



Oregon

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April 9, 2009

TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director

SUBJECT: Agenda Item 8, April 17, 2009, LCDC Meeting

DIRECTOR'S REPORT

I. INFORMATION UPDATES

A. PARTICIPATION IN APPEALS, AND RECENT LUBA AND APPELLATE COURT OPINIONS

ORS 197.090(2) requires the director to report to the commission on each appellate case in which the Department participates, and on the position taken in each such case.

ORS 197.040(1)(c)(C) requires the Land Conservation and Development Commission to determine whether recent Land Use Board of Appeals (LUBA) and appellate court decisions require goal or rule amendments.

1. Department participation in appeals

Between February 13, 2008 and March 24, 2009, the department received notice of 18 appeals filed with LUBA.

The department filed a Notice of Intent to Appeal approval of a 12-lot subdivision on 406 acres zoned EFU pursuant to a Measure 37 waiver: DLCD v. Jackson County (Ferns), LUBA No. 2009-025, filed February 10.

The department filed a motion to intervene in Joyce Morgan v. Douglas County, LUBA No. 2009-014, which was granted on March 6. This is an appeal of the county's determination that a Costco store is a permitted use in an industrial zone. The department is meeting with Douglas County and Costco on Friday, April 10th to explore possible resolution of this case.

2. LUBA opinions

Between, February 13, 2008 and March 24, 2009 the department received copies of 24 recently-issued LUBA opinions. Of these, LUBA dismissed 7, remanded 7, reversed 2, affirmed 7, invalidated 0 local decisions, and transferred 1 petition to circuit court.

Six decisions concern the application or interpretation of a statewide planning goal or LCDC administrative rule:

- **OAR 660, division 22 & Goal 7** – Carver, et al v. Deschutes County, LUBA Nos. 2008-119 & 2008-120, affirmed February 9 (Town Center district for Sunriver Urban Unincorporated Community).
- **OAR 660, division 11** – Link. V. City of Florence, LUBA No. 2008-147, affirmed February 13 (sewer line extension for annexation of Driftwood Shores Surfside Inn Condominiums).
- **OAR 660, division 23 & Goal 5** – Delta Property Company v. Lane County & City of Eugene, LUBA Nos. 2008-154 & 2008-162, affirmed February 24 (expansion of aggregate mining operation).
- **Goal 14, OAR 660-024-0030 & 660-024-0040** – Friends of French Prairie, et al v. Marion County, LUBA No. 2008-186, remanded February 18 (expansion of Donald UGB).
- **OAR 660, division 13** – Johnson, et al v. Marion County, LUBA NO. 2008-180, remanded March 4 (conditional use permit for personal use airport).
- **OAR 660, division 22** – Friends of the Metolius, et al v. Jefferson County, LUBA Nos. 2008-181 & 2008-182, affirmed February 3 (When did the county designate Camp Sherman as an unincorporated community?)

One of these decisions *may* require goal or rule amendments. LUBA interpreted OAR 660-024-0040(5) in the Donald UGB case (Friends of French Prairie, et al v. Marion County, LUBA No. 2008-186). Goal 14 requires that all UGB amendments be based on a “demonstrated need to accommodate long range urban population consistent with a 20-year population forecast,” and, for an employment land expansion, a “demonstrated need for employment opportunities.” OAR 660-024-0040(5) is one of the division 24 UGB amendment rules adopted about a year after Goal 14 was amended. The rule states that determination of 20-year employment land needs “must comply with applicable requirements of Goal 9 and OAR 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need *may* be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.” LUBA remanded the Donald/Marion County amendment because it found that an employment land UGB amendment must be based on either a 20-year population forecast or a job growth estimate, and Donald didn’t rely on either one: “While OAR 660-024-0040 could be clearer, we do not believe a decision to add land to the UGB to attract a particular type of employer can be totally divorced from the population projections and job growth estimates *required* by OAR 660-024-0040(1) and (5).” LUBA stated that if a city doesn’t

rely on projected population growth, “there *must* be ‘an estimate of job growth over the planning period.’” It is not clear that the commission's rule requires that employment land need be based on an estimate of job growth. The commission may wish to clarify its intent by amending this rule.

3. Appellate court opinions

Between February 13, 2008 and March 24, 2009, the department received copies of 6 recently issued opinions from the Court of Appeals. The Court dismissed 1 and affirmed 5 of LUBA’s decisions.

4. Decisions of interest

Department appeals: None.

Measure 37/49

Biggerstaff v. Yamhill County, LUBA Nos. 2008-109, 2008-110, 2008-111, 2008-112, dismissed March 10 (Approval of 4 replacement dwellings on EFU land).

Others: None.

Hildenbrand, et al v. City of Adair Village, LUBA No. 2008-191, dismissed February 5 at request of petitioners (UGB amendment).

5. Appeal notices of interest

Measure 37/49: None.

Others

Swalley Irrigation District v. City of Bend, LUBA Nos. 2009-31 & 2009-32; Swalley Irrigation District v. Deschutes County, LUBA No 2009-33; all filed February 24 (Bend UGB amendment).

B. GRANTS, INTERGOVERNMENTAL AGREEMENTS AND CONTRACTS

The department continues to work with local governments on grant funded planning projects awarded earlier in the biennium. The remainder of available grant funds were disappropriated in March as part of the legislature’s efforts to deal with severe general fund revenue shortfalls. Staff expects all projects currently underway to be completed no later than June 30, 2009.

Staff also met with the commission’s Grants Advisory Committee March 23 to discuss the current revenue situation and to entertain early discussions regarding the priorities for general fund grant projects during 2009-2011. The committee did not make any recommendations at the March 23 meeting and will meet again May 28. At the May meeting, committee members plan to discuss funding priorities in more detail and prepare formal recommendations to the commission at its June meeting in Salem.

C. PERIODIC REVIEW WORK TASKS/PROGRAMS

The department received no work programs or work tasks.

Following direction from the commission, staff did not initiate additional cities in periodic review according to the original 2009 schedule. Staff also will not approve pending work programs until the commission provides further direction and/or until a local government petitions the commission to start periodic review without knowing the extent of department grant resources. Staff will present an updated 2009-2011 budget forecast at the commission's June meeting and will ask the commission for additional direction then.

II. DEPARTMENT PROGRAM ACTIVITIES AND INITIATIVES

A. COASTAL MANAGEMENT PROGRAM

Paul Klarin is continuing preliminary work on wave energy planning and the Territorial Sea Plan. Dale Blanton continues to work on review of a number of energy project proposals, including LNG pipeline and terminal proposals.

B. PLANNING SERVICES

Upcoming Conference on Damascus/Transportation and Growth Management

Damascus will be the first city in Oregon to be designed before it's built. But will we get things right? Will we create the kind of city – or network of villages with a town center – that people want? Or will we create a place that suffers from the kind of traffic congestion and faceless development that mars once beautiful landscapes across the country? Can “smart growth” sell in today's economy? What lessons can we learn from other regions about how to grow economically but sustainably? About how to secure better transportation options and housing choices?

National, state, and local experts will be in Damascus to discuss these and other important issues at a conference on Thursday, May 7. Featured speakers and workshop moderators include Arthur C. Nelson, Presidential Professor, City and Metropolitan Planning, University of Utah, a national expert on markets for sustainable development; Jim Charlier, Principal, Charlier & Associates, Inc., Boulder, Colorado, a national expert on the integration of transportation and land use; and Laurence Qamar, Principal, Architecture & Town Planning, Portland.

Invited local experts include Bruce Starr, Oregon Senator and Chair, Business & Transportation Committee; Jim Wright, Mayor of Damascus; Rod Park, Metro Councilor; Lynn Peterson, Chair, Clackamas County Commission.

Sponsors include the Oregon Transportation & Growth Management Program, East Metro Association of Realtors[®], City of Damascus, Oregon Association of Realtors[®], National Association of Realtors[®], and Damascus Christian School.

C. COMMUNITY SERVICES

Mr. Nichols and Mr. Whitman met with the Grants Advisory Committee on March 23rd. A follow-up meeting is planned for May 28th. The committee is working on a variety of ideas to improve functioning of the grants programs.

Mr. Oulman, Mr. Nichols and the director have worked on the Department's decision on proposed urban reserve designations by the City of Newberg. We expect to issue a decision on April 10, 2009.

See note regarding urban area expansions in the Columbia Gorge (below).

Bend Urban Growth Boundary: On January 5, 2009, the City of Bend Council adopted an approximately 8,500-acre UGB expansion proposal. The proposal was subsequently co-adopted by the Deschutes County Board of Commissioners on February 11, 2009. Because the UGB proposal is larger than 50 acres, the city must submit the locally adopted proposal to the state for its review under periodic review procedures. While the department had not yet received the city's UGB proposal, city staff has indicated that the submittal may be just under 11,000 pages in volume. The department has assembled a review team to address this pending submittal.

The department provided extensive comments during local public hearings on Bend's UGB proposal. A number of significant issues have been identified in the department's comments. Chief among these are implementation of the state's priority statute at ORS 197.298 and the Goal 14 rule, justification of land need, the balance of needed housing and economic development lands and correlation of public facilities plans, including transportation, with the UGB expansion proposal.

The department is provided up to 120 days to prepare a report and recommendation based on its review of the city's submittal and any valid objections that are provided on the proposal during the first 21 days following the submission to the department.

Goal 11/Jackson County: Doug White and John Renz are working with Jackson County and the local sewer district to resolve longstanding issues over the application of Goal 11 to existing sewer lines in rural areas and ongoing public health problems with failing septic systems.

D. MEASURE 49 DEVELOPMENT SERVICES

See separate report.

E. OPERATIONS SERVICES

The Operations Services team continues its efforts to provide timely, quality service to its customers. Recent efforts include: Participation on the chartered Information Management Work Group; continued analyses of internal grant financial reporting processes; policy writing meeting statewide Enterprise Security Office policies and procedures; continued testing and preparation for the department's transition to Outlook 2003; preparation for biennium end financial reporting; development of additional payroll training documents; and continued 2009-11 budget development activities. The division also recently assisted the department's FEMA program recently when the Federal Emergency Management Act (FEMA), Region X Grants Program Division conducted a financial monitoring site visit on April 7-9. Findings and recommendations of the site visit will be provided in the coming month to the department.

F. DIRECTOR'S OFFICE

Highlights of activities in the director's office during March and early April include:

- Director's recurring meetings with state agency heads, Metro Reserves Steering Committee (see more detail, below), Measure 37 post waiver group, LNG coordination group, natural resources cabinet, LCDC Legislative Subcommittee, ERT directors, and senior staff from the Oregon Department of Transportation and the Oregon Economic and Community Development Department.
- The director, Mr. Rindy and Mr. Morrissey have participated in numerous meetings with legislators and others on the department's bills and legislation related to the department, particularly Big Look Task Force, state agency coordination, destination resorts, Measure 49, uses allowed on farm land, Goal 11, and transfer of development rights.
- The director and deputy director attended/testified at a four-day public hearing on the department's budget.
- The director, with assistance from John Evans and Meg Fernekees, is holding regular meetings to coordinate state agency participation in the Metro urban and rural reserves.
- The director and Mr. Morrissey have continued work on the Metolius Area of Critical State Concern. The final product was transmitted to the legislature on April 2nd. Public hearings on HB 3100, which would accept the ACSC, have begun in the House Land Use Committee.
- Meeting with Eric Lemelson, Oregon Global Warming Commission concerning follow-up on climate change recommendations.
- Mr. Hallyburton, Mr. Nichols, Mr. Fish and Mr. Whitman met with Columbia River Gorge Commission staff concerning urban area expansions.
- The director gave a short presentation on the urban reserves process in Portland and the status of Big Look legislation to the National Association of Industrial and Office Properties.
- On April 14, the director will attend a meeting with the Oregon Department of Forestry to discuss coordination issues between the agencies (regular annual meeting).

III. DEPARTMENT ORGANIZATIONAL AND MANAGEMENT INFORMATION

A. NEW STAFF AND PROMOTIONS

Measure 49 Division

Kris Ostrin joined the department as a M49 Development Services Division Publications Specialist on March 23. Kris has been in the commercial real estate industry for over ten years. Previously she worked at Coldwell Banker Commercial, AmeriTitle, Prudential Commercial and Capital Apartment Brokers. Kris was born and raised in Salem and has a five-year-old son, Jace. In her spare time she enjoys gardening and reading.

Delores (Dee) Monday joins the department on April 6th as a Completeness Review Specialist in the Measure 49 Development Services Division. Dee has previous experience as a restaurant manager, executive assistant for the Governor's Office, personnel assistant for the Department of Corrections, and secretary for State Farm Insurance. We are looking forward to Dee joining the department.

Debbie Lathrop, former Publications Specialist, has accepted the position of Program Analyst 1 which she begins April 1, 2009.

Shelly Raber is changing her duties from Completions Specialist to that of a 50/50 split of her time as a Completeness Review Specialist (Administrative Specialist 1) and a Publications Specialist effective March 23, 2009.

Mara Ulloa accepted a position as an Accountant I in the department's Operations Services Division. Mara formerly acted as the department's Plan Amendment Specialist handling the daily intake and distribution of proposed and adopted amendments to local government comprehensive plans and ordinance documents. The department is pleased to have Mara in the Operations Services Division and looks forward to her continued contribution to the team. In the interim, Larry French will cover the plan amendment specialist duties.

B. DEPARTING EMPLOYEES

Deputy Director/Acting Deputy Director: Deputy Director Cora Parker is on rotation for a special assignment with the Governor's Office implementing The Oregon Way, coordinating federal stimulus funding in Oregon. We have a recruitment open for the deputy position. In the meantime, Rob Hallyburton is Acting Deputy Director while we look for another person to take on the deputy duties. I want to extend my thanks to Rob for his help, and reaffirm that this is a temporary (bridge) assignment. Rob is focusing his deputy time on budget and Measure 49 related issues.

C. RECRUITMENTS

Interim Deputy Director

IV. LCDC POLICY AND RULEMAKING UPDATES

A. RULEMAKING

On April 2, 2009, the department filed recently-adopted LCDC amendments to OAR 660, division 41, regarding Measure 49. These rules became effective upon filing.

On April 3, 2009, the department filed the recently-adopted new and amended UGB rules and safe harbors, OAR 660, division 24. These rules are effective April 18, 2008.

B. OTHER POLICY ACTIVITIES

1. Metro Urban and Rural Reserves, 2007 Senate Bill 1011

Director Whitman continues to participate in the Urban and Rural Reserve Designation process in metropolitan Portland, with assistance from a team of agency staff including Meg Fernekees and John Evans, as well as others. There are two key milestones and events over the past couple of months:

We have organized a regular state agency forum where the nine state agencies participating in Metro Reserves Steering Committee are coordinating on the state's positions. Besides DLCD, the other eight agencies include:

Department of Transportation

Department of Agriculture

Department of Forestry

Economic and Community Development Department

Water Resources Department

Department of State Lands

Department of Environmental Quality

Department of Fish and Wildlife

All the above state agencies are members of the Reserves Steering Committee, which is co-led by Metro and Clackamas, Multnomah and Washington counties (the "Core 4"). The steering committee (stakeholders) advises the Metro Council and county commissions on the formal designations of urban and rural reserves. Before each steering committee meeting, the state agencies meet for an hour, and also have had separate meetings with each of the three counties to

provide state agency input for their consideration of urban and rural reserve areas. We are working to continue providing a single state recommendation to the committee. The most recent, joint, state agency letter on this subject is attached to this report.

Commissioners may remember that a large study area encircling the Portland Urban Growth Boundary was devised last winter. Currently, the counties have completed a series of maps that depict “candidate” urban reserve areas and candidate rural reserve areas. The candidate areas will be further narrowed as the year progresses, leading to a final decision by Metro and the Core Four.

At the last steering committee meeting on April 8th, the committee supported the recommendations of the counties for candidate areas, with a few dissenting votes. There also was some indication from steering committee members that more time may be needed to complete the designations. The final designation of urban and rural reserve areas is currently scheduled by the end of 2009, as a prelude to Metro work on the regional UGB in 2010. Metro also is beginning work on that process (now) in the form of a preliminary urban growth report.

Because this process is reaching a critical stage, the department will increase its attention and, Portland Regional Representative Meg Fernekees will be monitoring the three local county committees as well as the “Core 4” monthly meetings closely.

2. Columbia River Gorge, Urban Area Boundaries

On April 1, 2009, the director and department staff met with a Columbia River Gorge Commissioner and several Gorge Commission staff to discuss the Gorge Commission’s current rulemaking efforts related to urban area expansions within the Columbia Gorge National Scenic Area (NSA). The meeting is part of an ongoing effort between Gorge Commission and department staff to coordinate NSA/State rules in a manner that protects the scenic area and recognizes local communities’ growth aspirations in both Oregon and Washington.

3. Regional Problem Solving

Since the December 5, 2008 presentation of the Bear Creek Valley Regional Plan to the commission there has been substantial local progress toward implementing the plan. The members of the Policy Committee agreed to a process for implementing the plan by July 1, 2008. This process requires local signatures on the Participant’s Agreement before jurisdictions begin the comprehensive plan amendment process. The sewer district, the Rogue Valley Metropolitan Planning Organization, and all of the cities except Jacksonville have signed the Participant’s Agreement. The Jackson County Board of Commissioners is expected to sign the agreement sometime in the next few months. Two advocacy organizations continue to take a position contrary to the department’s advice to the project regarding the need for the agreement to be signed now before the local jurisdictions begin the comprehensive plan amendment processes that will implement the plan.

On January 6, 2009, the Jacksonville city council declined to consider signing the agreement until after all the other jurisdictions have completed their comprehensive plan amendments. On March 17, 2009, the Policy Committee asked Jackson County to proceed with its comprehensive plan amendments for implementing the plan without Jacksonville.

The participant's agreement defines a participant as an entity that signs the agreement. It is the Policy Committee's position (supported by the department) that to be part of the regional plan a local jurisdiction must sign the agreement. Because Jacksonville declined to sign the agreement, the project manger has been directed to remove all mention of Jacksonville from the plan. We are also considering how to modify the agreement to remove Jacksonville. This could require new hearings on the agreement in each city that has agreed to sign.

The Council of Governments solicited requests for proposals to prepare findings to support the regional plan. The Policy Committee selected a group headed by CSA Planning, Ltd., a local planning consulting firm. Funding to finish the plan and findings remains a problem.

4. America Recovery and Reinvestment Act

The Office of the Governor has assembled an executive team to assist with project selection and implementation of the America Recovery and Reinvestment Act (ARRA) federal stimulus investment package in Oregon. Included in the Governor's team are two members with ties to DLCD: Jane Bacchieri (Natural Resources) and Cora Parker (Community Development).

DLCD staff continue to participate in discussions with the governor's office related to the ARRA federal stimulus investment. On March 30, department staff attended an informational briefing on the system for tracking and reporting project proposals. Staff will continue to participate and coordinate with the ARRA efforts to ensure smooth delivery of federal funds and close coordination with local, regional and state plans.

V. ATTACHMENTS

A. Joint Agency Letter to the Metro Reserves Steering Committee



Oregon
Department
of Agriculture



Department of Land Conservation and Development

April 6, 2009

Metro Reserves Steering Committee
600 NE Grand Avenue
Portland, OR 97232-2736

Dear Fellow Reserves Steering Committee Members:

On behalf of the Oregon Departments of Agriculture, Forestry, Transportation, Economic and Community Development, Fish and Wildlife, and Land Conservation and Development we are submitting the following preliminary comments on the counties' initial identification of candidate urban and rural reserve areas. As you know, the state agencies have been meeting regularly for the past several months to coordinate our work on this important effort. The other state agencies participating in the Steering Committee may have verbal comments on the candidate areas, and not all agencies have had time to prepare written remarks.

The agencies also have met with each county to review the county's work on candidate areas. We appreciate the time and effort of county staff in working with us to provide information about how preliminary decisions are being made. We look forward to continuing to work with each county, and with Metro staff and the Core 4 as this process progresses.

General Comments

Metro and the counties generally have not excluded lands as candidate urban or rural reserves at this point in the process if there is a significant likelihood that the lands may be suitable for either category. As a result, there do not appear to be any major issues with the preliminary decisions on candidate areas. At the same time, however, the inclusiveness of this first round will put significant time pressure on the reserves process as it moves forward to the next stages.

Metro has just released an executive summary of its fifty-year range forecast for population and employment for the seven-county statistical area. It also has just released its preliminary urban growth report for residential lands, and expects to soon release a preliminary report on employment lands. OAR 660-027-0040 requires Metro to specify the number of years that urban reserves provide a land supply for, based on the land supply necessary for urban population and employment growth in the Metro area. To get to a final decision, therefore, Metro will need to analyze the housing and employment land needs that result from its projections. It also will need to analyze the extent to which these needs will be met within the Metro urban growth boundary by redevelopment and infill (as well as what proportion of growth will occur outside of the Metro area). At this point in time, it is not clear how these decisions will be made in the reserves process (as opposed to the process for the urban growth report). The next round of decisions regarding how much land to designate as urban reserves will need to include this aspect of planning for the region's future.

Transportation

The Oregon Department of Transportation (ODOT) has some suggestions for evaluating the candidate urban reserve areas for compliance with urban reserve factors (3) and (4). ODOT has applied the proposed method to do an initial draft assessment of the capability of state highways to accommodate additional urban growth, and has assessed the relative cost of overcoming existing deficiencies in the state highway system and of bringing rural highways up to urban standards.

Ideally, Metro would do transportation modeling to analyze the performance of existing state highways and county and city transportation facilities, both within the existing UGB and outside the UGB in the urban reserve study areas, assuming urban-level development in the reserve study areas. Metro has indicated they will not be doing any transportation modeling for the reserves exercise. Metro and the reserves transportation working group have already performed an analysis of the feasibility and relative cost of developing a complete urban transportation system in the various candidate urban reserve areas, but this analysis did not consider the capacity of existing rural facilities, nor the impact of additional growth on facilities within the current UGB.

To substitute for transportation modeling, ODOT is proposing a simplified method to first identify which facilities, both outside and inside the current UGB, are already experiencing and/or are forecast to experience capacity, safety, and/or geometric problems without any additional growth. Second, ODOT would identify order of magnitude relative costs and feasibility of overcoming those existing problems. Presumably, if a transportation facility is already forecast to have capacity deficiencies, then plan amendments allowing additional urban growth relying on that facility would not be able to meet the Oregon Highway Plan mobility standards without significant mitigation and thus cost.

The assumption should be that transportation needs will be met in a manner consistent with RTP Policy. That means that deficiencies would not necessarily be met by widening existing state highways, but rather by developing a complete local and regional multi-modal circulation system in accordance with the RTP Regional Streets and Throughways System Concept, Regional Transit System Concept, Regional Freight System Concept, Regional Bicycle and Pedestrian System Concept, and Regional System Design Concept.

Specifically, that means all major arterials (state and local) should be assumed to be four lanes plus turn lanes, and should be upgraded to include regional transit, sidewalks, and bikelanes. The arterial and local street network should meet the RTP connectivity or spacing standards. All freeways should be improved to six lanes. Moreover, any existing expressway designations would be extended into the new urban reserve areas, and all expressways should be improved with grade-separated interchanges.

The table attached as Appendix A shows ODOT's initial assessment. It is organized by highway since there was no way to organize it by urban reserve study area. Cost estimates are based on ODOT engineers' judgment, but could be refined based on the unit cost approach Metro used for the initial transportation suitability analysis.

The analysis shows that the highways least suitable to accommodate additional trips and most expensive to improve, are I-205, especially the segment from I-5 to the Sunrise/Or 212/OR 224, and I-5, especially the segment from Or 217 to south of the Willamette River. US 26 West is constrained by severe congestion at the tunnel and the limited opportunities and huge costs to improve that segment, in addition to the costs of likely needed highway widening and reconstruction of a number of interchanges and overpasses. TV highway is already at 5 lanes, access management has proven to be difficult to implement, and opportunities to build a local network to reduce reliance on the highway are limited due to the presence of the railroad in close proximity. OR 213 and OR 212 are both forecast to fail to meet mobility standards even when widened to 5-lanes, and topography and the presence of natural resources limit opportunities to build a complete local transportation network. US 26 West has some potential to accommodate additional growth. However, areas around US 26 were not identified as either Urban or Rural Reserve Study Areas. ODOT recommends that they be included as both Urban and Rural Reserve study areas to allow for further analysis.

It is critical that the cost and feasibility of bringing state highways up to urban standards be considered as one factor in the urban reserves suitability analysis. It is well known from the development of the Federal RTP that ODOT does not have sufficient funds to maintain mobility and design standards on state highways within the current UGB. Therefore, once urban reserves are designated, it is critical that as part of concept planning, funding strategies are identified to pay for those needed improvements.

ODOT welcomes an opportunity to work with Metro and with each of the counties to review and refine this assessment, and to identify next steps.

Forestry

The Oregon Department of Forestry (ODF) would like to thank the planning departments of Clackamas, Multnomah, and Washington Counties and the Metro staff for their tireless work on the reserves process and recent efforts to inform affected state agencies about this work. ODF also thanks the planners for considering our technical input and spatial analyses in the development of the initial rural and urban reserve candidate areas.

The Oregon Board of Forestry's and Department of Forestry's policy goals with regard to land use planning are to:

1. Maintain the state's total forest land base to provide for a multitude of forest benefits – social, environmental, and economic – desired by Oregonians;
2. Maintain the productivity of the forest land base with the continuous growing and harvesting of forest tree species as the leading use on private lands subject to the protection of soil, air, water, and fish and wildlife values;
3. Promote active management of Oregon's forests by limiting conflicts to the commercial management of forestland for forest uses created by the siting of dwellings, related improvements and non-forest uses on forest land;
4. Reduce the costs and conflicts related to fire prevention and suppression caused by siting dwellings and related improvements on forest lands;
5. Encourage thoughtful planning and oversight of development activities that convert forestlands to non-forest uses.

The Department's highest priority in the Metro Reserves process is promoting recognition by all parties of the importance of retaining forestlands in forest use so future Oregonians, including urban residents, will continue to benefit from the wide range of environmental, economic, and social values forests provide.

ODF's spatial analyses focused on identifying forest lands within the reserves scoping area and highlighting forested areas still retaining "wildland" forest character (defined as forestlands with fewer than five existing structures per square mile) and "mixed forest and agricultural" lands (defined as intermixed forest and agricultural lands with fewer than nine existing structures per square mile). Long term retention of these two classes of forest land are viewed by the Department of Forestry as critical to maintaining forest environmental benefits such as wildlife habitat, water quality, and carbon sequestration and to maintain economically viable private ownership of productive commercial forest lands.

ODF has studied the March 16 candidate area maps and is generally comfortable with the way forest lands within the Reserves scoping area are addressed by the counties. Almost all of the significant blocks of wildland forest and many areas of mixed forest and agricultural land have been designated as rural reserve candidate areas or left undesignated with a preliminary determination they will not be under threat of urbanization over the next 40-50 years. Possible exceptions where further analyses is encouraged include the Gales Creek Canyon area northwest of Forest Grove, the Chehalem Mountain area, and the area northwest of Forest Park where some wildland forest lands have been designated as urban reserve candidate areas. Urban expansion into these areas could create environmental and economic conflicts. The Department of Forestry would like to continue working with Washington and Multnomah Counties to hopefully resolve these site-specific conflicts in a manner that best preserves forestland values.

Some specific concerns and potential conflicts between forest land and urban development in these areas include:

1. The community of Gales Creek has been identified as a “Washington County Community at Risk”. It has been registered on both the State and Federal lists as being at high risk from wildfires. See Washington County, Oregon, Community Wildfire Protection Plan, August 6, 2007.

Some other outlying communities at risk and close to forestland include: Banks, Buxton, Cherry Grove, Dilley, Farmington, Forest Grove, Gaston, Glenwood, Laurel, Laurelwood, Manning, Midway, Mountindale, North Plains, Sherwood.

2. Commercial forest management activities occur on a regular basis in Gales Creek Canyon as well as on Chehalem Mountain. These activities require heavy truck and equipment traffic on primary and secondary transportation routes like Hwy 8 and Hwy 47 and most secondary roads. These activities create noise and dust that are not conducive to urban settings.
3. The slopes along Gales Creek Canyon have an inherent landslide risk that exists. Several areas have been identified and it is likely that more exist. The placement of structures on and/or at the base of these slopes could create potential public safety risks.
4. Family forest lands are the only remaining habitat links remaining between Forest Park and larger blocks of wildland forest to the northwest. It is in the best interests of the State of Oregon, Metro, the affected counties and urban residents to provide these landowners with economic incentives to continue investing in forest management rather than converting these lands to non-forest uses.

As the Reserves process continues and as Metro makes decisions in the future regarding Urban Growth Boundary (UGB) expansion, the Department of Forestry would also like to reemphasize the need to closely evaluate the "halo effect" of UGB expansion. The Department of Forestry is

guided by a policy objective of retaining forest land in forest uses and maintaining intact, large blocks of forest lands to allow continued viable timber management and the maintenance of important environmental values. The Department of Forestry recognizes UGB expansion may not directly involve forest lands and land use requirements outside of the UGB may remain the same. However, as UGBs move closer to wildland forests and mixed forest and agricultural lands, there may be accelerated pressure outside the UGB for the in-filling of structures. Such outcomes can result in disincentives for continued investments in forest management and should be minimized whenever possible.

Dividing the forest into smaller parcels and adding dwellings (with or without urbanization) can displace wildlife through habitat fragmentation, increase conflicts between residential and commercial forestry uses, decrease incentives to encourage forest land retention (such as forest land tax status), increase the cost of fire protection, incentivize further development pressure by an increasing disparity between forest land development property values versus timber values, and reduce the economic benefits of commercial timber production.

Agriculture

The comments of the Oregon Department of Agriculture (ODA) at this stage are relatively short, and relate to areas that have been excluded from being considered as candidates for rural reserve designation. The following areas that are not identified as candidate rural reserve areas should be included as candidate areas due to the threat of urbanization and the fact that they are Foundation Agricultural Lands:

1. The lands in Clackamas County located northeast of Boring and east of 282nd Avenue.
2. The lands in Clackamas County adjacent to the cities of Canby and Barlow that are proposed for no further study. It is our understanding that these lands have been excluded simply because the cities wish to consider them for future growth. If the lands are being considered for urbanization, then they should be analyzed as potential rural reserves under the factors in the LCDC rules.

Wildlife

The Oregon Department of Fish and Wildlife (ODFW) comments echo the comments of ODA regarding areas excluded by Clackamas County from consideration as candidates for Rural Reserve designation. It is unclear why these areas have been excluded, or whether the rationale for excluding them was valid at this time (i.e. to address local aspirations). ODFW completed a cursory review of the excluded areas (based on the Natural Features Inventory and aerial photos in Google Map) and identified the following that may warrant further consideration as possible Rural Reserve:

1. The Canemah Bluffs/Willamette Narrows area west of Oregon City;
2. The area south of Damascus – includes Clackamas Bluffs/Clackamas Greenway on the Natural Features Inventory;
3. The Borland Road area south of the Stafford Triangle

And possibly the following area:

4. The area SE of Boring (extends from the south portion of Boring east to Hwy 26); Primary habitat features may not be in the excluded area (i.e. they may exist in the surrounding area shown as possible Rural Candidate) but I'm not certain.

Economic and Community Development

Oregon Economic and Community Development Department's (OECDD) highest priority in the Metro Reserves process is to provide adequate industrial land now, and in the future, to ensure ongoing opportunities throughout the region. This includes opportunities for both urban and rural residents.

Based on the work presented at the March 16th meeting, OECDD has reviewed the work plans put forth by the respective county planning staff. OECDD reviewed these comments with the following priorities in mind:

1. This as an informed process to attempt to balance the health and sustainability of the region for all;
2. The need to provide adequate employment land to support the economic growth and well being of the state and the region;
3. The need to allow for development possibilities that will allow Oregon to provide living wage jobs for all Oregonians in the region; and
4. The need to provide employment lands opportunities where most feasible due to environmental, transportation and infrastructure constraints, in a manner that will allow for new, and existing industries.

Candidate maps that address issues related to the suitability of developable lands are of critical importance in helping to determine what lands should be included in the urban reserves area for employment purposes. Multnomah and Washington counties' candidate maps factor these considerations into their analysis on an appreciable scale, despite varying differences in the amount of recommended lands to be included in the candidate areas.

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Clackamas County appears to have applied the factors to narrow candidate urban reserves areas to a somewhat greater extent than the other counties. OECDD is not fully comfortable with limiting candidate urban reserve areas at this point in the process to the degree Clackamas County is proposing. OECDD supports the County's recommendation to include the Stafford basin and lands surrounding Wilsonville for consideration as candidate areas. OECDD also believes that other locations, including the area south of the Boone's Ferry Bridge, should not be excluded at this point from the candidate areas, although OECDD understands that there are severe costs and constraints with regard to providing transportation to this area (see Transportation comments), and that this area also raises long term concerns about further development along I-5.

OECDD is planning to undertake a more thorough review of all the county maps in the coming weeks with the recent hire of an industrial lands specialist so will have additional comments as this process moves forward.

Sincerely,



Richard Whitman
Department of Land Conservation and
Development



Katy Coba
Oregon Department of Agriculture



Elaine Smith
Oregon Department of Transportation



Jeff Boechler
Oregon Department of Fish and Wildlife



David Morman
Oregon Department of Forestry



Karen Wilde Goddin
Oregon Economic and Community
Development Department

Appendix A: Oregon Department of Transportation Initial Assessment

CC: William Ferber
Kirk Jarvie
Keith Johnson
Mark Ellsworth

**Attachment 1: Oregon Department of Transportation
 Comments on Candidate Urban and Rural Reserves**

		UR Study Area: Yes or No?	Potential to accommodate additional traffic	Relative Cost to Improve
Highway #	Section	Small, Medium, Large UR Area?	Low, Medium or High Suitability	Low, Medium, High, Huge Cost
2W, 92	within + northwest of UGB to Columbia County Line	Not adjacent, but Sauvie Island is, and would impact US 30	Medium - 2035 Financially Constrained RTP identified capacity problems at Cornelius Pass Road and St Johns Bridge intersections. Physical constraints to building local network.	Low
47	I-405 to the Zoo	inside UGB	Low - US 26 tunnel presents constraint to additional traffic; topography offers limited options to improve; would have to build additional tunnel to separate US 26 WB to SB, WB to NB, and WB to downtown and corresponding EB movements.	Huge
47	Murray - 185th	inside UGB	Medium due to "185th - Cornell Rd." STIP project to add 3rd lane in each direction. Murray Blvd, Cornell Rd/Bethany Blvd, and 185th interchanges will have to be rebuilt; physical constraints limit potential capacity of interchanges. Cost estimate does not include rebuilding local overpasses.	Medium
47	> 185th - Cornelius Pass Road	inside UGB	Medium - May require widening highway to six lanes and improving Cornelius Pass Rd Interchange.	High
47	Cornelius Pass Rd to Shute Road / Helvetia Road Interchange	Yes, and on edge of current UGB	Medium - Need to add a WB to SB loop exit-ramp at Shute Rd IC to meet current needs; improved IC may be maxed out with existing growth, i.e. no excess capacity for additional growth.	Medium
47	at Glencoe Road Interchange	Yes, Large	Low - Need a new 5 or 6-lane Glencoe overpass structure and interchange improvements even without additional growth. Shute Rd, Jackson School Rd and Glencoe Rd interchanges would have to be upgraded.	High
47	west of Glencoe Road Interchange	Yes, up to easternmost intersection with OR 47; Large	Medium - consider impacts on weekend recreational and coastal traffic; not just pm peak .	Low
102	from Sunset Highway to NCL of Forest Grove	Yes; Large	High Nehalem Hwy/Wilson River Rd = Or 47/OR 6 interchange would have to be upgraded, and OR 47 brought up to urban arterial standards.	Medium

**Attachment 1: Oregon Department of Transportation
 Comments on Candidate Urban and Rural Reserves**

29	from SW 209 th to SW 229 th , south of Hillsboro	Yes; Large area but small section of Hwy	Low 2005 and 2035 FC RTP shows existing and future capacity deficiencies, but TV Hwy is already at 5 lanes and access management is difficult to implement. Need adequate storage distance at railroad crossings; there are constraints to widening or adding railroad crossings; may need to depress RR to grade-separate.	Low
29	from WCL of Hillsboro to WCL of Cornelius	Yes; Medium, but small section of Hwy	Medium . Constrained by railroad tracks on south side, and difficult to widen or add railroad crossings; see previous section.	Low
29	south of Pacific Avenue to Yamhill County Line	Yes, Small	Medium – Existing capacity problem at the Pacific/Quince intersection; access management has been difficult to implement.	Low
140	SCL of Hillsboro to Yamhill County Line	Yes; Large	Medium - Several safety projects on this highway to realign curves to improve roadway geometry, widen shoulders, and add left turn channelization have been constructed in recent years. A few more safety projects of a similar type are needed. 2035 FC RTP shows capacity deficiencies even without Urban Reserves.	Medium
142	from SW 170 th to SW 196 th /Marlin Dr	Yes; Large area but small section of Hwy	Medium . Existing capacity problems with 3 lane section; planned for 5 lane section but no funding has been identified.	Low
1W, 91	from SCL of Sherwood to Yamhill County Line	Yes; Small	Low – FC 2035 RTP identified capacity problems. Improvements identified in I-5/99W study and Newberg – Dundee project, if constructed, will affect performance. Tualatin-Sherwood Rd, Edy Rd and Sunset Blvd intersections need to be improved to address existing capacity constraints.	Low
1	inside UGB and from Wilsonville SCL to Marion County line	No	Very Low - FC 2035 RTP identified severe capacity problems on I-5 within and south of existing UGB and at Wilsonville Interchanges. Congestion is especially high in the segment between I-217 and I-205. Widening of I-5 including Boones Bridge will be very expensive.	Huge
1E, 81	from Canemah to Canby	Yes, Small	Medium – Clackamas County Rural TSP identified geometric deficiencies. Presence of railroad and bluffs constrain ability to make improvements. Oregon City tunnel presents a pinchpoint. Capacity constraints in Canby due to railroad and existing development patterns.	Low

**Attachment 1: Oregon Department of Transportation
 Comments on Candidate Urban and Rural Reserves**

160	within UGB and from SCL of Oregon City to Molalla	Yes, Medium	Low - Rural Clackamas County TSP (2000) and Or 213 Corridor South Study identified a need for a 5-lane section. 2035 FC RTP shows severe congestion even after improvements. A number of safety projects to add left turn channelization and widen shoulders have been constructed in recent years, and a few more similar safety projects are being developed. Growth in this area would require construction of interchanges due to expressway designation; these are expensive to build.	High
64	from I-5 to Or 212/224, within and outside UGB	Yes, E and NE of Wilsonville: Large. Stafford: Medium. East of Oregon City: Medium	Very Low - even without additional growth, need to widen I-205 to at least 6 lanes, widen the Abernethy Bridge, add truck climbing lane, and improve several interchanges including @ Or 213; very expensive	Huge
175	from ECL of Damascus to US 26	Yes; Medium	Low - 2035 FC RTP, Damascus-Boring Concept Plan, and Clackamas County Rural TSP identified capacity deficiencies, to be resolved through development of Damascus local transportation system and access management.	High
171	from Clackamas River to Estacada	Yes, Medium	Medium - 2035 FC RTP and Rural Clackamas County TSP (2000) identified some capacity as well as safety and geometric deficiencies ("Carver Curves"), with constraints to addressing these deficiencies.	Medium
26	from Multnomah County Line to Sandy	Yes, Large (in Multnomah County, plus some in Clackamas)	Medium - Urban growth in this area may require widening of US 26 to 6 lanes with construction of additional interchanges to implement expressway designation, as well as correction of safety problem at Kelso Rd; in addition, there will be increased need for the I-84 to US 26 Connector.	High
				Cost Assumptions
	ECL - eastern City limits			< \$ 100 M = Low
	SCL - southern City limits			\$ 100M - \$ 250 M = Medium
				\$ 250 M - \$ 500 M = High
	Note: map shows some undesignated area: status should be clarified			> \$ 500 M = Huge