

**Department of Land Conservation and Development
Urban Growth Boundary (UGB) Rulemaking
Summary of May 22, 2006, Workgroup Meeting**

The UGB Rulemaking Workgroup met for the fifteenth time on May 22, 2006, at the Agriculture Building (DLCD) in Salem, Oregon, from 9:30a.m. to 12:30p.m. Attendance was as follows:

UGB Workgroup members attending:

Marilyn Worrix, Chair (LCDC); Dick Benner (Metro); Barton Brierly (City of Newberg); Steve Bryant (League of Oregon Cities); Brent Curtis (Washington County); Mary Kyle McCurdy (1000 Friends of Oregon); Kelly Ross (Special Districts Assn. of Oregon); Damian Syrnok (City of Bend); and Greg Winterowd (Winterbrook Planning).

State Agency Representatives attending: Jerri Bohard and Lisa Nell (Department of Transportation); Richard Bjelland (Dept of Housing and Community Services); and Paul Grove (OECCD). Not attending: Jim Johnson (Dept of Agriculture).

Guests attending: Linda Ludwig, League of Oregon Cities.

DLCD Staff attending: Bob Rindy, Gloria Gardiner, Bob Cortright, Larry Ksionzyk, Steven Santos, Tom Hogue, and Jan DeVito.

Workgroup members not attending: Glen Bolen (Fregonese Calthorpe Associates); Jon Chandler (OHBA); Chris Crean (OAPA); David Glennie (Commercial Realtors); Jim Huber (City of Grants Pass); Harlan Levy (Association of Oregon Realtors); Terry Moore (ECO Northwest); Don Schellenberg (Oregon Farm Bureau Federation); Art Schlack (Association of Oregon Counties); and Pat Zimmerman (CIAC).

Agenda Item #1 – Opening Remarks

Workgroup Chair Marilyn Worrix convened the meeting at 9:40a.m.

The following documents were distributed to the workgroup:

- UGB Workgroup draft meeting notes of May 2, 2006;
- Correction to meeting notes of May 2, 2006 (e-mail by Lisa Nell 5/19/06);
- Proposed Safe Harbor Rule drafted by DLCD, dated May 18, 2006;
- Survey of Coordinated Population Forecast (e-mail by Bob Rindy 5/19/06);
- Safe Harbor Employment Forecasts (e-mail and table by Terry Moore 5/19/06);
- Employment Safe Harbor Memorandum (from Greg Winterowd 5/21/06);
- Proposed language change for UGB 660-024-0070 (2) (e-mail by Kelly Ross); and
- Suggestions for UGB rules draft 2 (e-mail by Tom Hogue 5/19/06).

Draft summary of meeting of May 2, 2006 - By e-mail, Lisa Nell of ODOT requested that her statement be added to the summary indicating she thought the workgroup schedule for having the draft language ready for public review by the June 29 hearing date was too aggressive.

Discussion of schedule for the UGB rule adoption – Chair Worrix stated that the first of at least two public hearings on the draft UGB rules will occur at the LCDC meeting of June 29 in Pendleton. She listed sections of the rule that would be priorities for the workgroup discussion:

1. Application of TPR to UGB amendment (660-024-0020 (1) (d) and 660-024-0060 (6));
2. Population Forecasts 660-024-0030 (4);
3. Land Need 660-024-040 (2) and (5);
4. Land Inventory 660-024-050 (3) and (4); and
5. UGB Adjustments 660-024-0070 (2).

Agenda Item #2 – Discussion

1. Does Adoption or Amendment of UGB Trigger TPR Section 0060?

Discussion about proposed rules allowing cities to defer application of detailed analysis under the TPR provided they do not zone the land for full urban development at the time of UGB amendment. (This issue involved two widely separated sections of the rule: (660-024-0020(1)(d) and 660-024-0060 (6)), and the discussion jumped back and forth between the related issues in those two sections.)

Benner – With respect to proposed new wording regarding assessment of transportation costs (OAR 660-024-0060(6)), feasibility of service is easier for Metro to determine than cost assessments. Costs could be difficult, especially with the large acreages that Metro considers. The proposed 0060 (6) requires Metro to do more than it has in the past by requiring cost estimates for different locations in detail under 0060 (6)(b). Ludwig – (jumping to 660-024-0020 (1) (d)(ii), the process and concept of waiving TPR analysis simply because of an ODOT waiver letter is of concern. Bohard – of three previous requests to ODOT for waiver letters with regard to recent UGB amendments, two have been granted and the status of third request is unknown. Need to clarify that proposed 0060(6) applies to all UGB amendments, but a small sub-set of cities might be excused from TPR under 0020(1)(d)(ii) as a safe harbor. Curtis – Who provides the analysis to support the letter? Answer: ODOT, local governments.

Chair Worrix – there was prior workgroup consensus that all local govs need to do “something” to compare public facility costs for alternative locations, but small communities need help with that. Curtis – concerned that the proposed standard in 0060 emphasizes state system, ignores impact on county road systems. He is concerned that amending the UGB but deferring TPR analysis creates problems later, especially as the new urban land is developed incrementally. Having a lesser standard for cities less than 2500 is not the answer; small cities in metropolitan areas can have a big impact on transportation systems. Suggests complete consideration of all impacts at UGB amendment and County sign-off should be required. Rindy – County sign-off is always required. Curtis - The proposal is not a good idea because a series of quasi-judicial UGB amendments can have a cumulative impact. It is not too high a burden on small cities to require TPR impact analysis up-front at the time of UGB amendment. Winterowd – need a way to ensure a comprehensive review up front, but cities cannot do the full blown TPR analysis. Cortright – note that the proposal at 0020(1)(d)(i) is LCDC and LUBA interpretation and practice currently.

Bryant – Agrees with Brent Curtis that 2500 population is not a good standard for a blanket ODOT signoff under proposed subparagraph (ii), some cities of this size may be situated in or adjacent to major urban areas. Bohard – The issue for (ii) is the process for ODOT letter, which is not necessarily different by population. Ludwig – expressed concern about ODOT’s timely response to requests for authorization letters. McCurdy – how can ODOT issue letters without cities completing the re-zoning so that levels of future development can be determined? Bryant – suggests that language be broadened to make the process easier for small quasi-judicial amendments where the impacts are easily determined. Benner – ODOT is able to estimate the impact on its system without knowing the future zoning - plan designation is enough without detailed zoning. Curtis – need to include counties in proposed waiver process in (ii), impacts to county roads are of equal concern.

Decision: Based on polling the group, it was determined the next draft would included 0020(1)(d)(i), but remove (ii).

Winterowd – We should relieve small cities from having to do mini-TSPs with cost estimates for UGB amendments, but not relieve them of determining general cost comparisons. We can’t implement Goal 14 “economic” standard without looking at cost. Curtis – Metro leaves it to local governments to do the cost analysis, 0060(6) is a good start but too vague, and concept planning should occur with urban reserve planning before land is brought into the Metro UGB. Benner – Metro had no funding mechanism, so they adopted a temporary tax to cover planning costs for land just added to their UGB. Benner – the cost element appears to be a new requirement, so he will discuss the issue with Metro staff and possibly submit language to the workgroup for consideration. Winterowd – suggests using language of “planning-level cost estimates” and notes the degree to which Metro issues are being raised as examples for statewide issues.

Curtis – questioned need for 0060 (6)(c), and whether it repeats (a). Cortright gave example of North Plains and how much state highway capacity will be used for local travel needs, and most significant transportation effect of UGB amendments. Cortright – (c) is needed in order to determine the effect of urban development on state highways and interchanges. Winterowd – the burden should not be placed on local governments to assess impact on state facilities. Bryant – suggested revised text for (a): Analyze impacts on transportation systems in coordination with affected transportation providers, including ODOT.

Bryant and Winterowd – will e-mail suggested safe harbor language regarding diminimus UGB amendment that would avoid 0060 alternative lands analysis (50 acres or less, not EFU land or other resource land, would not require an ODOT impact letter – no size limitation).

Decision: (a) Insert wording suggested by Bryant - (b) No change. (c) Delete.

660-024-0060 (5)

Consensus: Per suggestion by McCurdy – For purposes of Boundary Location Factor 2, local governments **shall** assume that “public facilities and services” means sewer, water, storm drainage and transportation facilities.

660-024-0060 (7) – Brief discussion as to what should be included on the list of highways, etc that need to be examined as part of the alternatives analysis. Several members suggested that the reference to local travel on state highways brought in a much higher level of detail than appropriate for this requirement.

Decision: Move this definition in front of current section (6), and the definition should be revised to add **highways**, and to delete the reference to local travel on state highways.

2. Population Forecasts

The workgroup discussion of the proposed population forecast rules was limited to the rules indicating how cities might proceed if there is no adopted or up-to-date County forecast at the time a UGB is initiated, i.e., sections (3) and (4) of the draft rule.

Ludwig – Suggests last sentence of (4) be removed, or add an enforcement provision or mechanism, because otherwise there is no resolution if the county does not adopt a forecast. Rindy - referred to memo of 5/19/06, not aware of instances of county refusal for a city forecast request; thought we agreed that the problem was lack of a county coordinated forecasts, not with refusal to adopt a city forecast. Syrnyk – counties may not act as quickly as cities expect (a timing issue). Brierly – burden should be on counties who don't want to revise their allocated forecasts consistent with one city's new forecast. Bryant – suggests “deemed approved if no county action within 120 days” (county can reject within 120 days.) McCurdy –It is not good policy to allow incremental urban area forecasts, the county needs to coordinate all the city forecasts. Ludwig – Why not limit a county's required approval to a particular UGB amendment forecast. Rindy – that is the purpose of 0030(4). Curtis – coordinated employment forecasts are a key part of the Oregon land use program, he had assumed this particular safe harbor would be available only to cities where there are “minimal” impacts, i.e. small cities outside the major metropolitan areas. Ludwig – in (3) is county action/adoption needed, or should the word “county” be removed? McCurdy – this is a “big safe harbor” and a big issue – is county sign-off a good idea, especially when it means the ten year old forecast will be straight-lined to the future? Discussion followed about change in time frames, whether population forecasts would place cost burdens on cities, whether counties should act as “gatekeepers.”

Decision: There was no agreement as to how to resolve these concerns. A vote was taken but opinion was split – Chair Worrix suggested we stay with the draft and the time frames drafted, recognizing there is opposition, and reminded workgroup members that the language is subject to modification at or after the first public hearing.

3. Land Need 660-024-0040 (2)

Benner – Metro operates on a different schedule, need to clarify that this applies to cities not in Metro. Winterowd – if the final adoption takes less time than anticipated, does this mean a city can adopt a UGB that is more than 20 years? In discussion, it was determined that the 20-year schedule would be based on the city's estimation of the adoption date, even if the city ends up taking less time or longer. **Consensus:** No change in proposed language except to clarify inapplicability to Metro and cities in metro.

660-024-0040(5) and (6)

There was general discussion about the basis of percentage indicated in these safe harbors. Bjelland – asked whether basis is gross or net acres. In general, cities add 20% to gross acres for streets or roads. If we are converting net to gross, we would need to add 25%. Similarly, for public or semi public uses, we should add 6% rather than 5%. Winterowd: the percentage would be different depending on whether this is housing or employment land and the 5% for public land should only be for housing land.

Agenda Item #3 – Summary of work program and set future meeting:

At 12:23p.m., Chair Worrix summarized work still to be completed prior to the first public hearing for the draft rule which included:

4. Discussion of proposed rule under Land Inventory 660-024-050 (3) and (4); and
5. Discussion of UGB Adjustments 660-024-0070 (2).

The workgroup agreed to schedule their next meeting for Wednesday, May 31, 2006, from 9:30a.m. to 12:30p.m. at the Agriculture Building (DLCD) in Salem, in the Basement Hearing Room.

Chair Worrix asked workgroup members to e-mail comments and concerns to Bob Rindy if they are unable to attend the next meeting.