

**Department of Land Conservation and Development
Urban Growth Boundary (UGB) Rulemaking Workgroup
Summary of Workgroup Meeting, April 21, 2005**

The UGB Rulemaking Workgroup met for the eleventh time on April 21, 2005 at the Agriculture Building (DLCD) in Salem, Oregon from 1:30-3:45p.m. Attendance was as follows:

UGB Workgroup members attending:

Marilyn Worrix, Chair	LCDC
David Glennie	Commercial Realtors
Jim Huber	City of Grants Pass
Art Schlack	Association of Oregon Counties
Damian Syrnyk	City of Bend
Greg Winterowd	Winterbrook Planning
Pat Zimmerman	CIAC
Richard Bjelland	Oregon Housing and Community Services
Anna L. Russo	Oregon Department of Transportation

Workgroup members not attending: Dick Benner (Metro); Glen Bolen (Fregonese Calthorpe Associates); Jon Chandler (OHBA); Chris Crean (OAPA); Brent Curtis (Washington County); Harlan Levy (Assn. Of Oregon Realtors); Mary Kyle McCurdy (1000 Friends of Oregon); Terry Moore (ECO Northwest); Don Schellenberg (OFBF); Dick Sheehy (CH2M); Bob Stacey (1000 Friends of Oregon); Burton Weast (SDA of Oregon); Kimberly Grigsby (OECDD); and James W. Johnson (ODA)

DLCD Staff attending: Bob Rindy, Jim Hinman, Gloria Gardiner, Steven Santos, and Jan DeVito

Guests:

John Boyd	Douglas County
Barton Brierly	City of Newberg
Linda Ludwig	League of Oregon Cities
Peggy Lynch	Private Citizen
Lester Sasaki	Marion County

Agenda Item #1: Opening remarks and informational materials

Workgroup Chair Worrix convened the meeting and there were self-introductions of those present. David Glennie was introduced as a new Workgroup member and Jan DeVito introduced as a new DLCD staff member assisting with the workgroup.

Information Exhibits provided to those in attendance were as follows:

- A. Goal 14 UGB Workgroup Agenda for April 21, 2005
- B. Summary of February 17, 2005 UGB Rulemaking Workgroup meeting notes

- C. DLCD Staff Report of 4/14/05 for Agenda Item 6, April 28, 2005 LCDC Meeting
- D. Goal 14 Purpose Memorandum of 4/11/05 for Meeting of 4/21/05 by Rindy and Hinman of DLCD
- E. Oregon City Planning Directors Association Handout of 4/20/05 by Brierly
- F. Examples of Safe Harbors by Rindy
- G. Revised Draft of 10/11/04 – Proposed OAR 660, Division 024, Urban Growth Boundaries
- H. 4/14/05 Proposed Amendments to Statewide Planning Goal 14 – Urbanization

Agenda Item #2 – Approve Summary of Last Meeting

The meeting summary notes of February 17, 2005 were approved as written (Exhibit B.)

Agenda Item #3: Re-cap of LCDC March 17 work session

Bob Rindy summarized the Land Conservation and Development Commission (LCDC) work session of March 17, 2005. The term ‘livability’ was a major point of discussion by the commission, and at LCDC’s upcoming April 28 meeting, additional discussion is anticipated concerning ‘livability,’ both as a ‘need’ factor and as a proposed ‘location’ factor. At the conclusion of the March 17 work session, LCDC signaled it intends to go forward and consider adoption of the proposed Goal 14 amendments at its April 28 meeting. Adoption of the proposed Goal 14 amendments and related rule amendments is an agenda item for the upcoming LCDC meeting of April 28, 2005 (Exhibit C).

Chair Worrix also indicated that LCDC requested the Workgroup to consider the topic of ‘safe harbors’ in order to provide a recommended rule that includes safe harbors for the commission’s consideration. But LCDC also directed that the workgroup should not schedule another meeting until the end of the current legislative session, due to the current legislative activities occupying a number of workgroup members.

Marilyn Worrix summarized the prior discussions by LCDC and the Workgroup concerning ‘livability’ as a need or location factor. She summarized some of the reasons why she favors retaining livability as a need factor. One reason is that one of the initial principles to the Workgroup from LCDC was to simplify the UGB process for cities without making major policy changes – removing ‘livability’ is perceived by some parties as a major change to the current interpretation of the goal.

Discussion followed concerning adverse consequences from possible misinterpretation of ‘livability’ in order to expand UGBs. Some examples were cited. Greg Winterowd reported that from time to time local governments have considered adding land to a UGB in order to provide low-density “high-end” subdivisions as a “livability need.” In discussion, staff indicated had this occurred, it would probably have been challenged as an invalid interpretation of the term. Jim Hinman indicated that the housing needs in North Plains were justified more as a livability ‘need’ rather than a location factor, although clearly the “need” in that case had locational aspects.

Additional discussion by the workgroup concerned: public input that has been received indicating livability should be retained as a way to add flexibility to the goal; whether 'livability' as a need factor may result in opportunities to circumvent housing or farm protection goals, and whether the Workgroup still has the opportunity to define 'livability' when it proposes UGB rules later this year. The question was posed of whether additional checks and balances regarding this term are needed in the rule.

Peggy Lynch noted that the scope of public comment was narrow during the ten public statewide hearings held early in the rulemaking process. Since the Workgroup has now defined specific questions and issues, she is disappointed that more broad and substantive public input is not possible.

Discussion following included: 'livability' as a characteristic of need; possible litigation challenges if 'livability' is added as a location factor; whether Measure 37 claims can be considered with regard to the amended Goal 14 factors; whether the term 'efficient urban form' could stand on its own as a location factors if 'livability' is removed. The workgroup also discussed the possibility of pending legislation requiring additional work on the goal after LCDC concludes its deliberation.

Additional points of discussion included: the need to make sure any revised need or location factors provide clear direction to local; consideration of natural boundaries if the term 'urban form' is retained as a location factor; and the warning that LCDC will be cautious about considering any suggestions for additional changes to the goal that have not received public input. Jim Hinman of DLCD staff clarified that he is not aware of historical instances of local governments actually adopting UGB amendments based on what he would consider a major misinterpretation of the term 'livability.' Discussion of this topic concluded at 2:20 p.m.

Agenda Item #4: Work program to complete the UGB Rules

A. Safe Harbors

Worrrix summarized the work previously done regarding the topic of Safe Harbors, which included a report from Metro, considerable public input, and a letter of 4/20/05 from Oregon City Planning Directors Association.

Rindy: Reported that Terry Moore suggested that some work by a small subcommittee might be a good way to move the safe harbor work forward during the time hiatus between now and the end of legislative session. Rindy indicated the Workgroup should discuss this as part of today's agenda (see Agenda Item 4B discussion, below).

Rindy: Asked whether workgroup members believe there are any other major issues in the draft UGB rule besides safe harbors, such as population, urban reserves, land exchanges, that should be flagged for special discussion when the Workgroup resumes following the close of legislative session. There was some discussion of each of these but it was not decided that a special discussion should be scheduled.

Barton Brierly (President of Oregon City Planning Directors Association): introduced a letter from the City Planning Directors Association (Exhibit E.), which included comments and recommendations in response to the Metro Safe Harbor Study. He offered to participate in a Safe Harbor subcommittee.

Jim Hinman: Replied that some of these issues also addressed by DLCD staff, referred to the DLCD staff report of 4/11/05, beginning page four, which analyzes Safe Harbors issues (Exhibit D)

B. Safe Harbor Subcommittee

Discussion continued regarding the idea of (re)appointing a subcommittee for safe harbors. The workgroup discussed the scope of work of a potential Safe Harbors subcommittee and how to make sure safe harbors help small communities. Bob Rindy asked whether a small research contract might be needed to pursue any additional issues raised by the Metro research. It was noted that there are currently no DLCD funds available this biennium to fund additional research, but a safe harbor subcommittee could develop potential research questions.

It was suggested that if there is a small subcommittee, it should consider outreach by phone and e-mail to capture any additional ideas for Safe Harbors. .

Action item – Based on discussion and volunteers, the Chair appointed members of the Safe Harbors subcommittee, as follows: Greg Winterowd (Subcommittee Chair), Terry Moore, and Barton Brierly. Marilyn Worrix indicated she would also attend the subcommittee meetings, and DLCD staff would participate, especially Jim Hinman. The purpose of the subcommittee is to organize the current recommendations and research, address technical issues, and provide a consolidated recommendation in order to assist the Workgroup in reaching a consensus on safe harbors. The subcommittee may contact other outside the Workgroup for expertise on specific questions.

C. Other rule amendment issues:

Rindy: commented on the existing urban reserve rule and the long-term goal of revising the urban reserve rule such that more jurisdictions would be interested in this approach.

Barton Brierly, President of Oregon City Planning Directors Association, reported that there has been extensive discussion by the Association about an easier way to bring urban reserve land into urban growth boundaries without having to prepare two sets of findings. This suggestion had been previously suggested to LCDC, but no action has been taken on it. DLCD Staff indicated that it is likely considerable time and effort will be needed to address this issue, since it is a major departure from the current policy, and was a major topic of discussion at the time the urban reserve rule was adopted. However, if this should be addressed, it has been suggested that further discussion be initiated in fall of 2005 rather than as part of the current workgroup. Art Schlack: suggested that since the Workgroup is temporarily suspending meetings until after the legislation session and there are implications of pending Measure 37 legislation that may affect urban reserve

development and the future interests of property owners, the Workgroup should not make any decisions at this time concerning urban reserves.

Action item – There was group consensus to keep the issue of urban reserves “on the table” but not on the immediate work program.

D. Workgroup Meeting Schedule

The workgroup agreed that the next meeting of the Workgroup should be *tentatively* scheduled for Thursday, July 21, 2005 from 1:30-4:30p.m. This date is intended to occur after the conclusion of legislative session, but at this point we cannot know for sure. Meeting confirmation and details will be forthcoming. One of the agenda items will be a report from the Safe Harbor subcommittee. DLCDC staff indicated that, depending on the progress of the safe harbor subcommittee; we might anticipate the need for approximately four additional workgroup meetings in 2005.

E. Workgroup Review Requested on Draft Rule

Bob Rindy indicated that he will e-mail a “homework assignment” to workgroup members: the members should review the October 11, 2004 draft version of Proposed new Division 024 (Exhibit G.), and send in specific comments, concerns and ideas regarding wording, structure or other issues prior to the July meeting.

The meeting was adjourned at 3:45 p.m.

Respectfully submitted by Jan DeVito, DLCDC