

March 8, 2010

Via Facsimile - (503) 378-5518

Land Conservation and Development Commission
c/o Department of Land & Conservation Development
635 Capital Street, NE, Suite 150
Salem, OR 97301-2540

**Re: Exceptions to the Department's Report of February 25, 2010
City of Bend Urban Growth Boundary**

Dear Commissioners:

On behalf of Central Oregon LandWatch I am writing to submit Exceptions to the Department's Report of February 5, 2010. We will not reargue all issues we and others have already raised, though we continue to assert them. Instead, our Exceptions address just a few issues, organized below according to the Agenda Items.

Issue Area 1: ("A. Required Findings and Standard of Review") (Pages 1-3)

We concur with the Department's review of what is required under the law, but believe that the most appropriate supporting authority is the Supreme Court's decision in *Sunnyside Neighborhood v. Clackamas Co. Comm.*, 280 Or 3, 21, 569 P2d 1063 (1977), where the Court determined that for a county's findings to be adequate they must identify the relevant approval standards, set out the facts relied upon and explain how the facts lead to the conclusion that the request satisfies the approval standards. The problem with the City's Findings is that they do not show any analysis or explanation of the facts. They are primarily conclusory and the City's appeal which attempts to find factual justifications for the conclusions cannot substitute for Findings which explain how the facts lead to the conclusions.

Issue Area 2: ("B. Residential Land Need")

SUBISSUE 5: Are second homes a "needed housing type" for the City of Bend....Did the city adequately justify its projected density for second home development...? (Pages 10-11)

Issue Area 4: ("D. Other (Non-employment) Land Need") (Pages 22-24)

Regarding Second Homes

The City of Bend has identified a "need" of 500 acres for second homes over the next 20-year period for 3,002 homes. (Rec. 1087) LandWatch has contended that there has not been a showing of such "need" for second homes, particularly considering that any need can be met by

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already approved destination resorts in the area, including the Tetherow Destination Resort which directly abuts the UGB on the west.

The Department has rejected LandWatch's appeal on the basis that the City is claiming that the second homes are not a residential land need but will qualify as an "other land need" and thus need not meet the requirements of Goal 10 or the housing statutes. The Department also concludes that coordination with Deschutes County was not required. (Dept. Report, pp. 10-11, 15-16) Note, however, that the City in its Findings at Rec. 1086 states:

"At the beginning, the city takes the position that the purpose for accounting for land that will be consumed by second homes is a legitimate Goal 10 issue."
(Emphasis added.)

Housing is housing. Whether or not a housing unit is originally purchased as a "second home" is irrelevant where the ultimate analysis will be whether it provides needed housing within the next 20 years. There is no evidence or analysis that justifies the use of earlier demand (from 2001 to 2004) for second homes as what will occur over the 20-year period. The assumption that nearly one in five of all new homes to be built in Bend will be sitting essentially vacant over the next 20 years requires an explanation and the Findings do not provide it.

There is no basis or explanation for the adopted 18% rate assumed by the City. (Rec. 1087-1088) Where the estimates of need for second homes were apparently based on data for second homes in the county (Rec. 7693) (including all the destination resorts in the county), the City should have had to assess the need for second homes in the UGB in that context as well.

It is not logical to consider second homes as "other land need," a category which includes such uses as public parks, trails, schools, storm water facilities and rights-of-way. Housing should be considered under housing need, not "other land need." But even if it is considered under the latter category, findings require an adequate factual base and analysis which explain their conclusions. The City has not provided that and the Department does not address the issue under "Other Land Need." See the following discussion under Issue Area No. 5 showing that reliance on 2001-2004 data for second home "need" is obviously outdated where 2006 and 2007 data show a dramatic decline in home construction.

Issue Area No. 5: ("E. Employment Land Need – Goal 9")

"SUBISSUE 3. Must the city update its EOA to reflect more recent trends resulting from the current recession?" (Pages 28-29)

The Department's report at page 29 asserts that "LandWatch has not identified specific trend data in the record that undermines the city's analysis to the point where the city's decision is not based on substantial evidence." The test for substantial evidence under Goal 2 does not rely upon someone presenting alternative evidence. It is incumbent upon the City to have an adequate factual base for its decision. Opponents of a decision need not provide specific trend data that is contrary to a city's analysis where the city's analysis is on its face clearly outdated. Once again LandWatch would like to point out that it identified the current recession and the impact it would have on economic growth at least eight months before the City adopted its UGB

proposal. The recession was an objective fact (not the opinion of LandWatch) which existed well prior to the UGB expansion decision.

The Department's Report is also incorrect at page 29 in stating that the City completed its 2008 EOA prior to the beginning of the recession. In fact, the Report was completed several months after LandWatch's expert had already documented the existence of the recession based on nationwide reports as well as local impacts of the recession. The recession was well under way before the 2008 EOA was completed. Goal 9 requires current data to support an employment land need assessment, or "the best available or readily collectible information." OAR 660-009-0010(5).

Specifically, LandWatch in March of 2008 pointed out the decline in the home construction industry that had occurred in Bend in 2006 and 2007. (Rec. 8208-8209) Housing units permitted in Bend declined from 2,547 in 2005 to 1,566 in 2006 and to 820 in 2007.¹ The collapse in this industry began a full two years before the December 2008 Economic Opportunities Analysis was concluded by the City. In fact, the EOA acknowledges a decline in the housing industry (Rec. 1543-1547) but neither it nor the Findings factor this recession into their projections. The City's economic needs analysis is based on a bubble that popped two years before the City adopted the EOA and UGB expansion.

Issue Area 8: ("H. Transportation Planning")

"SUBISSUE 6. Are city's findings sufficient to show that its transportation analysis for Goal 14 is consistent with city policies which restrict widening of Newport and Galveston Streets beyond three lanes?" (Pages 55-56)

The Department Report originally upheld objections from LandWatch challenging UGB expansions in the northwest area as triggering a need for expanding lanes on Newport and Galveston beyond three lanes in violation of city plan policies to the contrary. On appeal by the City, the Department has now reversed its position on the basis that a traffic study by DKS & Associates allegedly concludes that neither street would need to be widened, citing the record at 2624-2626.

LandWatch's objections should be sustained where the record and analysis for the City's Goal 12 findings have been found not to be adequate by the Department. (See pp. 49-55, 56-58) The DKS study did not even acknowledge the lack of a full grid on the west side which the Department challenges at page 54 and for which the Department calls for additional findings. See the attached letter from ODOT also questioning the DKS work. (Rec. 3858-3859) Given all of these inadequacies, there is no basis to conclude that Newport and Galveston widening has been adequately addressed. Such potential need for widening and inconsistency with Plan policies should be assessed as part of the new Goal 12 work.

¹ To the extent the Department believes there needs to be "trend data" in the Record that is contrary to the City's analysis, these dramatic numbers from 2005, 2006 and 2007 provide it.

Issue Area No. 9: (“I. UGB Location”)

“SUBISSUE 5. May a city exclude land from its UGB because the cost of developing it would be a barrier to affordable housing? If yes, on what legal basis?” (Pages 65-66)

The Department asserts that the cost of land is not a physical need characteristic and may not be used to justify an exception to the statutory land priorities under ORS 197.298(3). While we will continue to disagree with the Department on this point, the Department further erred in limiting its discussion of LandWatch’s appeal to the cost impact on affordable housing. LandWatch also identified the environmental impacts to forest and rivers due to the westside expansion and impacts to agricultural land and irrigation districts due to a proposed northwest expansion as bases for excluding land from a UGB expansion.

Issue Area 10: (“J. Other Issues”)

“SUBISSUE 1. Is the validity of objections to the city’s decision relevant to the commission’s decision on appeals of the Director’s Decision?” (Page 70)

LandWatch concurs with the Department’s Report on this matter, that any issue of adequacy of appeals should be based on OAR 660-025-0150(4). LandWatch also wishes to point out that its earlier submittals on the various issues were adequate to satisfy the requirements of OAR 660-025-0140, that it incorporated by reference the submittals by Toby Bayard which no one contended were lacking adequate specificity, that the Department had no difficulty understanding what was requested, and that LandWatch did include specific requests in its January 29, 2010, submittal to LCDC.

Issue Area 10: (“J. Other Issues”)

“SUBISSUE 4. Did the city place information in the record after the public hearing was closed and, if so, does this require remand?” (Pages 72-73)

LandWatch has made this argument and the Department’s Report states that LandWatch has failed to identify the source of this “requirement.” The “basic requirement” is found in Goal 2’s requirement of an adequate factual basis in the record and in Goal 1’s requirement of meaningful public participation. Supporting documents are to be filed in a place “easily accessible to the public” and opportunities for review shall be provided to citizens. OAR 660-015-0000(2). Information necessary to reach policy decisions shall be provided to the public. OAR 660-015-0000(1).

Beyond the above issues, there are several other matters on which the Department has changed its position to rule in favor of the City in the Department Report. In particular, LandWatch disagrees with the Department’s change in position regarding:

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Issue Area 5: (“E. Employment Land Need – Goal 9”)

“SUBISSUE 1. Did the city follow the steps required by OAR 660-009-0015 and OAR 660-024-0040 and -0050 in estimating the required 20-year employment land need for Bend?” (Pages 24-26)

The Director’s Decision originally found that the City had not followed Goal 9 and the UGB rules, but the Department at page 26 concludes that the City followed the main requirements of the rules, except for subjects in Subissues 2, 4-6, 8 and 9. LandWatch disagrees that the City followed the required steps where the Findings do not support the proffered analysis. The City’s appeal which provides *post hoc* rationalizations for its decision does not constitute the required Findings which must explain the analysis of the facts.

Issue Area 5: (“E. Employment Land Need – Goal 9”)

“SUBISSUE 4. Are there adequate factual and policy bases for the city’s decision to increase its estimate of employment land need for commercial, medical, residential and public facility plan districts?” (Pages 29-33)

LandWatch does not believe that the City’s Findings and the 2008 EOA include an adequate factual basis and policy rationale for including lands beyond the minimum 20-year estimate based on projected employment. In particular, there simply does not appear to be an adequate factual basis to project a need for a new hospital site or a new university site within the next 20 years. While the possibility of a new university would be welcome, the addition of over 200 acres at Juniper Ridge for this possibility does not seem warranted. If, in fact, acreages are included in the UGB expansion for a new hospital site and a new university site, those lands must be specifically identified and restricted to that use. LandWatch is concerned about lands being added to the UGB for one purpose and then being rezoned for another not related at all to the original justification.

Continuing Record issue.

Toby Bayard on February 7, 2006, pointed out to the City that it had failed to include an April 18, 2008, Fodor & Associates report for Central Oregon LandWatch. The City’s “SUPPLEMENT TO LUBA FILE” apparently attempted to correct the error but mistakenly included an April 22, 2008, Fodor Report instead (that was already in the Record at 7642). Attached is a copy of the Toby Bayard e-mail, an excerpt from the City Supplement, and the April 18 Fodor Report.

Respectfully submitted,


PAUL DEWEY

PD:ao

Attachment

cc: Board
Appellants



Oregon

Theodore R. Kulonguski, Governor

Oregon Department of Transportation
Program and Planning Unit
63085 N. Highway 97
Suite 107
Bend, OR 97701
Telephone (541) 388-6333
FAX (541) 388-6361
E-mail: mark.devoney@odot.state.or.us

October 27, 2008

Damian Syrnyk
City of Bend Planning
710 NW Wall St
Bend, OR 97701

RE: ODOT Preliminary Comments on City of Bend UGB Expansion

Dear Damian,

The Oregon Department of Transportation (ODOT) is currently reviewing the latest UGB expansion recommendation documentation. We have some preliminary comments that we would like to share with the City and will likely have additional comments after we are able to conduct a more in-depth review of all of the supporting documentation. Our preliminary comments are listed below.

1. Extension of commercial & other intensive land uses along the state highway system. We are very concerned about the proposal to extend commercial and other intensive zoning along both ends of Highways 20 and 97. Of particular concern is the northerly portion of Highway 97 and 20. ODOT and the City have been working very closely over the last several months to identify both short and long term measures to improve the function and safety of the state highway system in this area. Intensifying land uses in this area will further complicate the process of identifying transportation solutions and given that it will likely be 15-20 years before a long term solution could be constructed, these more intensive uses will exacerbate the existing congestion and safety issues. Creating a mega auto mall north of the existing UGB prior to identifying and funding the needed transportation infrastructure will create political and legal issues that will be problematic to deal with later. This will also likely make it more challenging to be able to accommodate development in Juniper Ridge. We have similar concerns about the proposed land uses at the south end of Highway 97 and question the ability of the transportation system to support nearly 500 acres of regional commercial and medical uses, including, evidently, over 100-acres designated for a new hospital. We are concerned about impacts from the proposed land use designations on the rural Baker Road interchange. The extension of strip commercial along the east portion of Highway 20 is also a concern, though this area is less problematic than the proposals on US 97 since the traffic volumes are considerably less.
2. Issues related to the amount of land included in the UGB expansion vs. the potential for redevelopment inside the existing UGB. While we have not reviewed the supporting documentation in detail, our preliminary review brings into question whether the amount of land proposed to be added is justified. This includes questions about the size of 'unsuitable parcels', amount of land needed for infrastructure (particularly road ROW), and other assumptions.
3. Proposed text amendments to the Bend Area General Plan (BAGP). There are a number of text amendments proposed to the BAGP. We support these amendments but believe more specificity is needed in order to ensure that adequate local road infrastructure is provided in a timely fashion to parcels which front the state highway system. For example, the policy text proposed for 6.9.1 #9 (page 7-6) is very general and does not specifically require that local road systems be in place prior to development of parcels fronting the highway. We worked closely with the City of Redmond during the development of the US 97 North Redmond Interchange Area Management Plan and agreed on some detailed policy and ordinance requirements that we believe would serve as a good model for the types of code and policy language that would be more effective (see IAMP Exhibit C, pp 13-14). We think it is critical for the City

and ODOT to work together to identify more detailed BAGP and code language to protect the highway function and safety.

4. April, 2007 DKS Traffic Report. It is unclear to what extent this analysis reflects the impacts and needed mitigation for the currently proposed 'Alternative 4'. We are currently comparing this report to the Alternative 4 proposal but it is clear that the preferred alternative has not been sufficiently analyzed to determine what the transportation investment costs will be. Further, the assumption that alternative mobility standards will be applied as needed is not supported by ODOT. Alternative mobility standards are possible on a limited, prescribed basis and require approval from the Oregon Transportation Commission. It is not acceptable to assert that the transportation system is sufficient when the statement assumes the unrestrained use of alternative mobility standards.

Sincerely,



Mark DeVoney
Region 4 Planning Manager

Cc via e-mail: Bob Bryant Gary Farnsworth
 Peter Murphy Jon Heacock
 Rod Cathcart Jerry Mitchell
 Nick Arnis Jim Bryant
 Bob Cortright Peter Russell
 Mark Radabaugh

Paul Dewey

From: toby bayard [turboprop@clearwire.net]
Sent: Saturday, February 07, 2009 6:41 AM
To: DSyrnyk@ci.bend.or.us
Subject: Testimony on UGB Expansion improperly filed

Hi Damian,

The following document:

http://www.ci.bend.or.us/depts/community_development/docs/FODOR4182008_Residential_Land_Needs.

was submitted for the record on Bend's UGB expansion, yet it was never filed within the UGB Expansion set of files, and thus has been improperly excluded from the public record -- or at least I cannot find it in the record.

Please see that this document, which was submitted as express testimony for the UGB Expansion, is properly moved into the record as part of testimony received. It should be placed in the **WORKSESSION - April 28, 2008: Bend Planning Commission** set of files, as this was the date on which it was formally received (as per the recording of the meeting).

Thank you very much,

Toby Bayard

SUPPLEMENT TO
LUBA FILE
No.2009-010 2009-011

ITEM #	DOCUMENT DESCRIPTION LUBA	DATE ON DOCUMENT	PAGE
74	Minutes - Planning Commission	7/14/2008	871
75	Email from Mike Lovely to Damian Syrnyk	7/13/2008	877
76	Minutes - Planning Commission	7/7/2008	879
77	Minutes - Planning Commission	6/26/2008	885
78	Minutes - Planning Commission	6/16/2008	899
79	Map - Potential NW Sewer Plant	6/6/2008	903
80	Swalley Irrigation Dist Map Exhibit "D"	6/1/2008	905
81	Minutes - Planning Commission	5/27/2008	907
82	Agenda - UGB Expansion TAC Meeting	5/22/2008	915
83	Minutes - Planning Commission	5/19/2008	917
84	Minutes - Planning Commission	5/12/2008	921
85	Email from Debbie Price to Damian Syrnyk	5/12/2008	925
86	Draft Critical Path for UGB Alternatives Anaysis	5/12/2008	927
87	Agenda - UGB Expansion TAC Meeting	5/6/2008	929
88	Critical Path for UGB & OAR 660-024-0060	5/5/2008	931
89	Minutes - Planning Commission	4/28/2008	935
90	Agenda - UGB Expansion TAC Meeting	4/23/2008	941
91	Meeting Summary - UGB Expansion TAC	4/23/2008	943
92	Letter re: Technical Review of Issues from Eben Fodor to Erik Kancler, LandWatch	4/22/2008	947
93	Memo re: Prime Industrial Land from Brian Rankin to Bend Planning Commission	4/15/2008	957
94	Minutes - Planning Commission	4/14/2008	967
95	Memo re: Sub-committee Report on UGB Evaluation Criteria	4/9/2008	975
96	Draft Suitability Criteria	4/9/2008	979
97	Agenda - UGB Expansion TAC Meeting	4/8/2008	981
98	Meeting Summary - UGB Expansion TAC	4/8/2008	983
99	Southeast Interceptor Task 1.4 - Recommended Alternative Report	4/1/2008	985
99A	Tech Memo SE Interceptor Conceptual Design Task 1.3.2	(2/08)	1012
99B	Appendix A - SE Interceptor Workshop #2	(undated)	1047
99C	Appendix B - SE Interceptor Task 1.2.3 & 1.2.5 - Unit Costs and Design Data Summary	(4/4/08)	1055
99D	Appendix C - SE Interceptor Optimization Preliminary Solutions Technical Memorandum	(4/4/08)	1080
99E	Appendix D - System Development Charge Accrual Memo fro Hamby & 27th Routes	(4/4/08)	1107
99F	Appendix E - Task 1.5 Hamby Road Evaluation Memo	(4/4/08)	1113



FODOR & ASSOCIATES_{LLC}

Community
Planning Consulting

Technical Review of Issues Concerning Bend's Proposed UGB Expansion

Memo to: Erik Kancler, Executive Director, Central Oregon LandWatch
From: Eben Fodor
Date: April 18, 2008

Re: Review of Residential Land Needs

We reviewed the *Residential Lands Study* (RLS), *Residential Land Needs* (RLN), and other documents related to the City of Bend's proposed UGB expansion in an effort to verify the land supply needs estimated in these studies. We found a number of areas where projected land requirements may need to be adjusted downwards. We also found areas where data and assumptions were not clearly documented and the methodology was unclear.

The *RLS* has estimated a total land need for "housing and related uses" of 2,550 acres. In addition, 300 acres have been added for employment needs and 200 acres for a future university, bringing the total projected land need to 3,050 acres by 2027. The focus of this memo is on the 2,550 acres associated with residential needs.

The *RLS* has used various different methods to calculate public land needs for the public facilities associated with residential uses, such as roads, parks and schools. It appears that the combination of methods has overestimated public land needs. It is unclear whether some of these public land estimates included onsite roads and right-of-ways. It is also unclear as to whether land available within the existing UGB could accommodate some of these public land needs (all such needs were applied to the proposed expansion). These issues are discussed further below.

Adequate Land Area for Public Facilities

There are two general methods used by the *RLS* and *RLN* studies for estimating land needs for public facilities. One is to individually estimate the

394 East 32nd Avenue \$ Eugene, OR 97405

541/345-8246 \$ fax: 541/345-2747 \$ email: info@fodorandassociates.com

land needs for each type of public facility required by the projected new growth, and then determine how much additional land is needed in the UGB expansion area. The second is to use an overall estimate of the percentage of land required for public facilities, and then to scale this based on the net amount of residential land added to the UGB. The City's studies appears to be employing both methods and may be overcounting land needs.

Table 16 in the *RLS* (see **Figure 1**) shows that, in addition to the 788 acres needed for housing, the City has added 212 acres for institutional uses and 1,173 acres for the public facilities related to housing, including the following uses:

- Schools;
- Parks;
- Institutional uses (churches);
- Neighborhood centers; and
- Road right-of-ways.

Figure 1: Table from Residential Lands Study Showing Additions for Public Facilities and Institutional Needs.

Factor	
Housing units needed, 2005-2027	18,543
Less housing unit capacity within existing UGB (with efficiency measures)	13,030
Remaining housing capacity needed outside UGB for projected population	5,513
Net acres needed for remaining 5,513 units (at 7 units/acre)	788
Net acres needed to "backfill" for second homes	377
→ Net acres needed for new public schools	213
→ Net acres needed for new neighborhood & community parks	300
→ Net acres needed for new institutional uses	212
→ Net acres needed for new neighborhood activity centers (mid point of assumption)	150
Subtotal of land needs outside existing UGB	2,040
→ Right-of-way needed outside UGB (assume 25 percent)	510
Gross buildable acres needed for UGB expansion for housing and related uses	2,550

The *RLS* also adds "backfill" for second homes (discussed in our *Second Homes* memo) and then multiplies this entire land need total (2,040 acres) by 25% to account for right-of-way (ROW) needs, which are primarily roads. Is

this ROW figure reasonable? We concur with Mr. Winterrowd that this number is too high for roads. In fact, the 25% figure is the State's default (or safe harbor) figure for cities to use in estimating their total public facilities land requirements.

Under OAR 660-024-0040(9), it states:

As a safe harbor during periodic review or other legislative review of the UGB, a local government may estimate that the 20-year land needs for streets and roads, parks and school facilities will together require an additional amount of land equal to 25 percent of the net buildable acres determined for residential land needs under section (4) of this rule. For purposes of this rule, a "Net Buildable Acre" consists of 43,560 square feet of residentially designated buildable land, after excluding present and future rights-of-way, restricted hazard areas, public open spaces and restricted resource protection areas. [Emphasis added.]

It is clear that the State intends the 25% figure to be used to account for at least three of the public land needs: roads, parks and schools. The City appears to be applying a 25% land requirement figure for roads that was intended to be used for roads, schools and parks combined. Unless the City can document that future roads will actually require 25% of the land area, this figure should be changed to a more defensible number. For example, the land use allocation for Juniper Ridge shows that only 10% to 15% of the land will be used for roads and utilities (see RLS, Table 19).

Planning studies show that, for cities the size of Bend, the total land required for all public purposes is about 31%.¹ The trend in percentage of land for public purposes has been downward. This trend may be due to more-compact and land-efficient growth patterns, as well as to preferences for narrower streets. So we can assume that future growth in a typical city today will require somewhat less than 31% of the land area for all public uses. While the percentage of public land required for Bend may vary from this planning reference, it is useful to apply the reference for comparison purposes.

To arrive at a comparable planning figure for "percent of net buildable land required for public purposes," we divide 31% by 69% (100%-31%) to get a figure of 45% of net buildable land for public uses. This figure is greater than the state default value of 25%, but is far lower than what the City of Bend has estimated in the RLS.

¹ *Planner's Estimating Guide: Projecting Land-use and Facility Needs*, by Arthur C. Nelson, 2004.

If we add all the public land uses in Table 16 of the RLS, they total 1,173 acres. This public land estimate is more than 100% of the net residential land needs, even when the questionable second homes “backfill” is included. It is 149% of the net residential needs without the “backfill.” Clearly the public land needs in the RLS appear to be very high in comparison to typical cities.

The City should consider revising the 25% ROW method and instead calculating road and ROW needs based on an analysis of an actual residential development built at approximately 7 units/net acre (the planned density of future residential development in Bend). This ROW land factor should be applied to net residential lands only. The ROW needs associated with public facilities – such as parks and schools – will be different than for residential uses, as discussed later.

Should all Public Land Needs be Added to UGB Expansion?

The RLS counts all future public land requirements associated with housing toward UGB expansion needs. It is unclear whether or not some of the public land needs estimated in the RLS could be accommodated within the existing UGB. If so, this amount needs to be subtracted from the proposed expansion area.

For example, the 213 acres listed as land needed for new schools is the land area required to serve all projected growth in Bend over the 20-year planning period – both inside and outside the UGB. This would indicate that Bend has no land set aside for new schools within the current UGB and that all new school would be built outside the current UGB. Since 70% of future growth will be accommodated inside the current UGB, it seems logical that the School District would be planning new schools inside the UGB to be in close proximity to future students.

The same situation occurs with the 300 acres estimated for park land needs and the 212 acres for institutional needs. These land requirement figures are based on meeting the needs of all projected growth for Bend over the planning period, yet are added exclusively to the land requirements outside the existing UGB.

A total of 725 acres of land need for related public uses has been calculated in this manner. If instead, 70% of these related public uses are accommodated inside the current UGB with the residential development, this would result in a reduction in the UGB expansion of 500 acres. The City should verify that 100% of this land need will occur outside the existing UGB (as assumed in the *RLS*) and that no land has been set aside for these purposes inside the UGB.

What are the Land Needs for Road ROWs Serving Public Facilities?

The land needed for the public facilities associated with residential uses will have different road ROW requirements than residential land. Public land needs, such as schools and parks, occupy larger blocks of land and will require less ROW land. For example, these public facilities may require a single ingress-egress for a 10- to 30-acre parcel. Some of the land for roads, access and parking may already be included within these land uses. The City should verify that ROW needs were not already included in the original public land needs estimates.

The RLS increases all projected land needs by 25% to account solely for roads and ROWs. We have already stated that this factor appears to be too high for use with residential lands. But should this factor be applied to related public land as well (as is done in the RLS)? Unlike residential land uses, schools and parks require little additional ROW outside of their boundaries. It is not clear whether or not ROW needs are included in the estimates for schools and parks prepared by the school and park districts. If they are, then no additional allowance for ROWs is needed. If not, a smaller factor may be appropriate. We have assumed a 5% increase in land needs for public facility land ROWs as a “place holder” in one of our revised land estimates below.

What are the Effects of Road ROWs on Land Needs?

Two alternative estimates of the land needs summary found in *RLS* Table 16 are presented in the tables below. Both tables have removed the land need for second homes, which is already included in the housing needs figures (see our *Second Homes* memo). **Table 1** is calculated using the planning estimate of 45% of net residential land for all public uses (derived previously). **Table 1** shows that the total gross land area required for housing and related uses is estimated by this method to be 1,450 acres. This is a reduction of 1,100 acres from the 2,550 acres shown in the RLS projection.

Table 1
Revised Summary of UGB Expansion Needed for Housing
and Related Uses Assuming 45% of Net Buildable Area for
Public Lands (to 2027)

Factor	Units
Housing units needed, 2005-2027	18,542
Less housing unit capacity within existing UGB (with efficiency measures)	13,030
Remaining housing capacity needed outside UGB for projected population	5,513
Factor	Acres
Net acres needed for remaining units (at 7 units/acre)	788
Net acres needed to "backfill" for second homes	0
Institutional land needs (churches, lodges)	212
Subtotal of land needs outside existing UGB	1000
Acres needed for all public facilities (schools, parks, roads) estimated at 45% of net buildable land	450
Less capacity within existing UGB for public/inst. land needs	0
Total gross acres needed for UGB expansion for housing and related uses:	1,450

Table 2 is calculated by applying a 15% increase in net buildable residential acres to allow for roads and ROWs. This factor is taken from the upper end of the range for the Juniper Ridge development. A smaller 5% increase for roads and ROWs is applied to the related public facility land needs.² The public land needs (other than ROWs) are taken directly from the estimates in the RLS. These estimates are applied based on the City's undocumented assumption that all such future land needs will be met outside the current UGB, and that the public land estimates do not already include an allowance for roads and ROWs. **Table 2** shows a total gross land area requirement for residential and related uses of 1,831 acres. This is a reduction of 719 acres from the need estimated in Table 16 of the RLS.

² As discussed earlier, this 5% figure is a "place holder" value until better data can be obtained.

Table 2
Revised Summary of UGB Expansion Needed for Housing
and Related Uses Assuming 15% of Net Buildable Area for
Roads and ROW (to 2027)

Factor	Units
Housing units needed, 2005-2027	18,542
Less housing unit capacity within existing UGB (with efficiency measures)	13,030
Remaining housing capacity needed outside UGB for projected population	5,513
<hr/>	
Factor	Acres
Net acres needed for remaining units (at 7 units/acre)	788
Net acres needed to "backfill" for second homes	0
Subtotal Housing Needs Outside UGB (net acres)	788
<hr/>	
Associated Land Needs for Public Purposes:	
Roads and ROW associated with housing @15%	118
Other Public Land Needs (estimated by City):	
• Net acres needed for new public schools	213
• Net acres needed for new neighborhood & community parks	300
• Net acres needed for new institutional uses	212
• Net acres needed for new neighborhood activity centers (mid point of assumption)	150
Subtotal Land Needs for Public/Inst. Purposes (acres)	993
Less capacity within existing UGB for public/inst. land needs	0
Subtotal Public Land Needs Outside UGB	993
Roads and ROW associated with Public Lands @ 5%	50
Subtotal public land needs outside UGB, including ROW	1,043
Total gross acres needed for UGB expansion for housing and related uses:	1,831

The two tables presented above indicate that the *RLS* may need to be revised downwards between 709 to 1,100 acres. The reduction reflects a revised methodology for estimating land required for road ROWs that is needed to more accurately estimate these needs. The reduction also reflects the fact that second homes were already included in the housing needs analysis and did not need to be included a second time.

These conclusions are based on the City's assumption that 100% of future land needs for public facilities (parks, schools, and neighborhood centers) will come from land outside the current UGB, in spite of the fact that 70% of future residential growth will be accommodate within the current UGB. The total land requirements may need to be adjusted further in a downward

direction if any of the public facility land needs will be accommodate within the existing UGB.

Household Occupancy Data Used in the RLS

The *Residential Lands Study* uses data from the *Housing Needs Analysis* to predict the amount of housing required to accommodate the forecasted population growth through 2027. In order to covert population projections into housing needs, an estimate of occupancy per household is needed. The RLS uses the 2000 Census figure of 2.4 occupants per occupied housing unit. This is allowed as a default (or safe harbor) by the State Planning Program. However, the use of this single Census average for occupancy introduces three potential errors into the housing needs estimate:

- The Census data is for all existing housing, and therefore does not accurately reflect the occupancy of new housing. New housing is typically larger than the average of exiting housing. New housing typically has more occupants per unit than the average for existing housing. For example, in Portland, new housing units have 8% higher occupancy levels than for all existing units.³ As a result, the use of the Census average may result in an overstatement of the number of needed housing units.
- Average household occupancy has been declining steadily for many decades. It is unclear whether or not this trend will continue given economic and housing market conditions. If the trend continues, it will result in an understatement of needed housing units. However, data for Bend indicates that the trend may have leveled off.⁴
- The City used the same occupancy rate for single family homes as it did for multifamily housing. Multifamily housing units are smaller than single family homes and have lower occupancy on average. Occupancy of multifamily housing is often assumed to be 60% to 70% that of single family housing. Correcting for the difference in occupancy between single-family and multifamily units will affect the land needs projection and may result in an increase in land needs (especially given the City's ambitious multifamily housing goals).

Better occupancy data for predicting future development needs could be obtained from a survey of recently-constructed housing units in Bend. We are not aware of such a survey.

³ *American Housing Survey for the Portland Metropolitan Area: 2002*, Issued July 2003, U.S. Department of Housing and Urban Development.

⁴ See Table 5 of *Housing Needs Analysis*, June 30, 2005.

Conclusions

Bend's *Residential Lands Study* projects a need for 788 additional acres to accommodate residential housing needs through 2027. However, 1,762 acres are added to account for second homes "backfill," associated public infrastructure, and institutional needs. The total proposed expansion of 2,550 acres (788 + 1,762) for "housing and related uses" appears to exceed the likely land needs for the following reasons:

- Second homes are already included in the residential housing needs (788 acres) and there is no clear reason to include additional "backfill." This issue is addressed in detail in our *Second Homes* memo and results in a reduction of 377 acres.
- The *RLS* has increased total residential and public land needs by 25% to account for road right-of-ways. There is no clear basis for this figure, which appears to be too high. Alternative methodologies for estimating ROW land needs result in a downward revision of between 709 and 1,407 acres. (This reduction includes the reduction for second homes "backfill" mentioned above.)
- The *RLS* has assumed that all of the land needs for the public facilities and institutional uses associated with future housing built through 2027 will be met through expansion of the UGB. However, 70% of all future housing growth for the 20-year planning period is expected to be accommodated within the current UGB. No allowance has been made for accommodating any of these needs within the current UGB. If some, or most, of these needs could be accommodated within the current UGB, it would result in a further reduction in future lands needs of up to 500 acres.
- Land needs for housing have been based on a single average household occupancy of 2.4 persons/housing unit from the 2000 Census. This figure is for all existing housing and does not reflect new housing characteristics or differences in occupancy between single family and multi-family housing units. It is unclear whether better occupancy data would result in a larger or smaller land need.

In conclusion, the projected land requirements in the *RLS* may need to be reduced by from 709 to 1,100 acres to account for proposed changes in estimates for second homes and road right-of-ways. Additional reductions of up to 500 acres may be necessary if any land has been set aside within the current UGB for the new public facilities (parks, schools, and neighborhood centers) required over the planning period.

