Rulemaking Work Group met for the second time on September 20, 2007, at the Oregon Department of Transportation Building – Public Meeting Room, 123 NW Flanders Street, Portland. The meeting started at 1:05 pm and ended at 4:05 pm.

Workgroup Members Present

Marilyn Worrix, LCDC (Workgroup Chair)
Randy Tucker, Metro
Brent Curtis, Washington County
Doug McLain, Clackamas County
Karen Schilling, Multnomah County
Pat Ribellia, City of Hillsboro
Jonathan Harker, City of Gresham
Gil Kelley, City of Portland
John Williams, City of Canby
Gail Curtis (for Lainie Smith), ODOT
Jeff Hepler, Dept of Forestry
Mary Kyle McCurdy, 1000 Friends of Oregon
Jim McCauley, Metro Homebuilders
Rebecca Woods (for Bev Bookin), CREEC
Jim Labbe, Audubon Society of Portland
Pat Zimmerman (for Ann Glaze), State CIAC
Jeff Stone, Oregon Association of Nurseries
Mike Salsgiver, OECDD

DLCD staff attending: Bob Rindy, Gary Fish, Ron Eber and Jody Haury

Guests attending: Carol Chesarek (Forest Park Neighborhood), Chuck Beasley (Multnomah County), Jonathan Schlueter (Westside Economic Alliance), Bob Clay (City of Portland), Dick Benner (Metro), Danielle Cowan (City of Wilsonville), Eric Perkins (Dept. of Forestry), Kelly Ross (Oregon Chapter of the National Association of Industrial Office Properties), Linda Ludwig (League of Oregon Cities), Patty Snow (Oregon Dept. of Fish & Wildlife), Hal Bergsma (City of Beaverton), Jim Austin (Clackamas County), Mark Greenfield (Attorney/Private Citizen).

Reference materials distributed to workgroup members

- Agenda
- September 5, 2007 Draft Meeting Notes
- Suggested discussion draft of rules for rural reserves
- Suggested discussion draft of rules for urban reserves
- Possible Meeting Dates

NOTE: All materials for the workgroup are posted at the Department of Land Conservation and Development's (DLCD) website at:

http://www.lcd.state.or.us/LCD/metro_urban_and_rural_reserves.shtml

Agenda Item #1 – Welcome, Introductions. Documents:

Workgroup Chair Marilyn Worrix convened the meeting at 1:05 p.m. and listed major discussion topics for the meeting.

Workgroup approved September 5, 2007 meeting notes as corrected.

Workgroup members agreed to meet in the Metro area on Monday, December 10, 2007, from 1:00 to 4:00 p.m. (meeting location was set after the meeting for the Portland State Office Building, Room 1A).

Bob Rindy discussed the suggested draft urban reserve rules. The draft is based on the drafts previously suggested by Metro's *ad hoc* group, but have been reformatted in the manner generally used by DLCD for draft rules. Some elements in the previous draft were changed, primarily to reflect the September 5 discussion and "wordsmithing". Also, the comments to the draft rules, from the *ad hoc* meetings over the summer, are provided as footnotes. Bob indicated that the language he has inserted, including language to reflect revisions discussed at the September 5, 2007 workgroup meeting, is suggested language for discussion purposes.

Agenda Item #2 – Continue Discussion of preliminary Urban Reserve rule draft

Workgroup members discussed the revisions to the draft rule by going line by line through sections 0005 - 0040 of the rule before time ran out. The workgroup discussion is summarized below, by rule section.

660-027-0005 Purpose Statement:

Marilyn Worrix shared that the new language has been added to address the previous meeting discussion on whether the reserves should be adopted by a more formal plan.

Workgroup agreed to use the new language.

660-027-0010 Definitions:

Bob Rindy discussed the reasons for adding ORS 195 and 197. Agreed to e-mail the workgroup members the definitions of ORS 195.060; ORS 215.010; ORS 227.010, .095, 160, and .215; ORS 268.020; ORS 195.060 (2); ORS 215; ORS 220. (NOTE: the department emailed these definitions to the workgroup and interested parties on September 25).

The workgroup will look at these definitions and may revisit this section at the next meeting.

660-027-0020 Authority to Designate Urban Reserves:

Bob Rindy stated that, concurrent with the adoption of these new rules, the department (and possibly the workgroup) will need to review and propose minor amendments to OAR 660, division 021, in order to conform those rules to the revised urban reserve statute (for example to delete the word “area” when referring to reserves).

Randy Tucker and Brent Curtis explained that, under the current (OAR 660, division 21) urban reserve process, Metro has the sole authority to designate urban reserves. As such, the statute (SB 1011) was written with the intent of not changing that current process. However, in the statute, counties have the authority to designate rural reserves. As such, the department agreed to revise the language in bold to reflect this distinction.

Based on this discussion, the workgroup decided on the following language for 660-027-0020:

As an alternative to the authority to designate urban reserve granted by OAR 660, division 021, Metro may designate urban reserves pursuant to intergovernmental agreement with counties and by amendment of the regional framework plan in accordance with the process and criteria specified in this division.

660-027-0030 Urban Reserve Intergovernmental Agreements:

The group discussed the language used for the public involvement section (660-027-003 (3)).

Bob Rindy shared that the language he proposed is parallel to wording used in Goal 1. Explained the role the State Citizen Involvement Advisory Committee (CIAC) plays. The group discussed the levels of citizen involvement that could be used.

Pat Zimmerman stated that since this isn't a land use process, citizen involvement is not required unless it is specified in the rules, and therefore we should specify it

Workgroup discussed: how citizen involvement would work; when it should be used; the level of involvement from the CIAC.

Workgroup discussed rewording the language and agreed to the following language for 660-027-003:

In the development of an intergovernmental agreement described in this rule, Metro and the county must follow a citizen involvement process that provides for broad public notice and opportunities for citizen participation and public comment regarding lands proposed for designation as urban reserves. The State Citizen Involvement Advisory Committee shall be given the opportunity to review and comment on the citizen involvement process.

Ron Eber discussed the language used for 660-027-0030(4); questioned whether decisions made under an intergovernmental agreement are in fact land use decisions. Mark Greenfield indicated that there is prior case law on this, regarding an intergovernmental agreement

between Newberg and Dundee. Shared that the notion that such an agreement is a land use decision may have been upheld by the Land Use Board of Appeals (LUBA). Dick Benner will review that case law and report to the workgroup. Marilyn Worrix suggested that the department should also ask LCDC's legal counsel Steve Shipsey to review whether intergovernmental agreements are or are not "a land use decision."

660-027-0040 Designation of Urban Reserves:

660-027-004(1):

Workgroup discussed the use of the words "most recent" instead of the word "next," referring to inventory. Dick Benner explained why the word "next" was chosen in the statute.

Workgroup agreed to delete "by Metro" in line 3 and to change "ORS 197.296" to "ORS 197.299" in lines 6 and 7.

660-027-004003:

Workgroup agreed to delete "particular" in line 14.

660-027-004004:

Workgroup discussed: why special districts were added to the draft rules when they weren't included in the statute; what the role of special districts and local governments will be and how those roles will be coordinated; coordination taking place throughout the intergovernmental agreement; services provided by cities (local governments).

Workgroup agreed to delete "and a county" in line 18.

660-027-004005:

Workgroup discussed: the intent of the word "factor" and in what context it is used; where the factors were derived from; the difference between the words "factor" and "criteria;" interpretation of the word "factor."

Bob Rindy will seek clarification for the words "factor" and "consider" from Steve Shipsey.

Workgroup also discussed what factors should be based on (statute, rule, amendments) if they apply to the "but not limited to" portion of line 23.

Workgroup agreed to delete "and a county" in line 22 and to add a subsection "g" to read as: Can be developed in a way to preserve important natural landscape features.

660-027-004006:

Workgroup discussed whether to keep the first sentence (line 2 and 3). The discussion included: a debate on if all of the factors should have to be met and if it would always be possible to meet all of the factors; why and how the sentence was created (since it isn't in the statute); the need for the words "balance and compare" to possibly be added; moving the sentence to another spot; factors being adopted/created at a later time and then the interpretation of those factors. Marilyn Worrix asked for a show of hands on if the sentence should be removed and/or moved, the consensus was to take it out.

Agenda Item #3 – Discussion of preliminary draft of Rural Reserves rule (If time permits)

Because time ran out at this point, the workgroup did not discuss these rules.

Agenda Item #4 – Next steps and agenda for next meeting

- Continue to review the urban reserves draft rules.
- The meeting agenda and location for the October 1, 2007, workgroup meeting will be sent out prior to the meeting.

Agenda Item #5 – Wrap up 4:00 PM

Marilyn Worrix adjourned the meeting at 4:05 p.m.

Reminder of Future meeting

The workgroup will meet 1:00 - 4:00 p.m. on October 1, 2007, in Room 1A of the Portland State Office Building, 800 NE Oregon Street, Portland, OR 97232.