

Department of Land Conservation and Development
URBAN GROWTH BOUNDARY Rulemaking Work Group
Summary of Work Group Meeting, January 6, 2005

The UBG Rulemaking Work Group met for the ninth time on January 6, 2005 at the Local Government Center in Salem. The meeting started at 1:15 pm and ended at 3:30 pm. The following work group members were in attendance: Marilyn Worrix (LCDC; Work group Chair), Dick Benner (Metro), Brent Curtis (Washington County), Mary Kyle McCurdy (1000 Friends of Oregon), Art Schlack (AOC), Don Schellenberg (OFBF), Damian Syrnyk (City of Bend) Burton Weast (SDAO), Greg Winterowd (Winterbrook Planning) and Pat Zimmerman (CIAC).

Work group members not in attendance: Glen Bolen (Fregonese Calthorpe Associates), Jon Chandler (OHBA), Chris Crean (OAPA), Jim Huber (City of Grants Pass), Harlan Levy (Association of Oregon Realtors), Terry Moore (ECONorthwest), and Dick Sheehy (CH2M).

State Agency Representatives Present: Anna Russo (ODOT) and Richard Bjelland (OHCD).

State Agency Representatives Not Present: Lynn Beaton (OECDD) and Jim Johnson (ODA).

DLCD Staff: Bob Rindy, Gloria Gardiner, Jim Hinman, Lorinda De Haan.

Guests: John Boyd (Douglas County), Al Burns (City of Portland), Dan Chandler (City of North Plains), Danielle Cowan (City of Wilsonville), Reeve Hennion (Jackson County), Peggy Lynch and Les Sasaki (Marion County)

Opening remarks, materials, agenda, schedule future work group meetings

Marilyn Worrix: As per the agenda (Exhibit A), we will begin by reviewing the minutes from our December 16, 2004 meeting (Exhibit B). Also, during the first part of this meeting, we will be reviewing some of the significant language changes we made at December's meeting, and determine whether we still have work group concurrence about these.

There was discussion as to when the next meeting should be held. The main item for that meeting would be a presentation from Metro's Data Research Center regarding their Safe Harbor study. The work group agreed to meet on Thursday, February 17, 2005 at 1:00 pm (staff will find a suitable location and notify members).

Approve Summary of last minutes

Marilyn Worrix: I understand that the work group had no significant comments or questions in response to the draft of December's minutes that was sent by email. Having heard no objections, the work group's December 16, 2004 minutes are approved.

Marilyn Worrix: Since some significant revisions were made at the last meeting, the work group will quickly review and explain language changes that were agreed to at that time. We will use the minutes (Exhibit B) and the December 20, 2004 proposed amendments (Exhibit C) to describe the changes made by the work group.

On Issue #2, substantial changes were made reflecting our discussion on the “location” factors, the workgroup had agreed that the term “consideration” was meant that all the factors have to be studied and considered, the term is not intended to mean that the need factors are “advisory”. As such, the elimination of the term “consideration” and replacing it with “based on” will prevent this misinterpretation. The proposed third need factor is an outright requirement, and, consequently, should stand alone rather than be included as a numbered “factor”.

Mary Kyle McCurdy: Perhaps, lines 29 and 30 are to modify the need factors. While lines 31 through 34 seem to modify something else entirely.

Greg Winterowd: A couple of meetings ago we (this work group) discussed this exact same issue thoroughly. The work group agreed to change the word “accommodate” to “for” on line 30 to avoid confusion.

Location of Urban Growth Boundary

Marilyn Worrix: Regarding Issue #6, considering “alternative boundary locations” on Page 2, line 4. Last meeting the work group did resolve this but we can take out any paraphrase of ORS 197.296 and simply cite it. Discussion occurred regarding this statute, and how it is intended to blend with the Goal location factors. Mary Kyle recommended that it be clear that you first follow the statute hierarchy, and then apply the location factors.

Brent Curtis: I apologize for not attending last meeting. I believe that this current draft is much better than the original. However, there are other considerations when using this language. Dick Benner was right, leave in the summary and simply mention ORS 197.298. Leaving the words out is okay unless you have a full-blown definition and want it to be more benign. I can’t accept Mary Kyle’s suggestions because that changes the intent.

Dick Benner: In regards to this, Metro decided on needs and then we applied the statute priorities, and then the Goal factors. Case law was established on this, which indicates it is fine to apply to the priority first and then the locational factors afterward. However, in agreeing with Metro, LCDC didn’t say that this is the only way to interpret the statute (ie. first the priorities and then the locational needs). But LCDC has not agreed to other ways so far.

Marilyn Worrix: We will stick with this language in the current draft. It is important issue. This entire discussion by the work group needs to be conveyed to LCDC, so the commission members are aware of our concerns regarding this issue.

Marilyn Worrix continued with Issue #8. The word “ensure” was removed.

Al Burns: Regarding Page 2, lines 35-39 (Exhibit C), it appears that a lot of the wording was changed. At our meeting last month the work group agreed to change the word “regulations” to “measures” and that change was not noted in this latest revision.

Brent Curtis: The word ‘efficient’ is a problem. I am concerned that efficient is now being used too much – in two or three different places in the goal. He suggested that perhaps we should be leaving the wording the way it was originally.

Peggy Lynch: Does an “urban form” need to be defined or quantified? What type of urban form do we want? The language implies that urban form can be defined.

Al Burns: When we look at the other factors you balance them and arrive at a local idea of urban form. And this can be informed by community values for each city.

Dick Benner: When metro was adding land it was choosing among exceptional lands. The council thought it was not “good” urban form to take a little bit here and there, piecemeal. Overall, it was thought to be better to find all 100 acres all in the same area, because efficiency was considered. A local government begins at a geographic place and wants to do planning that is more efficient and create an urban form that is more pleasant. We should keep in mind that another problem is writing findings with respect to these terms or similar terms located in several places in the goal.

Danielle Cowan: The City of Wilsonville discovered that considering “efficient land use form” did help us, especially in demonstrating the need to be efficient in the delivery of services. I believe this would help give direction to small cities and town.

Marilyn Worrix: The work group needs to make a decision regarding the term “efficient” used in Exhibit C, Page 2 on line 8. We need to decide if we want to leave the word in or take the word out. Or should we change the wording from “efficient urban form” to “good urban form” or “compact urban form”. I will take suggestions from the group? After a short discussion, the majority of the work group voted to leave the wording as is.

Urbanizable Land

Bob Rindy: We are trying to prevent the situation where landowners are encouraged to develop large, inefficient lots inside the UGB because sewers won’t be established in the area for another ten years. We want to maintain the potential to compact urban development.

Discussion about the wording and the urbanizable policy. Brent Curtis: But you cannot develop at all until you have services; there is nothing in the conversion process that will be going away under the current proposal. It was agreed to stay with the current proposal

Applicability

Marilyn Worrix: Does the work group have an opinion about what the effective date should be for this proposed goal change? By law, a goal cannot be mandated to go into effect for at least

one year; unless LCDC decides to find special circumstances that require it to impose their goal amendment decision at an earlier date. After discussion and suggestions, the work group agreed to suggest to the commission that local governments would not have to apply the new goal until one year has passed, or have the option to go ahead and apply the rule now.

Marilyn Worrix: Concerning Issue #10, should the word “rural” be added before “communities” in the definition of rural land, or left out? Peggy Lynch: I believe we need to check what the term “unincorporated” implies. Perhaps on line 29, change or delete the word “land: and leave “or” on line 28. Discussion.

Mary Kyle McCurdy: I feel the need to mention the concern expressed last month from Jim Just about the clause regarding services to urbanizable land, were his concerns addressed?

Dick Benner: Proposed language indicates there are two different situations that define urbanizable land, either a) no change in county zone (and it has to stay zoned that way until services available) or b) There is a change in order to put it in a holding zone prior to full urban services.

Al Burns: When the new land is coming in, you need a plan amendment to create a plan for urbanizable land. When you change the plan, you don’t have to assure there are services there right then. But if you brought it in to serve a certain land need, when do you change it to allow that? Discussion. Mary Kyle McCurdy: If this is a policy, don’t you want the requirement to be buried in the definitions.

The work group agreed to change the subheading of Part 2 on line 33 from “Conversion of Urbanizable Land” to “Urbanizable Land” . Part 2 Urban Area Planning shall now read:

Urbanizable Land

Land within the boundaries shall be considered available over time for urban uses. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.

OPTION A: Include the following in the revised goal:

Efficient Land Use and Livable Communities

Comprehensive plans and implementing measures for land inside urban growth boundaries shall encourage the efficient use of land and the development of livable communities.

OPTION B: Don’t include this in the goal. Rather, include it as a guideline.

Discussion of Proposed Goal 14 Revisions

Discussion of Division 004 and 026 Revisions

Bob Rindy: These are Mark Greenfield's suggested amendments (Exhibit D). Starting on page 2 this talks about how to take an exception if there is need for land due to location reasons, such as for Canby. We need to delete language on Page 2, line 39, unless there is some other reason to leave this language in Goal 14. One example, the City of Canby could take land into the boundary and then take exception to Goal 14.

Mary Kyle McCurdy: This is not simple language and both amendments are trying to change significant issues. I disagreed with the Canby case and I feel this work group needs to wait and talk about this subject when we have a longer time for discussion. This is a departure from the current commission practice, although this was a practice in drawing the initial urban growth boundaries. I feel that overall this is a much larger issue and we should wait and work on this amendment at another meeting.

Bob Rindy: The Canby case is in statute and local government can take an exception to any rule, so what is wrong with specifying that you can take an exception to Goal 14? .

Mary Kyle McCurdy: Not sure where the proposed language gets you at this point, but perhaps it is kind of harmless.

Peggy Lynch: Unless the local government chooses to seek change to Section 004 and makes an exception to consistency.

Al Burns: You can't take an exception to the needs analysis in Goal 14.

Brent Curtis: I agree. But the rest of these proposed amendments could be reviewed at another meeting. I believe the work group needs to wait for another time to go through these last few revisions.

Meeting concluded at 4:30

Respectfully submitted,

Lorinda De Haan

Exhibits:

A – Goal 14 UGB Work Group Agenda for January 6, 2005 (one page)

B – Summary of December 16, 2004 UGB Rulemaking Work Group Minutes (4 pages)

C – Goal 14 Proposed Amendments Revisions, dated December 20, 2004 (4 pages)

D – OAR 6600, Division 004 Proposed Administrative Rule Amendments, dated October 20, 2004 (4 pages)

E – Division 026 Proposed Administrative Rule Amendments, dated October 20, 2004 (4 pages)