



Oregon

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TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director
Steven Oulman, AICP, Mid-Willamette Valley Regional Representative

SUBJECT: **Agenda Item 15, June 4-5, 2009 LCDC Meeting**
Background on Urban Reserves/Urban Growth Boundaries

The Newberg appeal is the first instance in recent memory that the commission has reviewed a local government decision on urban reserves.

Attached is a brief explanation of urban reserves and the urban reserve rule. The department will brief the commission about urban reserves in advance of the appeal hearing.

Also attached is a brief summary of potential statewide urban reserve and urban growth boundary actions that may be submitted to the department or commission for review.

If you have questions about the materials please contact Steve Oulman, Regional Representative, at (503) 373-0050 ext. 259 or steve.oulman@state.or.us.

Urban Reserves OAR chapter 660 division 21

Background

Urban Reserves are a relatively late addition to the Oregon Land Use Program. The planning tool was created in 1992 through LCDC rules, several years after the state's initial acknowledgement of all land use plans and urban growth boundaries (UGBs) under the statewide planning goals. Today, designation of urban reserves is optional for local governments.

An urban reserve is land outside of – but contiguous to – an existing urban growth boundary. It is land specifically designated for future urbanization resulting from expansion of a UGB. Administrative rules specify that urban reserves must include an amount of land estimated to be at least a 10-year supply and no more than a 30-year supply of developable land beyond the 20-year time frame used to establish the urban growth boundary. By adopting an urban reserve, local governments may plan for up to a 50-year supply of land.

Land in an urban reserve must remain planned and zoned as “rural land” under farm, forest or other rural zoning until such time as it is formally amended into the UGB. The designation of urban reserves does not change the rules for UGB expansion except on one vital point: statute and rule make designated urban reserve land the highest priority for inclusion in a UGB when the boundary is expanded.

LCDC authorized local governments to plan for urban reserves for several reasons. First, cities expressed a wish to plan for a longer-term horizon than the 20-year period provided inside a UGB, in part because many public facilities and transportation facilities should be designed and built to last significantly longer than 20 years. Second, local governments can use urban reserves as a tool to prevent further parcelization of residential “exception areas” adjacent to many UGBs; these exception areas often impede efficient urbanization. Finally, designation of urban reserves streamlines UGB expansion, since it identifies areas that must be first priority for UGB expansion in the future, saving time and money for local governments performing the “location” analysis required for UGB expansion.

The original urban reserve rules required some cities to adopt reserves because of a substantial amount of exception areas surrounding those UGBs. The department and LCDC were concerned that these exception areas would likely parcelize further, impeding future urban development, and that residents would generally oppose inclusion in UGBs. To address this, rules made these areas “first priority” for UR inclusion, imposed restrictions on further parcelization, and required cities with substantial exception areas nearby to adopt URs. However, the 1995 Legislature enacted urban reserve provisions in statute (ORS 195.145), eliminating a number of jurisdictions from

the list of cities required to undertake urban reserve planning. Legislation that session also placed LCDC's UR hierarchy in statute as criteria for designating urban reserves and for selecting land for inclusion in a UGB expansion.

Very few local governments have designated urban reserves. Newberg and Sandy originally were required by rule to undertake urban reserve planning and did so in the mid-1990's.¹ Metro designated urban reserves in 1997, but the action was down on appeal. Redmond, Ontario and Pendleton recently designated reserves and other cities are underway with urban reserve planning, including the Rogue Valley RPS jurisdictions.

How the rules work

OAR 660-021-0030(1) requires that urban reserve areas include an amount of land estimated to be at least a 10-year supply and no more than a 30-year supply of developable land beyond the 20-year time frame used to establish the urban growth boundary. The urban reserve rule defines developable land as land that is not severely constrained by natural hazards, nor designated or zoned to protect natural resources, and is either entirely vacant or has a portion of its area unoccupied by structures or roads.

Once the local government has identified the planning period and the amount of additional developable land needed for urban uses, the local government must then identify lands adjacent to or nearby the UGB that are suitable for inclusion in urban reserves.

The urban reserve rule defines nearby land to mean land that lies at least wholly or partially within a quarter of a mile of an urban growth boundary. Thus, from the pool of lands adjacent to and nearby the UGB, the local government must study and identify those lands that are suitable for inclusion in urban reserves, based on the locational factors of Goal 14 and the priorities for designating land urban reserve.

From the inventory of adjacent lands suitable for inclusion in urban reserves, the local government may include land within an urban reserve area, but only according to a set of three priorities.² The local government must first attempt to meet the estimated demand

¹ Some cities (Bend, Eugene, Salem-Keizer) designated "priority expansion areas beyond the UGB" prior to LCDC's urban reserve rules, but these areas are not "acknowledged" as urban reserves, even though they may function as such, and may not be valid since they probably violate the ORS 197.298 hierarchy.

²(3) Land found suitable for an urban reserve may be included within an urban reserve only according to the following priorities:

(a) First priority goes to land adjacent to, or nearby, an urban growth boundary and identified in an acknowledged comprehensive plan as an exception area or nonresource land. First priority may include resource land that is completely surrounded by exception areas unless these are high value crop areas as defined in Goal 8 or prime or unique agricultural lands as defined by the United States Department of Agriculture;

from exception areas or nonresource lands.³ Only if the amount of suitable first priority land is inadequate to meet the estimated demand may the local government include second priority lands – those designated as "marginal" lands. If first and second priority lands are together inadequate to meet the estimated demand, lowest priority resource lands may be included, with higher priority being given to land of lower capability as measured by either the soil capability classification system (agricultural lands) or cubic foot site class (forest lands).

OAR 660-021-0030(4) sets out two circumstances in which the local government may alter the priority scheme and substitute lower priority land for higher priority land.⁴ The local government must find that higher priority land identified in is inadequate to accommodate the land need for one or more of two reasons. The first reason is that urban services cannot be reasonably provided to the higher priority area due to topographical or other physical constraints. The second reason is that "maximum efficiency" of land uses within a proposed urban reserve area requires inclusion of lower priority land in order to include or provide services to higher priority lands.

(b) If land of higher priority is inadequate to accommodate the amount of land estimated in section (1) of this rule, second priority goes to land designated as marginal land pursuant to former ORS 197.247 (1991 edition);

(c) If land of higher priority is inadequate to accommodate the amount of land estimated in section (1) of this rule, third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

³The urban reserve rule defines "exception areas" as "rural lands for which an exception to Statewide Planning Goals 3 and 4 * * * has been acknowledged." OAR 660-021-0010(4). "Nonresource areas" are defined in this context as lands not subject to Goals 3 or 4, while "resource areas" are conversely defined as lands subject to those goals. OAR 660-021-0010(2) and (3).

⁴ (4) Land of lower priority under section (3) of this rule may be included if land of higher priority is found to be inadequate to accommodate the amount of land estimated in section (1) of this rule for one or more of the following reasons:

- "(a) Future urban services could not reasonably be provided to the higher priority area due to topographical or other physical constraints; or
- "(b) Maximum efficiency of land uses within a proposed urban reserve area requires inclusion of lower priority lands in order to include or to provide services to higher priority lands."

Regional representatives recently have compiled a list of potential jurisdictions that are contemplating an urban reserve or urban growth boundary amendment. The following list includes cities that would be required by ORS 197.626 to submit proposals to the department/commission for review in the manner of periodic review.

Portland Metro

Independence, Salem-Keizer, Woodburn, McMinnville

Pendleton, Baker City, Ontario, La Grande, Heppner

Molalla, Estacada, Canby, Sandy

Springfield, Cottage Grove, Junction City, Coburg

Bend, Madras, The Dalles, Klamath Falls

Seaside

Roseburg, Myrtle Creek, Grants Pass, Central Point, Eagle Point, Medford

Coos Bay

Vernonia, Scappoose, Hood River, St. Helens