

October 20, 2008

To: UGB Phase 2 Workgroup

FROM: Bob Rindy

RE: Ideas for Residential Safe Harbors

In this memo I propose safe harbors for workgroup discussion. The safe harbor methodology tracks with our previous discussion, although I have tried to describe it in more detail. The “numbers” I have proposed for the safe harbors are less clear. I have tried to reflect Becky Steckler’s UGB survey where applicable, but the survey did not find as much correlation on these numbers as we hoped, especially for some of the options.

I propose two safe harbors: for housing density and for housing mix. Based on our discussion at the last meeting, I have proposed some “options” for each of these. Some options provide a fixed number, and the other options represent an incremental increase over “current” conditions for each UGB. We could select one or the other option, or submit both to LCDC. However, I note that the “incremental” safe harbors do not have research to back them up, because Becky Steckler’s study did not look into such incremental increases. The density safe harbors are a bit complex, in that they include several “moving parts”, primarily based on the “model” used in LCDC’s “Metro Housing Rule” (OAR 660, division 7).

In all cases, keeping with the principles we adopted in the Phase 1 workgroup, I have tried to make these safe harbors “conservative”<sup>1</sup> so that they would tend to “push” densities or housing mix to achieve more compact and affordable communities if the community chooses to use the safe harbors.

## **I. HOUSING DENSITY SAFE HARBORS**

For discussion at October 21, 2009, UGB workgroup meeting

**Option 1:** This safe harbor would provide a fixed density that local governments may use in considering UGB amendments. Although we use the word “foxed”, this would vary for UGBs of various populations. The safe harbor would help local governments estimate overall residential land needs. This safe harbor would propose a “density” – units per net acre – which cities may assume as the projected average residential density for the entire city (at build out) over the 20-year planning period. Or in other words, this safe harbor

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<sup>1</sup> When UGB safe harbors were proposed in “phase 1”, that workgroup agreed they should be “conservative, by which we meant, according to at least one document produced at the time, that “safe harbors should err on the side of resource land conservation and housing affordability. They should not be used to justify UGB expansions that probably could not otherwise be justified.”

provides a density local governments may use as part of their “methodology” to estimate the overall residential land need, once the city has settled on a 20-year population, household size, current buildable land in the UGB, and housing mix. We suggest that this safe harbor would be more “conservative” if we require it to be linked to the housing mix safe harbor discussed later in this memo.

For each population range (four ranges are proposed) the safe harbor density assumption is paired with two other density “assumptions”. The first additional assumption we describe as a “density opportunity”; by accepting the safe harbor the city must ALLOW (through clear and objective zoning) the opportunity for a higher average density than the average provided in the safe harbor itself. Thus, for each population category, we have provided a second “number” that represents an overall average density that must be ALLOWED, over and above the “projected” density that the city would assume for housing land need purposes. Second, we propose that the city establish a MINIMUM density, i.e., if the city uses the average density safe harbor, it cannot allow development that is lower than the minimum density we provide – this minimum would also vary with population category. We should discuss whether setting a “minimum average density” would necessarily prevent cities from authorizing very low density residential in certain areas, or whether it only works as an average. If the workgroup wishes to instead set absolute minimum density standards for single family or multi-family uses, this is also possible. DLCDC suggests we also look at Metro’s provision for minimum density, which is based on a percentage of assumed overall density for each city.

The chart below describes the densities DLCDC proposes for this safe harbor; again, these proposals are for discussion purposes only:

**Fixed Density Safe Harbors**

<b>Projected 20-year Pop</b>	<b>Min Avg</b>	<b>Proj avg</b>	<b>Opportunity avg</b>
<2500	3	4	6
2,500-10,000	4	6	8
10,000-25,000	5	7	9
25,000-100,000	6	8	10

Finally, the department proposes the following “wording” for the rule to implement this safe harbor. (Again, this is simply a starting point for discussion; we anticipate this wording will need to be “word-smithed” to represent the concept we describe above):

**OAR 660-024-0040**

**Land Need**

....

- (7) The following safe harbors may be applied in determining housing needs:
  - (a) Local governments may estimate persons per household for the 20-year planning period using the persons per household for the urban area indicated in the most current data for the urban area published by the U.S. Census Bureau.

(b) If a local government does not regulate government-assisted housing differently than other housing types, it is not required to estimate the need for government-assisted housing as a separate housing type.

(c) If a local government allows manufactured homes on individual lots as a permitted use in all residential zones that allow 10 or fewer dwelling units per net buildable acre, it is not necessary to provide an estimate of the need for manufactured dwellings on individual lots.

(d) If a local government allows manufactured dwelling parks required by ORS 197.475 to 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a separate estimate of the need for manufactured dwelling parks is not required.

**(e) Local governments may estimate the average overall housing density of the urban area throughout the 20-year planning period, as follows, provided the local government also allows the opportunity for the higher overall average housing density specified in the applicable subparagraph (A) through (D) below, under clear and objective standards as defined in ORS 197.307, and provided the local government also establishes a minimum overall average housing density specified in the applicable subparagraph (A) through (D) below:**

**(A) Local governments with a forecast 20-year population of 2,500 or less for the 20-year urban area, determined in accordance with OAR 660-024-0030, may assume the average density of the urban area will be 4 dwelling units per net acre provided the local government also allows for an average density of per net acre and establishes a minimum average density of – units per net acre;**

**(B) Cities with a forecast 20-year population greater than 2,500 but less than 10,000, determined in accordance with OAR 660-024-0030, may assume the average density of the urban area will be 6 dwelling units per net acre provided the local government also allows for an average density of 8 dwelling units per net acre and establishes a minimum average density of 4 dwelling units per net acre;**

**(C) Cities with a forecast 20-year population of at least 10,000 but less than 25,000, determined in accordance with OAR 660-024-0030, may assume the average density of the urban area will be 7 dwelling units per net acre provided the local government also allows for an average density of 9 dwelling units per net acre and establishes a minimum average density of 5 dwelling units per net acre;**

**(D) Cities with a forecast 20-year population of 25,000 but less than 100,000, determined in accordance with OAR 660-024-0030, may assume the average density of the urban area will be 8 dwelling units per net acre provided the local government also allows for an average density of 10 dwelling units per net acre and establishes a minimum average density of 6 dwelling units per net acre.**

**Option 2:** An alternative scheme for density safe harbors would specify a PERCENTAGE INCREASE over and above the existing density for DEVELOPED LAND in the city. This number should also vary by urban area size, as described above. Some members of the workgroup indicated a preference for this method, since cities that are currently at a very low density would be more likely to use this safe harbor than that which is described in Option 1, above. Other workgroup members did not favor this

method over the method above because it may “reward” cities that have developed with a low density over time.

Under this option, we first specify an “increment” by which the “current” average density must be increased. Thus, for example, if a city under 2,500 currently has a developed density of – units per net acre, it would have the opportunity to use the safe harbor in order to forecast an average overall density for the urban area that is x percent higher than the current density.

For each population range (we propose four ranges that are equivalent to the ranges proposed in option 1) the safe harbor density assumption would again be paired with two other “density assumptions”. As described in Option 1 above, the city must also ALLOW (through clear and objective zoning) the opportunity for a higher average density than the safe harbor predicted average density. Thus, for each population category, we have provided a second “number” that represents the overall average density that must be ALLOWED. Also, as above, we propose that the city establish a MINIMUM density, i.e., if the city uses the average density safe harbor, it may not allow development that is lower than the minimum density paired with the average density. We recognize that setting a “minimum average density” would not necessarily prevent cities from authorizing very low density residential in certain areas (although the minimum would then need to be higher in other areas to reach the average). If the group wishes to set absolute minimum density standards for single family or multi-family, this is possible.

**Variable Density Safe Harbors**

<b>Projected 20-year Pop</b>	<b>Proj avg over existing Avg</b>	<b>Opportunity avg</b>
<2500	+3%	+6%
2,500-10,000	+4%	+8%
10,000-25,000	+5%	+9%
25,000-100,000	+6%	+10%

(No rule wording yet)

**II. PROPOSED HOUSING MIX SAFE HARBORS**

For discussion at October 21, 2009, UGB workgroup meeting

The research project performed by Becky Steckler provided some information on housing mix. Her research did not indicate “current housing mix”; rather she only reported on the proposed housing mix for those UGB amendments. I asked Angela Lazarean to look back at Becky’s research to determine whether “current mix” was available. Angela sent me a revised chart with this information; I attached that to this memo. You will note that there is very little data on this subject (the places where the chart is blank indicates a lack of data for that city).

**Option 1:** Metro has long employed a two-tiered housing mix requirement (not a safe harbor): cities must provide for at least a 50%-50% mix of detached to attached housing. This is reflected in DLCDC’s housing rule for Metro, OAR 660-007-0030, which requires that Metro jurisdictions “... designate sufficient buildable land to provide the opportunity for at least 50 percent of new residential units to be attached single family housing or multiple family housing ...” In those rules, “Attached Single Family Housing” means common-wall dwellings or rowhouses where each dwelling unit occupies a separate lot.” And “Multiple Family Housing” means attached housing where each dwelling unit is not located on a separate lot.” In other words, townhouses, apartments, and condo’s are all part of the 50% requirement. Alternatively, “Detached Single Family Housing” means a housing unit that is free standing and separate from other housing units.” This rule was written in 1981, or more than 25 years ago. The department suggests that a similar housing mix today should be more than achievable. As such, option 1 would be the same option as is currently required for Metro cities, as follows:

**Option 1 Standard Mix Safe Harbor**

Housing type	Allowed %
Detached and Attached SF	50%
Multi Family and Manufactured Housing parks	50%

Proposed safe harbor rule for housing mix, Option 1:

**OAR 660-024-0040**

**Land Need**

(7) The following safe harbors may be applied in determining housing needs:

(a) Local governments may estimate persons per household for the 20-year planning period using the persons per household for the urban area indicated in the most current data for the urban area published by the U.S. Census Bureau.

(b) If a local government does not regulate government-assisted housing differently than other housing types, it is not required to estimate the need for government-assisted housing as a separate housing type.

(c) If a local government allows manufactured homes on individual lots as a permitted use in all residential zones that allow 10 or fewer dwelling units per net buildable acre, it is not necessary to provide an estimate of the need for manufactured dwellings on individual lots.

(d) If a local government allows manufactured dwelling parks required by ORS 197.475 to 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a separate estimate of the need for manufactured dwelling parks is not required.

(e) (see density proposals above)

**(f) Local governments may estimate the mix of housing for all buildable land in the current UGB and for land added to the UGB will provide the opportunity for 50 percent of new residential units to be attached single family housing or multiple**

**family housing.** (*Note, we would use the definitions of single family housing or multiple family described in the text above*).

**Option 2:** Alternatively, the department suggests that a housing mix safe harbor could be three-tiered: Detached Single Family, Large Lot/Attached SF including manufactured housing, townhouses/Multi family. This option is more “conservative” than Option 1 above, and would vary according to the density derived from the density safe harbor described above. The proposal below, for discussion purposes, is based on projected average density for the density safe harbor chart above. Again, DLCDC proposes if a city chooses to use the density safe harbors, it must also use the housing mix safe harbor, and *vice versa*. The numbers provided below are for discussion purposes. If the work group wants to move this safe harbor forward, we should discuss these numbers and determine whether we can agree to something based on the limited research attached. The proposal below varies by UGB population, but that isn’t apparent from the table, since I have instead based the safe harbor on the density safe harbor in option 1 above.

**Housing Mix Safe Harbors**

	Allowed %	Allowed %	Allowed %	Allowed %
Ave Density from density safe harbor	<b>4</b>	<b>6</b>	<b>7</b>	<b>8</b>
Detached and Attached SF	40%	45%	47%	50%
Multi Family and and Manufacture Housing parks	60%	55%	53%	50%

The numbers proposed above by the department are simply a starting point for discussion: we don’t have research to help us on this safe harbor. If the workgroup wishes to propose housing mix safe harbors that vary in a manner linked to the density safe harbors described earlier in this memo, it should discuss ways to estimate or justify the density assumptions. They could be based on further research or other factors. The department believes the above assumptions would generally represent a reasonable increase in the projected mixes we have seen in UGB approvals and that therefore this safe harbor would be “conservative”. However, without further research, there is some guesswork involved with this. DLCDC believes the numbers above would encourage a higher density mix than usually provided, and thus more “affordable housing types”.

We have not completed proposed safe harbor rule wording for housing mix Option 2 at this time.

**Option 3:** We discussed the idea of having a safe harbor that represents an “incremental increase” over the current density, but I don’t believe we talked about an incremental housing mix safe harbor. The department does not have a proposal for this, but if the workgroup wants to pursue this, we should discuss it.