PILOT UGB EXPANSION PROCESS FOR AFFORDABLE HOUSING

RAC MEETING AGENDA

Meeting 3

August 18, 2016
1:00pm – 4:00pm
DLCD Basement Hearing Room, 635 Capitol St., Salem

Please read:	Background materials attached. Please review materials in advance of the meeting.
Please bring:	Your RAC Binders with all background materials from first meeting.
Meeting Objectives:	• Clarify work of the RAC and how it fits with complementary efforts on housing • Provide input to U of O on its research work • Provide recommendations on: definition of high-value farmland, preventing conversion of land already planned for housing, minimizing impacts to farm, forest, and natural resources, and requirements to ensure public facilities and services are provided

1:00pm – 1:30pm	Clarify scope of RAC work in context of overall HB 4079 work, specific research that will inform rule provisions, and complementary efforts on affordable housing *Discussion:* • *What specific questions do RAC members have about how their work will proceed, and how it fits with the U of O Research?*	Dan Eisenbeis
1:30pm – 2:00pm	Initial Research from University of Oregon (Task 3) & Upcoming Research Memos *Discussion:* • *Do the case study research and upcoming research memos align with the desired project outcomes and policy deliberations of the RAC?*	Rebecca Lewis
2:00pm – 2:20pm	Preventing conversion of buildable lands within the UGB that are planned and zoned for needed housing to another use *Discussion:*	Gordon Howard

	• *Does the staff recommendation effectively protect the provision of needed housing in cities with pilot projects?*	
2:20pm – 2:35pm	Definition of "High-Value Farmland" *Discussion:* • *Do RAC members agree with the staff recommendation to use the definition of high-value farmland in ORS 195.300 for the pilot program?*	Dan Eisenbeis
2:35pm – 3:00pm	Avoiding and minimizing impacts to natural resources and nearby farm and forest uses *Discussion:* • *Are the application of Goal 5 to pilot project sites, requirement to buffer pilot project sites, and consideration of the information recommended by staff sufficient to avoid and minimize impacts?*	Dan Eisenbeis
3:00 pm – 3:25 pm	Public Facilities and Services *Discussion:* • *Should proximity to existing or planned public facilities and services encompass those required in public facilities plans (transportation, water, sanitary sewers), those urban services subject to urban service agreements (sanitary sewers, water, fire protection, parks, open space, recreation, and streets, roads and mass transit), or some other set?* • *Should LCDC require proximity to certain public facilities and services and consider proximity to other types?*	Gordon Howard
3:25pm – 3:35pm	Public Comment *The maximum time for all public comments under this agenda item will be limited to 10 minutes. If you bring written materials or other materials to handout please provide 20 copies.*	Evan Manvel
3:35pm – 4:00pm	Next Steps	Evan Manvel

HB 4079: THE WORK OF DLCD, LCDC, THE RAC, UO, AND COMPLEMENTARY EFFORTS

Rulemaking Advisory Committee

August 18, 2016

Dan Eisenbeis
Urban Policy Analyst / Legislative Coordinator

Department of Land Conservation and Development

PRESENTATION OVERVIEW

- Legislative Charge and Context
- Overarching Questions
- Outcomes
- Products
- Complementary Efforts
- Schedule
- Rule Outline and Research

LEGISLATIVE CHARGE AND CONTEXT

Legislators passed four affordable housing bills in 2016:

- HB 4079 – UGB pilot project
  - "LCDC…shall establish and implement an affordable housing pilot program"
  - "…the commission shall adopt rules to implement the pilot program on or before July 1, 2017."
- HB 4143 – Tenant protections
- SB 1533 – Inclusionary zoning and construction excise tax
- SB 1573 – Annexation in cities with voter-approval

GOAL

Increase the amount of affordable housing in Oregon

OVERARCHING QUESTIONS POSED BY COMMISSIONER MCARTHUR

1) What factors contribute to the cost of affordable housing and affordable living?

2) What tools can a community use to determine the type of housing it needs to accommodate its residents?

3) How can a community assess the opportunities and barriers it has to achieve affordable housing so that it knows whether a targeted UGB expansion will be effective?

OUTCOMES

- Pilot projects for additional affordable housing in two cities
- Data on how expedited UGB expansion process and other factors impact the supply of affordable housing
- Improved understanding of barriers to affordable housing in communities, as well as the share of housing costs attributable to land
- Improved understanding of tools to address barriers to affordable housing

PRODUCTS

- Administrative rules for pilot program
- Application/RFP materials for selection process
- Education and technical assistance materials on:
  - Pilot program
  - Factors contributing to cost and affordability of housing
  - Actions Oregon communities have taken to create and protect affordable housing supply
  - Funding resources and contacts

COMPLEMENTARY EFFORTS

- OHCS State Housing Plan
- DLCD/OHCS 2017-19 budget request:
  Planning for Housing Affordability
- DLCD 2017-19 budget request:
  Restore Grants for Local Planning
- DLCD 2017 legislative concept:
  Ensure cities with population <25,000 adopt measures to address findings of a Housing Needs Analysis

PLANNING FOR HOUSING AFFORDABILITY (OHCS/DLCD POP 102)

- Align OHCS and DLCD programs
- Technical assistance to local governments for completion of Housing Needs Analyses
- Audit development codes for barriers to housing development
- Assist local governments to identify and access funding tools
- Education to support local review and update of planning documents and processes
- Support local implementation of State Housing Plan
- Update and develop guidebooks and model codes
- Review and update administrative rules

SCHEDULE

- June – Nov 2016 RAC Process

  UO Research
- December 1, 2016 Proposed Rules Available for Review
- January 2017 LCDC First Public Hearing on Proposed Rules
- March 2017 LCDC Second Hearing and Rule Adoption
- June 2017 Outreach and technical assistance materials

  Application/RFP materials for selection process
- July 1, 2017 Statutory Deadline for Rules

RULE OUTLINE

- 0010 - Purpose
- 0020 - Definitions
- 0030 - Process
- 0040 - Substantive Requirements
- 0050 - Commission Determination
- 0060 - Project Implementation

0020 - DEFINITIONS

- "Affordable Housing" *(Early Sept. mtg.)*
- "High Value Farmland" *(August 18 mtg.)*
- "Qualifying city" - Any city in Oregon except for: *(July 19 mtg.)*
  - Cities in Clackamas, Marion, Multnomah, Polk and Washington counties; and
  - Culver, Madras, Metolius
- "Recommended housing measures" *(July 19 mtg. & late Sept. mtg.)*
- "Required housing measures" *(July 19 mtg. & late Sept. mtg.)*
- "Site" - One or more contiguous lots or parcels *(July 19 mtg.)*

PROVISIONS INFORMED BY RESEARCH

- Definition of "affordable housing" *(Section 5(1))*

- **Supporting Data/Research**
  - **Review of academic literature** – *Forthcoming memo*
  - **Review of definitions in use** – *Forthcoming memo*
  - **Cost Burden by AMI by Tenure** – *Forthcoming table*

0030 - PROCESS

- Eligibility requirements:
  - No greater than 50 acres
  - Adjacent to the existing UGB *(July 19 mtg.)*
  - Resolutions of support from city, w/commitment to annex site within two years of UGB amendment *(July 19 mtg.)*
  - Resolutions of support from county where site is located and special district(s) providing urban services
  - Signed and notarized statement of consent from landowners
  - Concept plan, including… *(Late Sept. mtg.)*
  - Specify amount and type of affordable housing proposed *(Early Sept. mtg.)*
  - Demonstrate project is not located on high value farmland *(August 18 mtg.)*
  - Demonstrate project is near existing and planned public facilities and services *(August 18 mtg.)*
  - Demonstrate project avoids or minimizes adverse effects on natural resources and nearby farm and forest uses *(August 18 mtg.)*
  - Demonstrate adoption of required and any recommended housing measures *(July 19 mtg. & Late Sept. mtg.)*
  - Demonstrate how affordable housing on site will be dedicated for at least 50 years

PROVISIONS INFORMED BY RESEARCH

- Types of affordable housing allowed on pilot sites, including manufactured dwelling parks *(Section 5(1)(b))*
- Need for sites to accommodate manufactured dwellings due to conversion of existing parks *(Section 5(2)(c))*
- **Supporting Data/Research**
  - **Inventory of Manufactured Home Parks and Closures (OHCS)** - *Forthcoming memo*
  - **Statutory Needed Housing Types (ORS 197.303)** - *Discussion by RAC on research needs*

PROVISIONS INFORMED BY RESEARCH

- Mixed income housing developments that include affordable housing *(Section 5(3))*

- **Supporting Data/Research**
  - **Review of academic literature** – *Forthcoming memo*

0040 - SUBSTANTIVE REQUIREMENTS

- Compliance with Goals, Statutes, Administrative Rules *(July 19 mtg.)*
  - Not required to comply with:
    - ORS 197A.320
    - Goal 14 land need or location provisions
    - Goals 3, 4, 9, 10, 11, 12, and 19
      - Except Goal 11 applies to impact of pilot project on existing and planned public facilities in UGB
    - Goal 15 (unless within Willamette River Greenway Boundary)
    - Goals 16-18 (unless within coastal shorelands boundary)
- Public facilities standards *(August 18 mtg. & late Sept. mtg.)*
- Impacts on natural resources and nearby farm and forest uses standards *(August 18 mtg. & late Sept. mtg.)*
- Housing measures in Existing UGB *(July 19 mtg. & late Sept. mtg.)*
- Affordable Housing Requirements (considering housing prices & incomes, availability of government assisted housing, need for manufactured dwelling sites) *(Early Sept. mtg.)*

PROVISIONS INFORMED BY RESEARCH

- Housing prices in the region compared to the income of residents in the region *(Section 5(2)(a))*

- **Supporting Data/Research**
  - **Average Rent by Region** – *Table 26*
  - **Average Sales Price by Region** – *Pending availability of RMLS data*
  - **Median Household Income by Region** – *Table 29*

PROVISIONS INFORMED BY RESEARCH

- Availability of government assisted housing in the region (Section 5(2)(b))

- **Supporting Data/Research**
  - **Oregon Affordable Housing Inventory** - *Pending OHCS completion*

0050 - COMMISSION DETERMINATION

- LCDC shall
  - Hold a public hearing
  - Consider the recommendation of the director of DLCD
  - Select two pilot projects, one from a city with population of 25,000 or less and one from a city with population greater than 25,000.
- LCDC shall:
  - Only authorize pilot projects that satisfy all of the submittal requirements set forth in…
  - Select projects that are:
    - Reasonably likely to provide a site for affordable housing that would not otherwise be provided
    - Reasonably likely to serve identified populations in the area that require affordable housing
    - Served by public facilities and services
    - Avoid or minimize adverse effects on natural resources and nearby farm and forest uses
    - Nominated by a city that has demonstrated efforts to accommodate and encourage the development of needed housing within its existing UGB
    - Specify the provisions of law and rules relating to UGB amendments that are waived to allow the pilot project site to be included within an urban growth boundary.

(late Sept. mtg.)

PROVISIONS INFORMED BY RESEARCH

- Selection of projects that provide sites for affordable housing that would not otherwise be provided *(Section 4(4)(a))*

- **Supporting Data/Research**
  - **Cost Burden by AMI by Tenure** – *Forthcoming table*

RULE PROVISIONS INFORMED BY RESEARCH

- Selection of projects that serve identified populations in the area that require affordable housing *(Section 4(4)(b))*

- **Supporting Data/Research:**
  - **Cost Burden by AMI by Tenure** – *Forthcoming table*

0060 – PROJECT IMPLEMENTATION

- Upon selection for a pilot project, a city shall:
  - Amend UGB to include site and specify law and rules that are waived *(July 19 mtg.)*
  - Adopt plan and zone designations consistent with concept plan *(July 19 mtg.)*
  - Annex the site within two years of UGB amendment *(July 19 mtg.)*
  - Adopt measures to dedicate site for affordable housing for at least 50 years *(July 19 mtg.)*
  - Issue permits for development only after annexation and adoption of housing measures *(July 19 mtg.)*
  - Protect existing needed housing) *(August 18 mtg.)*
  - Periodically report project progress to DLCD

UPCOMING RESEARCH MEMOS

- Affordable housing definition
- Manufactured housing
- Mixed income housing
- Cost components of housing

CASE STUDY RESEARCH

- Goal is to better understand the dynamics of housing markets in Oregon cities

- Case studies will be qualitative studies of 12 cities aimed at:
  - Estimating relative contribution of various components to housing costs
  - Evaluating development codes to evaluate regulatory barriers to affordable housing, especially multifamily
  - Exploring the dynamics of local land markets and availability of development ready land

UNIVERSITY OF OREGON

August 5, 2016

To	**HB 4079 Rulemaking Advisory Committee**
CC	**Dan Eisenbeis, Gordon Howard and Carrie MacLaren**
From	**Bob Parker and Rebecca Lewis**
SUBJECT	**OVERVIEW OF HB 4079 CASE STUDIES: PURPOSE AND CONTENT**

The purpose of this memorandum is to brief the HB 4079 Rulemaking Advisory Committee (RAC) on the approach the University of Oregon research team proposes to use for the case studies. At the July 19 meeting, the RAC requested more information on the purpose and content of the case studies. The broad concern was how the UO can make the case studies most useful to the RAC as it deliberates key provisions of the Administrative Rule that implements HB 4079. This memorandum describes (1) the purpose and objectives of the case studies, (2) lists the proposed case study communities, and (3) details the methods and content we propose to include in the research.

Case Study Research

Broadly, the primary UO role in this project is to conduct research to support DLCD staff and the RAC in developing the Administrative Rule to implement HB 4079. Our work program includes research to understand characteristics of housing production and supply in HB 4079 eligible cities. Our work program describes the case studies as follows:

> "The unit of analysis is the city. We will organize the analysis for cities by OHCS regions. The UO Team will work with DLCD to identify case study cities for Tasks 2.2 and 3. We proposed focusing on cities that have recently completed Buildable Lands Inventories to obtain multiple cities from each region across various population sizes and ensure representation from the Coast."

<u>Task 2.2 focuses on developing a detailed understanding of the housing stock in Oregon communities. Task 3 is a qualitative analysis that is intended to better understand housing market dynamics.</u> Objectives of the qualitative analysis include:

- Developing estimates of the relative contribution of various components to housing costs. This will include land, labor, materials, SDCs and other fees, permits, etc.
- Evaluating select development codes to evaluate regulatory barriers to affordable housing types (particularly multifamily)
- Understanding the dynamics of local land markets and the availability of development ready land, the relationship between functional planning and land availability, and land for sale.

The case studies will support both the Task 2.2 supply analysis and the Task 3 qualitative analysis.

Purpose of Case Studies

A key question asked by the RAC at the July 19 meeting broadly concerned the purpose of the case studies. Commissioner McArthur articulated three objectives important to her:

- What factors contribute to providing affordable housing in Oregon cities? What are the opportunities and barriers?
- What tools have cities adopted and successfully used to encourage development of affordable housing?
- What tools have cities used to identify and address barriers to affordable housing?

These questions overlap with in some places with the qualitative analysis in our work program. We think, from a broad perspective, that our research will help address these objectives. The case studies will also address the objectives outlined in Task 3 of our work program (stated above).

It is worth stating what the case studies are not intended to do. They are not intended as (1) an evaluation of the eligibility of any given city for inclusion in the pilot program, (2) a field test of any specific criteria that might be included in the Administrative Rule to determine eligibility, or (3) a baseline over which to measure change over time in any given community.

In short, the intent of the case studies is to inform the broader goal of better understanding the dynamics of housing markets in Oregon cities.

Case Study Process and Content

The committee requested more information about the specific content of the case studies. Consistent with our work program, UO's methods will include interviews, secondary data collection and analysis, content analysis, or online surveys with developers, lenders, housing authorities and other organizations. Following is a last of specific topics will intend to research:

- Land supply and availability. This information will come from BLIs (where they exist) and will look at both long- (20 years) and short- (1-2 years) term supply of land. A key issue of interest is how land moves through the pipeline from tract land to developable lots that are for sale. Qualitative analysis (interviews) will address questions of pipeline and availability as well. (Data Sources: Existing BLI's; Existing HB 2254 GIS database; Interviews.)

- Cost of land. We propose to use tax assessment data to generally understand land costs; this information will be supplemented with interviews. (Data Sources: Existing HB 2254 GIS database; interviews)

- Infrastructure availability and cost. We propose to conduct a high level analysis of land service issues in the case study communities. This will include review of CIPs, TSPs and functional plans. It will also include a review of SDC cost information. (Data Sources: CIP, TSP, Functional Plans; LOC SDC Survey)

- Measures to encourage housing. We propose to build from a list of measures (potentially the short list of measures from the Division 38 rule staff shared with the RAC at the July meeting). This work will involve a review of local development codes/zoning ordinances. (Data Sources: Local Development Codes and Zoning Ordinances; Interviews.)

- Housing supply and availability. We propose to use both quantitative (ACS, etc) and qualitative approaches (interviews) to document housing supply and availability. We will also gather information on conversion of housing to short-term rentals. (Data Sources: ACS data; interviews; secondary sources on short term rentals.)

- Housing production. We will look at building permit data to document housing production in the case study cities. We propose to compare this with population growth during similar periods to see of expected relationships between population growth and housing production exist. We will also look at production of government assisted and other affordable housing types. (Data Sources: Census Building Permits Survey; Decennial Census; OHCS)

- Manufactured home parks. We will include an inventory of parks and identify whether any parks have recently closed. (Data Sources: OHCS Inventory)

A final note about methods: it is a certainty that some data will not be available for some cities. We propose to do our best to gather as much information as possible.

Proposed Case Study Cities

The RAC made several comments about the process for selecting case study cities. Central to our criteria are that the sample include a diversity of communities by:

- Size
- Region
- Socioeconomic characteristics

We propose the following cities for the case study analysis.

City	BLI	Survey?	Region	Coast?	Size
Tillamook	N		1	Y	<25,000
St. Helens	N	Y	1	N	<25,000
Hood River	Y		3	N	<25,000
Hermiston	Y	Y	4	N	<25,000
Ontario	Y	Y	4	N	<25,000
Klamath Falls	N	Y	5	N	<25,000
Central Point	Y	Y	6	N	<25,000
Grants Pass	Y	Y	6	N	>25,000
Corvallis	Y	Y	7	N	>25,000
Newport	Y	Y	7	Y	<25,000
Springfield	Y	Y	7	N	>25,000
Bend	Y		8	N	>25,000

Format of Case Studies

The final issue has to do with the format of the case studies. Our work program requires us to write a report that addresses "housing market dynamics." The case study work is a big part of that effort.

Themes from the case studies will be included in that report. We will also include a summary of each case study (by city) in an appendix to that report.

Related to format is audience. The case studies (and the market dynamics report) are intended for multiple audiences, the RAC, the LCDC, DLCD staff, communities and finally the general public. It is clear to us that not all of the information we gather for the case studies will be relevant to the RAC deliberations. We request that the RAC continue to provide guidance on what information they would like the UO research team to highlight and discuss.

Oregon
Kate Brown, Governor

Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540
Phone: (503) 373-0050
Fax: (503) 378-5518
www.oregon.gov/LCD

August 12, 2016

TO: Pilot UGB Expansion Process for Affordable Housing Rulemaking Advisory Committee

FROM: Gordon Howard

RE: **Conversion of Lands for Housing to Other Uses**

HB 4079 includes provisions that are intended to prevent a local government with an approved pilot project site for affordable housing from converting lands within its urban growth boundary that are already planned for needed housing. The specific provision, Section 8(3), reads as follows:

> *The inclusion of pilot project sites dedicated to affordable housing within an urban growth boundary pursuant to sections 2 to 9 of this 2016 Act does not authorize a local government to convert buildable lands within the urban growth boundary that are planned for needed housing, as defined in ORS 197.303, to other uses.*

In addition, local governments are also expected to demonstrate efforts to provide needed housing within an existing urban growth boundary. While adoption of positive housing measures (as was discussed by the rules advisory committee at its July meeting) is one aspect of these efforts, refraining from adoption of adverse housing measures is also an aspect of this requirement. The specific provision, Section 4(4)(f), reads as follows:

> *Nominated by a local government that demonstrates efforts by the local government to accommodate and encourage the development of needed housing within its existing urban growth boundary.*

Staff recommends that local governments with an approved pilot project show compliance with these requirements through the post-acknowledgement plan amendment submittal process required by ORS 197.610. Local governments must submit all proposed plan amendments and land use regulation changes that impact statewide planning goals to the Department of Land Conservation and Development for review (and the Department disseminates the submittals to interested parties around the state). This ensures review of such changes, the ability to comment, and the ability to challenge an adverse local government decision with a petition to the Land Use Board of Appeals.

The Land Conservation and Development Commission deals with compliance issues such as this in other rule provisions. The most pertinent example concerns lands dedicated for employment use. OAR 660-009-0010(4) requires that local governments submitting a plan amendment that changes land from an industrial use to another, non-industrial use must prepare findings demonstrating that the change is justified by the city's economic opportunities analysis. OAR 660-012-0060 requires local governments submitting a plan amendment or land use regulation change that negatively impacts transportation

facilities identified in the local government's transportation system plan to mitigate those impacts to an acceptable level. Staff recommends a similar policy methodology to address changes to existing housing policy or lands within a city with an approved pilot project for affordable housing.

Specifically, staff recommends that local governments comply with these requirements by finding that proposed plan amendments and amendments to residential land use regulations do not negatively impact existing provision of needed housing within a local government's existing urban growth boundary. The finding would be required for: 1) plan amendments and rezones that reduce residential density or eliminate higher density housing types; 2) plan amendments and rezones that change a residential land use designation to a non-residential designation; and 3) land use regulation changes that eliminate or weaken a measure from the list of housing supply and affordability measures contained within the future pilot program rules (discussed by the rules advisory committee at its July 19th meeting). In most cases such findings would only be possible if the local government had a recent acknowledged housing needs analysis that documented the amount and type of needed housing within the jurisdiction.

PILOT UGB EXPANSION PROCESS FOR AFFORDABLE HOUSING

Farm, Forest, and Natural Resources Discussion Group Notes

Meeting held August 2 at DLCD Office in Salem

Attendees:

- Linc Cannon (Oregon Forest Industries Council)
- Jim Johnson (Oregon Department of Agriculture)
- Kelly Madding (Jackson County)
- Steve McCoy (Friends of the Columbia Gorge)
- Mary Anne Nash (Oregon Farm Bureau)

Staff: Dan Eisenbeis; Evan Manvel; Gordon Howard; Tim Murphy; Casaria Taylor

Note Taker: Casaria Taylor

Section 4(4)(e) Discussion

Attendees were asked to respond to the following questions:

- *Do you know of examples where residential development has effectively avoided or mitigated adverse impacts on natural resources, and nearby farm and forest uses? Do you know of examples where problems occurred?*
- *How should a city demonstrate its nomination for a pilot project meets this selection requirement?*
    - *Should the nominating city make findings? What kind of evidence would be sufficient to support the finding?*
    - *Should certain provisions be required in a concept plan?*
- *In addition to requiring nominating cities to meet certain minimum requirements, should the nominations be ranked relative to one another? If so, what should be considered?*

- Steve McCoy: Can't think of situations that have worked well. Things don't end at a fence. Its conflicts between residential uses and natural resources that arise out of activities such as timber harvesting, spraying with a helicopter, or plowing on natural resource lands, or trying to remove blackberries on residential lands.
- Kelly Madding: It's kind of dependent on the *intensity* of the use both from residential impact and use of natural resource. If the intensity of the agricultural or forestry practice is not high then an intense residential use might not have such a conflict, and vice-versa.
- Jim Johnson: Examples of this conflict in action and attempts to minimize adverse effects that have had some success include: 1) Jackson County (rural lands/urban edges) code requirements for buffering setbacks; 2) New Zealand setback standards; 3) Metro (reserves process) put conditions in

some of their area specific conditions that require buffers and setbacks; 4) Columbia Gorge Commission Management Plan standards in the National Scenic Area. However, these provisions are not necessarily enforced – something that could be a long-term issue for the pilot projects as well. Buffers need to be on the urban side, not on the agricultural land. Bethany area in Portland has issues. Keizer has had issues along the edge of their border. Albany UGB edge had conflicting uses impacting agriculture lands, including issues of trespass. Cities also looking to provide infrastructure (Dayton) causes issues. Dayton acquired a well in agricultural land, and used it for municipal needs, which decreased agriculture water supply.

[Gordon Howard: Asked about the size of a buffer.]

- Jim Johnson: There is no definition of the size of a buffer. Relates to the type of agriculture that currently exists or may in the future exist. A buffer can be topographic or vegetative. A setback is more specific.
- Mary Anne Nash: Most of the issues she has heard of are the same that Jim just mentioned. She's also heard third hand about issues in the Metro area.
- Linc Cannon: There isn't a lot of activity on the forest land but when there is it is intense (harvest season, spraying, etc.). Minimizing conflicts means not putting these pilot projects next to forest lands.

[Gordon Howard: Asked if the fire aspect is part of the potential conflict for forest land issues.]

- Linc Cannon: More fire is a concern; not so much on state managed land but on federal lands that have more dead trees.
- Linc Cannon: Another example is houses built scattered in the forest.
- Jim Johnson: Remembers Ashland being concerned about expanding onto forest lands to the west because of fire concern.

[Gordon Howard indicated that Bend is dealing with urban/fire interface issues as well.]

- Kelly Madding: Cities that have an interface with forest zones do have an increased fire concern. Ashland has selected where it has grown based on fire risk.
- Mary Anne Nash: More sensitivity needs to be had with complaints such as noise complaints. People seem to be more likely to complain about agriculture operations and expect the agriculture operations to stop, instead of being aware of the need to operate machinery late at night.
- Jim Johnson: Right to farm complaints are on the rise. Residents of the City of Dallas have complained over the last couple of years about the use of propane cannons on agricultural land outside of town.

[Evan asked the group to think about solutions to help the pilot projects be successful.]

- Jim Johnson: Is concerned about cities making findings, as they have little expertise in agricultural issues. Whether cities make findings or meet a set of criteria the question will be who is making the findings. The city must actively involve the forest and agricultural communities before making the findings. Maybe a third party who looks at the information and helps with review.

[Gordon Howard: Asked if counties are any better at findings.]

- Jim Johnson: It depends on the county.
- Jim Johnson: ORS 215.296 standards are not preferable for this project. Establishing clear and objective standards could be an alternative.
- Kelly Madding: In Jackson County they have to find a new dwelling in EFU lands will not materially alter the ability to farm; this is a first step.

- Kelly Madding: Cities need to analyze an area that is broader than just the adjacent lands; perhaps a mile radius. Broad analysis of area surrounding the 50 acres being looked at for the pilot project, for issues such as the impact of additional traffic on county roads and the ability to move farming equipment on those roads The city should also do some carrying capacity analysis regarding impacts to farming activities in a farming area. Identify the impacts first before exploring mitigation.
- Jim Johnson: There are two issues: one is the development footprint, and the other is the shadow it casts. Suggested concept plans could analyze the value of the land to farming, including the presence of water rights, and whether it is irrigated or not.
- Jim Johnson: Suggested giving preference for sites that fill a notch in the shape of the existing UGB and have less land bordering farmland, as compared to a peninsula-style site. Proposals with mitigating topographic features, such as rivers, etc. creating buffers should also be preferred.
- Steve McCoy: Was also thinking of the "notch" concept. You don't really want affordable housing out on the edge of a city. Rural residential parcels, and other uses such as parks, could also serve as a buffer.
- Jim Johnson: Commercial and industrial uses could also serve as a buffer.
- Kelly Madding: Another piece is configuration/parcel sizes. Southern Oregon is very parcelized. The other piece of it is looking at not only exception lands but also configuration of parcels that are zoned for farming and have been or are being farmed. Southern Oregon has a lot of farmland that is not currently or has never been used for farming.
- Jim Johnson: Parcelization by itself is not a factor. It's a first step but also need to look at tenure and how those lots have been used in the past.
- Jim Johnson: Think it is all pointing toward factors or criteria for. Will need to analyze various aspects and give direction (parcelization, soil quality, intensity of use, water rights, etc.)

[Gordon Howard: We don't know how many cities will submit nominations. Don't know if want to focus on the rankings because we may have only one nomination.]

- Jim Johnson: Concerned about losing 50 acres of agriculture water rights. Maybe need to have a provision that the water rights get transferred to another agriculture use.

[Dan Eisenbeis: There is a tension in the legislation between expediting a UGB expansion and selecting pilot projects that meet certain criteria.]

- Linc Cannon: It is tough to figure out what to address without knowing which locations for pilot projects might be in mind.
- Mary Anne Nash: The legislation does include one city over 25,000 and one city under 25,000.

[Dan Eisenbeis: A premise of the bill is that a community will be able to reduce the cost of land for developing affordable housing through a special UGB expansion. The pilot program will help determine whether that is successful.]

- Jim Johnson: There needs to be analysis by the department or commission should be done to determine if a really small city actually needs to do this and is not just trying to gain 50 acres.
- Kelly Madding: It will depend on how affordable housing is defined. Disappointed that mixed income housing is allowable in the 50 acre site.
- Kelly Madding: There are cities in southern Oregon getting ready to go through UGB expansion so she hopes this bill wasn't aimed at them.

[Dan Eisenbeis: There is a requirement in Section 7 of the bill for local governments to protect the site for a period of at least 50 years.]

[Evan asked if there are any thoughts on how to minimize impacts to natural resources, not just farm and forestland.]

- Steve McCoy: Goal 5 would still apply?

[Dan Eisenbeis: The RAC agreed with the staff recommendation that Goal 5 still apply to UGB expansions conducted through the pilot program.]

Additional comments

- Kelly Madding: The city should make findings.
- Kelly Madding: If more than one application is received a comparison of jobs/housing balance needs to be done. There is usually information through an EOA or BLI.
- Kelly Madding: There should also be a review of the last time a city expanded their UGB and cities that have expanded their UGB within the last 10 years should not be eligible.
- Kelly Madding: A city with available land within their UGB should rank lower than a city without available land in its UGB.
- Kelly Madding: Consideration should be made to whether a city already has any affordable housing programs in place and has demonstrated the capability to manage affordable housing programs to keep the new housing affordable for 50 years, as required by statute.
- Kelly Madding: The resource value of proposed UGB expansion area should be considered.
- Jim Johnson: Agreed with everything Kelly said (in this section)
- Kelly Madding: If the cities meet LCDC's criteria and are selected what process do they go through at the local level?
- [Gordon Howard: The UGB amendment has to be approved by both the city and the county. The county has to sign off on the application. The process will be spelled out in the rules in addition to what happens if the city is unable to proceed.]
- Kelly Madding: Is this a land use decision that can be appealed?
- Jim Johnson: What happens if LCDC picks a pilot project and then the local government denies it?
- [Gordon Howard: the rules will need to spell out what happens under this scenario.]
- Linc Cannon: Forest land should generally not be converted under this pilot program.

Section 8(2) Discussion

[Tim Murphy: Presented the staff recommendation memo. Explained ORS 215 (1993) established a definition of high-value farmland and the legislature established a newer definition (ORS 195) in 2007 due to Measure 49. The department would prefer to use the definition in ORS 195 which references the ORS 215 definition but also addresses irrigation and viticulture.

- Jim Johnson: Agree with using ORS 195, and there is precedent: it was used when golf course law was amended as well as in the new UGB streamlining rules. It's a good idea to help address the water issues mentioned earlier.
- Kelly Madding: The statute still talks about ORS 215. If we go to ORS 195 explicit statutory direction would have been given to use ORS 195. A lot of land in Southern Oregon is restricted because of the viticulture area included in the definition in ORS 195, and many counties would prefer to use the ORS 215 definition. In Southern Oregon if the ORS 195 definition is used then there will be very little agricultural land near local cities that is not high-value because of the size of the viticulture area.
- Jim Johnson: Can't think of a farm use less compatible with residential use than growing grapes.
- Steve McCoy: That is kind of the point; viticulture is an exploding industry. Supports using the 195.300 definition for that reason and because of impacts within the Columbia Gorge.
- Jim Johnson: The definition has been used outside of the Measure 49 scope.

- Kelly Madding: Counties are used to using ORS 215. Using ORS 195 eliminates a large portion of land in Jackson County.
- Mary Anne Nash: Like the ORS 195 definition.
- Linc Cannon: Defer to Mary Anne on this issue.
- Jim Johnson suggested creating an additional definition for High Value Farmland for the pilot program would be problematic. [The group agreed with his statement.]

Oregon
Kate Brown, Governor

Department of Land Conservation and Development
Community Services Division
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540
Phone: (503) 373-0050
Fax: (503) 378-5518
www.oregon.gov/LCD

August 12, 2016

TO: Pilot UGB Expansion Process for Affordable Housing Rulemaking Advisory Committee

FROM: Tim Murphy, Farm/Forest Land Specialist

RE: **House Bill 4079, Section 8(2) – Impact on Farms, Forests and Natural Resources**

House Bill 4079 provides protection for high-value farmland per Section 8(2):

> *A local government may not use sections 2 to 9 of this 2016 Act to bring high-value farmland, as determined by the commission, within its urban growth boundary.*

There are two definitions of high-value farmland in statute:

1. The definition in ORS 215.710 was adopted in 1993 and references Soil Conservation Service documents available at that time.
2. ORS 195.300(10) was adopted in 2007. ORS 195.300(10) relies on the definition in ORS 215.710 but also:
   a. Updates referenced document dates from 1993 to 2007
   b. Adds Harbor Bench soils in Curry County
   c. Addresses water resources, diking districts and viticulture.

DLCD staff recommends use of the definition in ORS 195.300(10) for the pilot program rules. The definition in 195.300(10) is more current and comprehensive, and has been referenced in recent rulemaking including the Simplified Urban Growth Boundary Method (OAR 660-38). Both definitions are provided below for reference.

ORS 195.300 Definitions for ORS 195.300 to 195.336.
(10) "High-value farmland" means:
(a) High-value farmland as described in ORS 215.710 that is land in an exclusive farm use zone or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4) and (6) are December 6, 2007.
(b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in ORS 215.710 (1) and the following soils:
(A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay Loam;
(B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt Loam; and
(C) Subclassification IVw, specifically Huffling Silty Clay Loam.
(c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:

(A) Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;

(B) Within the boundaries of a district, as defined in ORS 540.505; or

(C) Within the boundaries of a diking district formed under ORS chapter 551.

(d) Land that contains not less than five acres planted in wine grapes.

(e) Land that is in an exclusive farm use zone and that is at an elevation between 200 and 1,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within:

(A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;

(B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89; or

(C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90.

(f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within:

(A) The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178 that is within the State of Oregon;

(B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;

(C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is within the State of Oregon;

(D) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91 that is within the State of Oregon; or

(E) The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that is within the State of Oregon.

ORS 215.710 High-value farmland description for ORS 215.705.

(1) For purposes of ORS 215.705, high-value farmland is land in a tract composed predominantly of soils that, at the time the siting of a dwelling is approved for the tract, are:

(a) Irrigated and classified prime, unique, Class I or Class II; or

(b) Not irrigated and classified prime, unique, Class I or Class II.

(2) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. For purposes of this subsection, "specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards but not including seed crops, hay, pasture or alfalfa.

(3) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705, high-value farmland, if in the Willamette Valley, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of soils described in subsection (1) of this section and the following soils:

(a) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hullt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;

(b) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);

(c) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

(d) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.

(4) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of soils described in subsection (1) of this section and the following soils:

(a) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;

(b) Subclassification IIIw, specifically, Brenner and Chitwood;

(c) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalan, Neskowin and Winema; and

(d) Subclassification IVw, specifically, Coquille.

(5) For purposes of approving a land use application under ORS 215.705, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:

(a) Submits a statement of agreement from the Natural Resources Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or

(b)(A) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and

(B) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (A) of this paragraph and finds the analysis in the report to be soundly and scientifically based.

(6) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are those of the Soil Conservation Service in its most recent publication for that class, rating or designation before November 4, 1993. [1993 c.792 §3; 1995 c.79 §78; 1995 c.812 §8]

Oregon
Kate Brown, Governor

Department of Land Conservation and Development
Community Services Division
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540
Phone: (503) 373-0050
Fax: (503) 378-5518
www.oregon.gov/LCD

August 12, 2016

TO: Pilot UGB Expansion Process for Affordable Housing Rulemaking Advisory Committee

FROM: Tim Murphy, Farm/Forest Land Specialist

RE: **House Bill 4079, Section 4(4)(e) – Impact on Farms, Forests and Natural Resources**

Section 4(4)(e) of HB 4079 directs the Land Conservation and Development Commission to select pilot projects that are:

> *Located, planned and zoned to avoid or minimize adverse effects on natural resources and nearby farm and forest uses if the pilot project would require amending an urban growth boundary to include the pilot project site;*

The Department of Land Conservation and Development (DLCD) has prepared the following application review and buffering rule concept based on input provided by Farm, Forest, and Natural Resources Discussion Group meeting attendees on August 2, 2016. **Staff recommends that impacts to natural resources be accomplished via application of Goal 5 to the Urban Growth Boundary amendment, as well as through the proposed use of buffers described below.**

Staff recommends projects pilot project nominations be required to include buffering to minimize conflicts between residential and farm or forest uses to be selected by LCDC. Buffers shall be provided along any boundary of the nominated pilot project site that is adjacent to land in an exclusive farm use, forest or mixed farm and forest zone. In lieu of a buffer, an applicant may propose an alternative method for minimizing conflicts between residential and resource uses that provides greater protection to land zoned farm, forest or mixed farm and forest than would otherwise be provided through the buffer types listed below.

Staff recommends LCDC consider the type of buffer specified in nominations, based on the following order of preference, when selecting pilot projects:

1) Buffer is provided by lands within the existing urban growth boundary;
2) Buffer is provided by lands currently zoned rural residential, rural commercial, or rural industrial;
3) A 200 foot or greater buffer is provided, including a minimum buffer of 50 feet provided on the nominated pilot project site. Buffers may consist of building setbacks, riparian areas, wetlands, topographic features, public right-of-ways or utility right-of-ways. The use of vegetative screening and/or constructed berms on the pilot project site is encouraged
4) A buffer with a width of less than 200 feet but not less than 100 feet is provided. Buffer shall be provided on the nominated site and may consist of the buffer features mentioned in 3) above. The use of vegetative screening and/or constructed berms on the pilot project site is encouraged.

Staff also recommends LCDC consider the following when selecting pilot projects:

- Length and percentage of the nominated site boundary that is adjacent to land outside the urban growth boundary in an exclusive farm use zone, forest zone or mixed farm and forest zone;
- Type and characteristics of farm and forest practices on the nominated site including current practices and historic practices over the past 20 years;
- Existing water rights;
- Type and characteristics of farm and forest practices on lands adjacent to the nominated site; and
- Impact of proposed pilot project development on adjacent farm and forest practices including:
    - General transportation impacts;
    - Fire protection (if adjacent to forest practices); and
    - Water rights for agricultural use.

Sites comprised of high value farmland are not eligible for the pilot program.

S|D|A|O Special Districts Association of Oregon

August 1, 2016

Dan Eisenbeis
Urban Policy Analyst
Department of Land Conservation
And Development
635 Capitol Street NE
Suite 150
Salem, OR 97301-2540

RE: Pilot UGB Expansion Process

Dear Dan,

On behalf of the Special Districts Association of Oregon (SDAO), please accept the following comments for the Advisory Committee on the implementation of HB 4079.

While the legislation clearly requires a city or county to be the "local government" that applies for the pilot program, the act also requires that the site be "near public facilities and services…to serve the area, or for which public facilities and services are planned and reasonably likely to be provided at a reasonable cost in the near future."

Because most urban counties in the state are not allowed to be pilot sites, it is likely that the needed services will be provided by a special district. ORS 195 has for years required that cities and counties have urban service agreements with selected special districts such as water, fire, transit and sanitary. We would therefore, ask the committee to require that the pilot city or county have an urban service agreement with any of the districts identified in ORS 195, if a district is expected to provide service, or will be subject to a withdrawal of territory.

This is particularly important where a city would want to annex a parcel. With an urban service agreement, there would already be a decision made on who will provide services after annexation. Having the agreement will eliminate a major issue that could hold up the actual development of the project.

Another issue is the cost of service provision and connection. Because the object of the pilot program is to create affordable housing, working with relevant special districts in the site selection process may allow for creative ways to reduce the cost of services or create incentives for a developer. Not involving affected districts may simply be counter-productive to keeping the development costs low.

P.O. Box 12613 | Salem, Oregon 97309-0613 | PHONE: 503-371-8667 | TOLL-FREE: 1-800-285-5461 | FAX: 503-371-4781 | WEB: www.sdao.com

SDAO supports the pilot project effort, and will be glad to provide information to the committee, and will be pleased to work with any district that may be impacted by a proposed pilot project.

Thank you for your consideration.

Sincerely,

Mark J. Landauer
Special Districts Association of Oregon
Government Affairs