



**Department of Land  
Conservation and Development  
UGB Phase 2 Work Group**

**MINUTES**

Meeting 2

August 12, 2008

1:00 PM – 4:00 PM

Agriculture Building (DLCD)

635 Capitol St NE, Salem

Basement Hearing Room

**Work Group Members Present**

Marilyn Worrix, LCDC (Work Group Chair)  
Shawn Cleave, Oregon Farm Bureau  
Jack Duncan, Oregon Housing and Community Services  
Shaun Jillions, Oregon Association of Realtors  
Al Johnson, Johnson & Sherton PC  
Bob LeFeber, Commercial Realty Advisors NW  
Robert Maestre, Oregon Department of Transportation  
Mary Kyle McCurdy, 1000 Friends of Oregon  
Terry Moore, ECONorthwest  
Art Schlack, Association of Oregon Counties  
Christine Valentine, Economic Revitalization Team  
Greg Winterowd, Winterbrook Planning

**DLCD Staff Present**

Gloria Gardiner, Urban Planning Specialist  
Bryan González, Rules, Records and Policy Coordinator  
Thomas Hogue, Economic Development Policy Analyst  
Bob Rindy, Senior Policy Analyst/Legislative Coordinator

**Interested Persons Present**

Becky Steckler (by telephone)

**Meeting Materials**

[Agenda](#)

[Timeline for Permanent Rulemaking](#)

[Methodology to Identify New UGB Safe Harbors](#)

[Existing Safe Harbors](#)

[Question to LCDC Legal Counsel](#)

[Goal 9 Safe Harbors](#)

[GMK Developments et al v. City of Madras, LUBA 2008-003](#)

## **Agenda Items 1 & 2 – Introductions and Opening Remarks from the Chair**

Chair Worrix convened the meeting at 1:15 p.m. and welcomed the work group.

## **Agenda Item 3 – Minutes from Previous Meeting**

The work group agreed to review the minutes after the meeting and send any additions or clarifications to staff.

## **Agenda Item 4 – Review Work Group Logistics**

### Meeting Schedule and Timeline

Bryan González reviewed two possible timelines for adopting permanent rules at either the October or December LCDC meeting. The work group agreed that it would work toward the December meeting. Further, the work group agreed to the following meeting dates and times:

Tuesday, September 9	1:00 – 4:00 p.m.
Tuesday, September 30	1:00 – 4:00 p.m.
Tuesday, October 21	1:00 – 4:00 p.m.

### Subcommittees

The work group discussed the use and structure of possible subcommittees. Bob Rindy discussed advice from the Department of Justice regarding whether subcommittee meetings are covered by the Public Meetings Law (if subcommittee is to provide recommendation to work group, then meetings are subject to the Public Meetings Law; if subcommittee is to “brainstorm” ideas and not provide recommendation, then meetings are not subject to the Public Meetings Law). He proposed that subcommittees be tasked with “brainstorming” ideas and not with providing recommendations.

Art Schlack expressed concern that, regardless of which type of subcommittee is utilized, all members be allowed to participate.

Christine Valentine expressed concern that such “brainstorming” subcommittees would not be public meetings and could be seen as secretive. She expressed greater comfort in subcommittees that had balanced membership and were open to all interested work group members and the public. She recommended that if the work group as a whole was interested in pursuing “brainstorming” subcommittees, the work group first create a list of issues to be discussed by subcommittees to determine which form the subcommittees should take.

Mary Kyle McCurdy recommended that subcommittees covered by the Public Meetings Law be utilized. Shaun Jillions concurred.

Chair Worrix said she would further consider the discussion, though she indicated some preference for subcommittees covered by the Public Meetings Law.

## **Agenda Item 5 – Discussion of Issues**

### Safe Harbor Ideas for Residential UGB Amendments

Chair Worrix briefly reviewed the work group's previous discussion of ideas from the Residential Subcommittee meeting, specifically possible vacancy rate and housing mix safe harbors.

Gregory Winterowd recommended that the work group compile data on actual housing mixes before drafting possible safe harbor.

Bob Rindy notified the work group that the department is willing to hire a contractor to compile such data from the department's records. He solicited recommendations for additional type of data to be gathered and what methodologies to use (how many cities and what sizes; include planned versus actual rates; organize by population size, region, or growth rate; include infill and redevelopment assumptions).

In response to Bob LeFeber, Gregory Winterowd confirmed that his proposal for units per acre combined single-family and multi-family housing.

Jack Duncan suggested that the age and condition of existing housing be considered in determining infill and redevelopment potential. Gregory Winterowd suggested comparing land value to improvement value for determining infill and redevelopment potential. He further suggested that data be gathered by region and on minimum densities.

Mary Kyle McCurdy stated that Metro cities have minimum density data and reiterated that the minimum density standard formerly required by Metro's Functional Plan (80 percent minimum density with cities figuring out how to accomplish) would be a simple way of accomplishing one of the work group's goals.

Bob Rindy recommended that any density safe harbor specify a minimum of units per acre (with more allowed) and a prescribed mix ratio.

Art Schlack suggested that data be gathered by region and that terminology with the data and in any proposed safe harbor be clearly and carefully defined. He cautioned that the ability to provide infrastructure is a key factor in achieving planned densities. Bob Rindy questioned whether infrastructure-related data could be compiled from the department's records, and Gloria Gardiner proffered that such data may be contained in UGB amendment applications. Chair Worrix stated that cities facing infrastructure issues may not be able to utilize the safe harbor and reminded the work group that safe harbors cannot address all contingencies.

Al Johnson cautioned that potential safe harbors cannot replace or ignore essential findings required by statute, and that LCDC should provide such findings in support of any adopted safe harbors for local governments to rely upon.

Shaun Jillions expressed support for Gregory Winterowd's proposed density/mix safe harbor concept, though he did not support the actual proposed figures without first gathering data. Chair Worrix stated that such data should identify the specific source city to account for special circumstances.

Gregory Winterowd suggested that data be compiled from both approved UGB expansions and those UGB evaluations where no expansion was necessary, and cautioned that terms be clearly and carefully defined and methodologies identified.

Terry Moore concurred that terms be clearly and carefully defined and advised that data can be useful even if the underlying cause is not apparent (specifically with employment-related data).

Mary Kyle McCurdy questioned whether safe harbors apply only to land within UGB expansion areas or to land within entire UGB. She also discussed Marion County's urban growth agreements with its cities (county "safe harbor").

Gregory Winterowd discussed how cities that aspire to and zone for high densities are penalized for underbuilding during the UGB amendment process, while cities that zone for and achieve low densities are allowed to expand. He suggested that a potential safe harbor should assume a reasonable density and require a minimum density while allowing higher densities.

Robert Maestre questioned whether existing and potential safe harbors are separate for residential and employment lands. Gregory Winterowd responded that existing safe harbors are separate, though the analyses are combined during periodic review. Bob Rindy suggested that the work group consider linking employment land safe harbors to housing densities.

Bob LeFeber questioned why the work group is pursuing housing mix and not just density. Bob Rindy responded that Goal 10 (Housing) requires addressing housing mix. Gregory Winterowd explained that housing mix is ultimately a judgment call and should allow opportunities and not establish expectations (do not require what market will not support).

Christine Valentine questioned whether cities are attempting to add employment land while ignoring housing needs (especially work force housing). Terry Moore responded, and Mary Kyle McCurdy concurred, that there are some cities interested in adding employment land only. While Mary Kyle McCurdy explained that local governments must complete a residential needs analysis when evaluating their employment lands needs, Bob Rindy explained that the 2005 amendments to Goal 14 (Urbanization) allow expansions for single uses (such as employment land). He further explained, however, and Al Johnson concurred, that

all goals apply to UGB expansions and must be met even if focusing on a single use.

Bob Rindy questioned whether potential safe harbors should be paired based on correlations between residential and employment data. Terry Moore responded that such correlations do exist, and it will be a policy decision whether to incorporate those correlations into any potential safe harbor.

Jack Duncan cautioned the work group that commuting costs will be a factor in siting employment lands due to the increasing cost of oil.

Bob Rindy questioned whether there is a need for safe harbors regarding buildable lands inventories, urban reserves, and exception areas. Terry Moore responded that he saw the need for safe harbors focusing on land, specifically density and housing mix, vacancy rate, and other lands. Gregory Winterowd agreed that an additional safe harbor could focus on the ratio of employment lands to residential land (thought employment land would need to be clearly and carefully defined). Al Johnson agreed that employment lands need to be defined, though advised that industrial land was recently defined in Goal 9.

Robert Maestre recommended that the work group organize potential safe harbors by need. Mary Kyle McCurdy reminded the work group that safe harbors cannot address all contingencies and should be simple. She also recommended that the work group consider limiting potential safe harbors to small cities only.

Shawn Cleave suggested compiling data by regional populations, though Bob Rindy responded that high-value agricultural lands statewide will present the same challenges and that growth rates could be a more relevant basis for potential safe harbors. Chair Worrix expressed desire to gather input from local governments statewide to see if potential safe harbors will assist local desires.

Gregory Winterowd discussed “rogue” counties that block UGB expansions through failure to provide cities with coordinated population forecasts. He suggested a potential safe harbor allowing local jurisdictions to substitute population forecasts with growth data from previous 20 years. Mary Kyle McCurdy cautioned that safe harbors should not be created to address specific unique circumstances, to which Gregory Winterowd responded that approximately half of all counties do not have current population forecasts. Mary Kyle McCurdy reminded the work group that work from phase one dealing with population forecasts was ultimately changed by the legislature due to lobbying from cities.

Terry Moore cautioned that not all small cities grow faster than large cities and that perhaps only fast-growing cities should be eligible for potential safe harbors. Bob Rindy, however, advised that encouraging small cities to grow instead of encouraging compact growth in large cities may raise climate change concerns.

Gregory Winterowd discussed concerns with the existing safe harbor regarding public facilities. Bob Rindy offered to gather data on this issue.

Goal 9 (Economic Development) Safe Harbors (added to agenda)

Thomas Hogue reviewed his memo regarding 14 possible Goal 9 safe harbors, based on the department's *Industrial and Other Employment Lands Analysis Guidebook*, as well as three additional possible safe harbors. Bob Rindy stated that the possible safe harbor regarding large sites of statewide significance would not be suitable for a safe harbor but for a rule.

Thomas Hogue recommended focusing on two possible safe harbors: (1) allowing local government to rely on data from the department and other state agencies; and (2) allowing local governments that want to change their historic growth pattern to adjust their forecasts. Bob Rindy questioned the impact, if any, if research finds that aspirations have not been consistent with actual growth.

Gregory Winterowd advised the work group that the mandate in ORS 197.712 would not be met by most of the proposed Goal 9 safe harbors. Terry Moore questioned the need to provide a safe harbor for the large percentage of cities that are unable to meet an "average" safe harbor. Christine Valentine suggested, and Chair Worrix agreed, that the work group should discuss these possible safe harbors further with the participation of the Economic and Community Development Department. Finally, Bob Rindy reminded the work group that any safe harbor must be consistent with Goal 9 itself, and not just the guidebook (which differs from the goal and has been challenged).

McMinnville and Madras LUBA and Court of Appeals Decisions

Discussion rescheduled to next meeting.

**Agenda Item 6 – Suggestions for Next Meeting Agenda**

The work group proposed to discuss the *McMinnville* and *Madras* cases, as well as possible safe harbors regarding school siting and flexibility in local governments meeting standards ("close enough" provisions).

**Agenda Item 7 – Next Meeting Date, Wrap Up and Adjourn**

Chair Worrix adjourned the meeting at 4:15 p.m. The next meeting is scheduled for Tuesday, September 9, 1:00 – 4:00 p.m.

**Public Comment**

None

**Member Tasks** (not necessarily due at next meeting)

Thomas Hogue

- Follow-up on possible Goal 9 safe harbors with the Economic and Community Development Department

Bob Rindy

- Initiate data gathering project