

Department of Land Conservation and Development
LCDC Rulemaking Workgroup on Metro Urban and Rural Reserves
Summary of workgroup meeting Monday, October 15, 2007

The Metro Reserves Rulemaking Work Group met for the fourth time on October 15, 2007, at the Metro Council Chambers, Metro Council Office, 600 NE Grand Avenue, Portland OR 97232. The meeting started at 1:05 pm and ended at 4:12 pm.

Workgroup Members Present

Marilyn Worrix, LCDC (Workgroup Chair)
Randy Tucker, Metro
Brent Curtis, Washington County
Doug McClain, Clackamas County
Chuck Beasley (for Karen Schilling), Multnomah County
Pat Ribellia, City of Hillsboro
Jonathan Harker, City of Gresham
Gil Kelley, City of Portland
Gail Curtis (for Lainie Smith), ODOT
Jeff Hepler, Dept of Forestry
Jim Johnson, Oregon Dept. of Agriculture
Mary Kyle McCurdy, 1000 Friends of Oregon
Jim McCauley, Metro Homebuilders
Bev Bookin, CREEC
Jim Labbe, Audubon Society of Portland
Ann Glaze, State CIAC
Dave Van Asche, Washington County Farm Bureau
Jeff Stone, Oregon Association of Nurseries

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

Guests attending: Kathleen Woods (CREEC), Steve Shipsey (Dept. of Justice), Carol Chesarek (Forest Park Neighborhood), Jonathan Schlueter (Westside Economic Alliance), 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), Patty Snow (Oregon Dept. of Fish & Wildlife), Hal Bergsma (City of Beaverton), Matilda Deas (City of Canby), Laura Masterson (47th Avenue Farm), Rod Park (Metro), Bob Peterkort (citizen), Mark Greenfield ((Attorney/citizen).

Reference materials distributed to workgroup members

- Agenda
- Draft Summary of October 1, 2007 workgroup meeting
- Proposed draft of rules for rural and urban reserves (Oct 11)
- DLCD suggestions regarding Division 21 provisions
- Alternative wording options suggested for Rule 0040(10)
- Ideas for definition of "Walkable"

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, Overview of Documents and Agenda:

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

The workgroup approved the October 1, 2007, workgroup meeting summary.

Agenda Item #2 & 4 – Discussion of Major Topics & Discussion of Combined Draft

Rules:

Workgroup discussed the use of “factors” vs. “criteria”; SB1011 states that LCDC should establish “criteria” but that statute also provides “factors” for designation of reserves; Steve Shipsey noted that the courts have asserted factors are a type of criteria, but the law is mushy on this topic. The general understanding of “factors” is based on Goal 14 and case law related to that. The workgroup discussed: the connotation of “consider” and whether local governments would be required to “consider” all of the statutory factors, whether factors should be mandatory criteria; weighing and balancing factors. Some workgroup members indicated mere “consideration” of factors would not be adequate and the rules should make sure all factors are applied. The workgroup did not reach a consensus or a conclusion as to whether the draft rules should change the general understanding of “factors” or include additional mandatory criteria – there will be continued discussion of this at the next meeting.

660-027-0040 Designation of Urban and Rural Reserves:

Subsection (9)

Workgroup members discussed the proposed new language in subsection 9 regarding adding additional factors for the reserves based on the “including but not limited to” wording of the statutes. The group discussed: the ability to add and/or clarify factors in SB1011; who – Land Conservation & Development Commission (LCDC) or local governments – should be allowed to add new factors based on the language “are not limited to” in relation to factors in line 34. The general consensus of the workgroup was to provide that only LCDC may add additional factors. This involves removing the “including, but not limited to” wording in the draft rule removing the proposed new language (in bold) regarding local government procedures to add new factors.

Subsection (10)

Bob Rindy, Dick Benner, Pat Ribellia, Al Burns, and Gloria Gardiner shared the differences/similarities between their various versions of alternative wording for subsection 10. The workgroup discussed the suggested versions, including: the proposal to show that designated lands meet the factors better than other lands (Metro indicated this was a bad idea because it would involve developing a system to assign a score to rate various areas). The group also discussed: the selection process looking at the region as a whole, not parcel vs. parcel; whether there should be “tie-breaker” wording for land that meets standards for both urban and rural reserve (no conclusion

was reached); what benchmark would LCDC use to decide whether a local decision on reserves was “ok”. It was concluded the staff and Metro should consider adding language to the purpose statement and crafting subsection (10) to refer back to that purpose statement (Bob Rindy and Dick Benner will draft purpose statement for next meeting). It was also suggested that we remove the word “relevant” so as not to imply that a local government or Metro could decide a factor is not relevant, and the draft should use the word “apply” instead of “consider” in reference to the factors.

660-027-0060 Identification, Selection and Designation of Lands For Rural Reserves:

Subsection (1)

Workgroup members discussed the proposed rule factors for rural reserves, including: concerns about combining the farm and forest factors; the possibility that land would be both forest/farm land and a natural landscape feature. The group agreed to add “or both” at the end of the sentence in line 18 of subsection (1).

Subsection (2a)

Workgroup members discussed which word to use (“and” or “or”) in line 28 of subsection (2a) – consensus was that, if legally allowed (since the statute uses “and”, the draft should use the word “or”.

Subsection (2c)

Workgroup members discussed the need for a “value analysis” and discussed the words “where needed” in relation to water in subsection (2c). No decisions reached.

Subsection (2d)

Workgroup members discussed concerns with subsection (2d) regarding separating communities – there was a consensus to move this subsection to the natural features factors.

Subsection (2e)

Workgroup members discussed the problem of not having the same information for forest land as provided in the Dept of Ag study. It was agreed there is a need for additional information from forestry to identify forest land that is most important, conflicted, etc, such as has been developed for farm land (Jeff Hepler will bring information to the next meeting). The workgroup discussed the problem of increasing traffic in farming areas, and whether designating areas as rural reserve necessarily resolves these traffic problems. The group discussed possibly adding a factor to cover conflicts between natural features and other uses, and whether there is a need to use agriculture or forest rural reserves as a buffer between urban development and natural features (if such language is added, possibly move it to subsection (3); Jim Labbe will bring proposed language to the next meeting).

Subsection (3)

Workgroup members discussed adding the terms “meadows, prairies and savannas”. The group also discussed considering connecting habitat areas – “landscape corridors.” Some members expressed concerns about narrowing choices for urban reserves while expanding rural reserve choices. Conclusion: Jim Labbe, Patty Snow

and Brent Curtis will bring new language to the next meeting based on the New Look inventory. Workgroup decided to remove examples, including “such as”, from subsection (3).

Agenda Item #3 – Discussion of other topics raised in recent email:

Workgroup members decided to send in their support or opposition, via e-mail, regarding Dick Benner’s suggested wording expressing why intergovernmental agreements are not land use decisions (the group agreed to send e-mails to Bob Rindy).

The workgroup will revisit the topics not covered in this section at the next meeting.

Agenda Item #5 – Next steps and agenda for next meeting:

- Possibly removing the word “needed” in section 660-027-0050 (f) – per Randy Tucker.
- Sending draft rules prior to the LCDC rule hearing November 29.
- Decide if the workgroup should meet in January.
- The meeting agenda and location for the November 5, 2007, workgroup meeting will be sent out prior to the meeting.

Agenda Item #6 – Wrap up 4:00 PM:

Marilyn Worrix adjourned the meeting at 4:12 p.m.

Reminder of Future meetings

The workgroup will meet 2:00 - 5:00 p.m. on November 5, 2007, in Room 1B of the Portland State Office Building, 800 NE Oregon Street, Portland.

LCDC will hold the first of two public hearings to consider the draft rules on November 29th in their next meeting, in Corvallis, Suislaw National Forest Center, 4077 SW Research Way (the time of the hearing is not certain – the LCDC meeting begins at 8:30 but the rulemaking hearing is item 5 on the agenda).