

**Department of Land Conservation and Development**  
**LCDC Rulemaking Workgroup on Metro Urban and Rural Reserves**  
**Summary of workgroup meeting Monday, October 1, 2007**

The Metro Reserves Rulemaking Work Group met for the third time on October 1, 2007, at the Portland State Office Building, 800 NE Oregon Street, Portland, OR 97232. The meeting started at 1:07 pm and ended at 3:55 pm.

Workgroup Members Present

Randy Tucker, Metro  
Doug McLain, Clackamas County  
Chuck Beasley (for Karen Schilling), Multnomah County  
Pat Ribellia, City of Hillsboro  
Jonathan Harker, City of Gresham  
Gil Kelley, City of Portland  
John Williams, City of Canby  
Lainie Smith, ODOT  
Eric Perkins (for Jeff Hepler), Dept of Forestry  
Mary Kyle McCurdy, 1000 Friends of Oregon  
Jim McCauley, Metro Homebuilders  
Bev Bookin, CREEC  
Jim Labbe, Audubon Society of Portland  
Ann Glaze, State CIAC  
Jim Johnson, Oregon Dept. of Agriculture  
Dave Van Asche, Washington County Farm Bureau  
Jeff Stone, Oregon Association of Nurseries  
Mike Salsgiver, OECDD

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

Guests attending: Carol Chesarek (Forest Park Neighborhood), Steve Kelley (Washington County), Dick Benner (Metro), Danielle Cowan (City of Wilsonville), Kelly Ross (Oregon Chapter of the National Association of Industrial Office Properties), Hal Bergsma (City of Beaverton), Patty Snow (Oregon Dept. of Fish & Wildlife) and Mark Greenfield (Attorney/Private Citizen).

Reference materials distributed to workgroup members

- Agenda
- September 20, 2007 Draft Meeting Notes
- Suggested discussion draft of rules for urban reserves (Sept 26)
- Suggested discussion draft of rules for rural reserves (Sept 20)
- Proposed revision to Section – of the urban reserve rules proposed by Dick Benner
- Compiled list of definitions currently in state land use statutes.

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

## **Agenda Item #1 – Welcome, Overview of Documents and Agenda**

Bob Rindy announced that Chair Worrix was unable to attend the meeting due to a medical appointment. Bob Rindy convened the meeting at 1:07 p.m. and summarized major discussion topics for the meeting as per the agenda.

Workgroup approved September 20, 2007 meeting notes.

Workgroup discussed combining the rural and urban rules to reduce/avoid duplication. It was agreed the rules should be combined into a single division. Bob Rindy will mail a combined set of rules prior to the next meeting.

## **Agenda Item #2 – Continue Discussion of draft Urban Reserve rules**

Workgroup members discussed the revisions to the draft rules by going through line by line. The workgroup discussion is summarized below, by rule, based on the September 26 discussion draft of the proposed Urban Reserve Rules.

### 660-027-0030 Urban Reserve Intergovernmental Agreements:

The group discussed the language used for the public involvement section (660-027-003 (3)). Discussion primarily concerned whether there should be a coordinated the citizen involvement process since Metro would be entering into agreements with more that one county.

Workgroup discussed rewording the language and agreed to the following language for 660-027-003 (3):

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

Under 660-027-0030(4), the workgroup discussed whether the Land Conservation & Development Commission (LCDC) has the authority to declare that intergovernmental agreements (IGA’s) are or are not a “land use decision”. Bob Rindy indicated that LCDC’s legal counsel Steve Shipsey would be reviewing whether intergovernmental agreements are or are not “a land use decision.”

Workgroup also discussed the reason for IGA’s and the contemplated process to reach these agreements.

660-027-0040 Designation of Urban Reserves:

660-027-0040(1):

Workgroup agreed to replace the word “after” with “beyond” in line 5 in order to make it more understandable to a lay person.

Group discussed the revision made to the referenced ORS citation (ORS 197.299 vs. ORS 197.296). Bob Rindy will discuss the referenced cite with legal counsel, but suggests the reference should conform with SB 1011.

660-027-0040(5):

Workgroup agreed on the language adding subsection (g), in response to the previous workgroup discussion, regarding factor that land included in an UR “can be developed in a way to preserve important natural landscape features.” Workgroup also discussed: the difference between subsection (e) and (g).

Bob Rindy shared Jeff Hepler’s e-mail suggestion to add another factor (based on the suggestion made by the *ad hoc* group last summer), specifically: “(h) can be designated to mitigate adverse effects on farm and forest practices on nearby resource lands or on land designated as rural reserves.”

Workgroup discussed the following: why the language hadn’t been included in the first place; the intent to direct urban reserves to land that will have the least impact on adjacent land; doing impact analysis at the time of designation vs. later planning phase; the criteria/judgment to be used in later determining the best use for land designated as urban reserves; creating a new subsection (h) requiring consideration of the affect of urban reserves (or the affect of later urban development?) on natural landscape features; the need to define “natural landscape features”; possibly combining the last two bullets in footnote 7 of the draft so that there would also be consideration affect on farm and forest uses.

Group decided to combine the last two bullets in footnote 7 into a new subsection (h).

660-027-0040(6):

Dick Benner discussed his recommended replacement language for 660-027-0040(6). Shared that it addresses how factors are treated in preserving reserves and coordinating Metro with three local governments. Pat Ribellia discussed his proposed amendments to Benner’s language. Workgroup discussion included: adopting a single set of findings for both the urban and rural reserves by Metro and all three counties; possibility that Metro and counties would designate a combined committee or other group to draft the findings; LCDC’s role in resolving disagreements on the findings; what, if any, criteria would LCDC use to determine the outcome of a disagreement.

Jim Johnson shared that the Ag community has concerns with using “factors” instead of “criteria.” He indicated the need for a tie-breaker when land qualifies for both urban

and rural reserves. Indicated such a tie-breaker would be necessary to help LCDC decide whether a decision is legal. Workgroup discussed: how factors are weighed; whether to provide a “safe harbor” instead of a tie-breaker; concerns about the process of using a tie-breaker and how it would work.

Workgroup decided to table the discussion on Dick Benner’s recommended language or other language, and on the possible need for a tie-breakers or safe harbor until after the group finishes its discussion of the factors proposed for rural reserves.

660-027-0040(7):

Workgroup discussed: why the designation wording for Metro and the county are written differently; possible issues that could arise due to the language “and land use regulations” in line 11; why “and to guide the management of these areas” in line 12 should/shouldn’t be included; possibly combining 660-027-0050(2) and 660-027-0040(7); possible actions counties could take with regarding an UR area that would not be a “zoning action”, including action on proposals that could affect future urbanization.

By consensus, workgroup didn’t support the added language “and land use regulations” in line 11 or “and to guide the management of these areas” in line 12. The group did agree to leave the words “and zoning” in line 13.

660-027-0050(2):

Workgroup discussed the footnote associated with this section. Discussion included talking about unincorporated communities: should they be allowed to change their land use designation; should they be allowed to change their parcel sizes; should they be allowed to add land, to make it denser; EFU permitted uses; allowing/requiring concept plans; urban service agreements.

Group consensus was to add in the original language: “Counties, cities and Metro may adopt conceptual plans for the eventual urbanization of urban reserves designated under this division.” Group also agreed to add language for optional urban service agreements.

660-027-0060(2):

Workgroup discussed: clarifications on who is included in the term “local governments”; who adopts reserves besides Metro and the county. Workgroup agreed to change “Metro and applicable local governments” in line 10 and 11 to “Metro and counties.”

### **Agenda Item #3 – Discussion of preliminary draft Rural Reserves rules**

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

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

- Bob Rindy will combine the urban and rural reserves draft rules and send out to the workgroup.
- It was agreed that, instead of going line by line, the workgroup should consider some topics by themselves at the beginning of the agenda, so as to make sure that major issues are discussed before we get into the minutia of wording. It was agreed these major issues include:
  - The factors for rural reserves.
  - Impact of reserves on neighboring cities.
  - tie-breakers and safe harbors (i.e. see attachment regarding ideas for section 10).
  - transportation.
- Following that, the group would review the combined reserves draft rules.
- The meeting agenda and location information for the October 15, 2007, workgroup meeting will be sent out prior to the meeting.

### **Agenda Item #5 – Wrap up 4:00 PM**

Bob Rindy adjourned the meeting at 3:55 p.m.

#### **Reminder of Future meeting**

The workgroup will next meet at 1:00-4:00p.m. on October 15, 2007, in the Metro Council Chambers, Metro Council Office, 600 NE Grand Avenue, Portland OR 97232.