

## UGB Rulemaking Workgroup Meeting Summary

The UGB workgroup met for the first time on July 8<sup>th</sup> at the Local Government Center. The following workgroup members were in attendance: Marilyn Worrix, LCDC (Workgroup Chair); Damian Syrnyk, City of Bend; Jim Huber, City of Grants Pass; Anita Yap, City of Coburg; Brent Curtis, Washington County; Dick Benner, Metro; Burton Weast, SDAO; Chris Crean, OAPA; Don Schellenberg, OFBF; Bob Stacey, 1000 Friends of Oregon; Jon Chandler, OHBA; Terry Moore, ECO Northwest; Glen Bolen, Fregonese Calthorpe Associates; Dick Sheehy, CH2M; Harlan Levy, Oregon Realtors; Pat Zimmerman, CIAC; Richard Bjelland, OHCD; Craig Greenleaf, ODOT; Jim Johnson, ODA; Phil Johnson, OECDD; Bob Rindy, DLCD; Jim Hinman, DLCD.

Others in Attendance: Jan Lee, Mike Jaffe, James Sinks (Bend Bulletin), Nate Brown (City of Keizer), Larry Ksionzyk (DLCD).

The meeting began with introductory remarks by the chair and members of the workgroup. The chair indicated that this workgroup process is based on consensus, the workgroup will not vote on a recommendation. We will make a great effort to achieve consensus, but to the extent that consensus cannot be achieved, the proposal by the group will include options to reflect divergent opinions. Also, each member of the workgroup is free to provide individual comments to LCDC when the commission considers the draft rule. As part of the introduction, the department provided additional background documents, including a list of available documents that may be pertinent to the workgroup discussion.

The workgroup discussed the current timeline for the project. The department indicated it is suggesting that LCDC hold an initial public hearing on proposed rules at its September 30-October 1 meeting. It is also suggested that the commission hold a work session (i.e., a meeting without public testimony) to further discuss the rules at its November 4-5 meeting, and hold a final public hearing and adopt the rules at its December 9-10, 2004 meeting. Based on this schedule, the committee agreed to four future meeting dates, all on Thursdays from 1:00 to 5:00, as follows: July 29<sup>th</sup>, August 19<sup>th</sup>, September 2<sup>nd</sup>, September 23<sup>rd</sup>.<sup>1</sup> Our meetings on August 19<sup>th</sup> and September 2<sup>nd</sup> will be in room 113 of the Local Government Center. The July 29<sup>th</sup> meeting will be in the basement hearing room of the Agriculture Building in Salem. We have not yet established a location for the September 23<sup>rd</sup> meeting. The department would entertain suggestions for a different location on July 29<sup>th</sup>, since there is no free parking available at the Agriculture Building.

Staff noted that LCDC had directed the workgroup to begin with the draft Goal 14

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<sup>1</sup> In order to advertise rules in time for the commission meeting on September 30-October 1, the department would need to mail the draft rule to interested parties no later than September 10<sup>th</sup>. As such, the workgroup might want to reconsider whether we should hold a meeting on September 23<sup>rd</sup>, since that would be after the draft rule is mailed. We might instead establish a meeting time that is subsequent to the September 30-October 1 meeting, in order to consider any direction given by the commission in response to public testimony.

amendments and draft rule created by the working group in 1999-2000. However, the commission also agreed that the so-called “urban design” elements of those previous working group products should not be part of the draft rule this time. This generated a discussion about those elements, and Bob Stacey indicated a major concern related to this. In summary, he is concerned that the workgroup may recommend elimination of certain key elements of the current Goal 14 process, especially the exceptions and related requirements regarding economic and environmental consequences of a UGB amendment. He would oppose eliminating those elements if the revised rule does not in turn provide equal or better provisions relating to consequences, alternatives, efficiency, etc. As such, he and others would be concerned about beginning this work with the presumption that the workgroup is not going to discuss things such as urban form if that means we would in effect eliminate key elements of the current process.

The department responded that we have not by any means agreed to eliminate the “consequences analysis” or other requirements in the current UGB process. With regard to exceptions, it has been our intent to restate the pertinent substance of the exceptions process in a more direct way, but not to eliminate the substance. We also agreed that we should flag this issue as a major point to return to as the goal and rule drafting discussion proceeds. The chair responded that the workgroup should continually pay attention to the process as a whole when we are working on individual elements of the process.

Jim Hinman then provided a review of the current UGB amendment process, using a power point presentation. Some points were raised in the course of that presentation suggesting additional discussion, especially the meaning of the term “livability land needs.” There was a request for staff to distribute applicable information about the LCDC decision regarding the City of North Plains UGB.

The workgroup then discussed whether to have a general discussion of issues or to begin by working through the proposed amendments to Goal 14 that had been drafted by the 1999-2000 workgroup. Staff indicated the proposed amendments had a fairly broad consensus at that time, and had been the subject of ten hearings around the state, as required by law. It is likely we would make additional changes to this, and therefore the ten hearings would need to occur again. Preliminary discussion raised a couple of points. First, it was requested that the department send the group pertinent elements of OAR 660. Division 004, regarding exceptions. We also mentioned LCDC’s direction as to whether the workgroup should spend time discussing potential changes to the 20-year basis of a UGB (LCDC directed the group to stay with a 20-year horizon, rather than debate that concept).

As the workgroup proceeded line-by-line through the proposed amendments to Goal 14, there appeared to be agreement on many elements. However, the group agreed to “flag” several issues in need of further discussion. These issues included the following:

1. The opening language of the goal indicates cities are to “accommodate urban population and employment growth inside urban growth boundaries.” Chris Crean suggested that it is not clear whether the word “urban” modifies both “population”

- and “employment growth” in this sentence. Pat Zimmerman suggested that the opening line of the goal ought to mention that UGBs are also intended to protect farm land and forest or resource land. This led to additional discussion about the intent of UGBs, and the suggestion that they are primarily intended to accommodate urban development, rather than to protect resource land or, as some have suggested, to limit growth. There was agreement that additional discussion is needed on this issue.
2. There was discussion about the term “coordinated” with regard to UGB adoption by both a city and county, and questions about the consequence of “inaction” on the part of an affected city or county with respect to a proposed UGB amendment. Brent Curtis asked whether LCDC should be empowered to make a decision in that instance. Burton Weast talked about the need for coordination among all agencies while creating or amending a UGB (perhaps the need for different or additional wording in the draft on this point?).
  3. It was noted that the terms “livability” and “efficiency” are not defined, especially when used in the context of “land need” inside a UGB. The term “livability” has been interpreted to include parks and open space, but other interpretations are possible. Several members of the group weighed in on this discussion, indicating that these concepts are an important part of UGBs, and it was agreed we should discuss this further.
  4. A question was raised as to why the term “urban” was removed from the proposed goal, on page 1, line 29. Staff could not recall the reason for this, but agreed we would revisit this question.
  5. There was some discussion about the sentence on page 1, lines 39 through 43, the proposed boundary location criterion that references statutes pertaining to the farm and forest soils hierarchy. Dick Benner questioned whether the Goal needs to refer to that statute, and suggested that we could eliminate the sentence.
  6. There was some concern with the previous workgroup’s proposal to eliminate the “ESEE” factor (Factor 5). Bob Stacey indicated that continued attention to “consequences” from a UGB amendment, and “balancing” is very important; Jon Chandler noted that the vagueness of this requirement has created “legal mischief.” Dick Benner suggested this point might be better handled in the rule.
  7. Craig Greenleaf indicated that the proposed goal language on page 2, lines 2 and 3, indicating that boundary location is to be “based on the following factors” does not clearly indicate that “factors” are to be balanced.
  8. Concern was raised regarding the meaning of the term “efficient” in the proposed Factor 3, page 1, line 33. It was noted that the department had suggested a different wording in its staff report from June 2000: *“Prior to expanding an urban growth boundary, local governments shall determine whether land needs*

*can be accommodated on land already inside the UGB, and shall adopt measures promoting the efficient use of land within the existing boundary.*” Several members of the workgroup indicated a preference for this language. The group agreed we need more discussion on the topic if the term “efficient” is retained in the goal.

9. The group discussed the idea of “urbanizable” vs. “urban” land, under Part 2 of the goal (page 2, beginning with line 30). The department stated that it is difficult to write a definition that clearly distinguishes between these two types of land in a UGB. There was support for the notion that undeveloped land in a UGB that is not yet serviced needs to be protected from interim development that would hinder the provision of efficient streets and other services. There was also support for the second “urbanizable” standard requiring a timely process to extend services within a UGB. However, it was suggested that the term “urbanizable land” is a fossil from the early days of the program prior to the establishment of UGB’s, and that perhaps we no longer need to keep this term. (However, in a later discussion Brent Curtis indicated that he would prefer to keep the current Goal 14 definitions of these terms, even if we move them to the rule).
10. Craig Greenleaf noticed that “redevelopment” does not appear in the goal. He indicated ODOT has found redevelopment issues to be difficult in the context of UGB amendment.
11. Craig Greenleaf raised the question as to how we should deal with the fact that the 20-year horizon for UGBs is much shorter than the 50-year or longer planning horizon used for transportation and sewer facilities.
12. Harlan Levy raised the issue of Goal 14 requirements for rural lands, derived from the notion that urban uses must be allowed inside UGBs, and rural uses outside. Bob Rindy indicated that this issue would be addressed separately, by a different workgroup.
13. Nate Brown, from the audience, suggested that the group should discuss rules for changing joint boundaries, e.g., the Salem/Keizer or Eugene/Springfield UGBs. It was asked whether the commission’s subregional rule applies to these jurisdictions (it does not).

The meeting adjourned at 5:00. It was agreed that at our next meeting we would begin working on the draft rule developed by the 1999-2000 working group. Chair Worrix suggested that the workgroup members read through that draft and begin thinking about it in preparation for the next meeting.