

# Housing Capacity Working Group - Meeting 4

July 26, 2022 1pm – 4pm

Meeting Notes

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## Staff and Working Group Members

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Ethan Stuckmayer, DLCD	Cascades West Council of	Oregon Cities
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Gordon Howard, DLCD	Chris Faulkner, Clean Water	Realtors
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Peggy Lynch, League of	Brian Latta, City of Dallas	Brian McDowell, Business
Women Voters	Emily Reiman, DevNW	Oregon
Jeff Adams, City of Cannon	Bill Van Vliet, Network for	Mary Anne Cooper, Oregon
Beach	Oregon Affordable Housing	Farm Bureau
Brian Rankin, City of Bend	Al Johnson, Retired Land Use	Rian Hooff, Oregon
Mary Kyle McCurdy, 1000	Attorney	Department of Environmental
Friends of Oregon	Peter Gutowsky, Deschutes	Quality (ODEQ)
Heather O'Donnell, City of	County Community	Dave Hunnicut, Oregon
Eugene Planning Division	Development	Property Owners Association
Jean Dahlquist, Housing Land	Michael Burdick, Association	Lucia Ramirez, ODOT
Advocates ( <i>subbing for Kathy</i>	of Oregon Counties	
<i>Wilde</i> )	Anneliese Koehler, Metro	

## Key Insights Summary

**The effectiveness of the policy options in streamlining UGB regulatory review varies by jurisdiction size and other localized factors** - Each policy varies in its effectiveness in reducing regulatory review challenges depending on jurisdiction size, staffing capacity, and the likelihood that available land within the UGB and adjacent to the UGB will be developed. For example, increasing DLCD capacity in supporting Goal 14 analysis may be most beneficial for smaller jurisdictions where the ability to conduct internal analysis is limited due to budget and small staff numbers. Conversely, emphasizing urban reserve and concept planning may be more effective for mid-size or larger jurisdictions that have allocated suitable lands and can better connect infrastructure and necessary utilities. Generally, members agreed that providing a variety of tools and options for local jurisdictions is appropriate.

**Incentivizing policies rather than requiring them may be more productive** - Finding ways by which to strongly encourage and support jurisdictions in pursuing UGB streamlining measures may be more effective than requiring them, especially for smaller jurisdictions that would struggle to conduct many of

the additional analyses these require without additional funding or capacity support. Policy recommendations should provide additional tools and flexibility assist jurisdictions and should avoid layering additional requirements, even if they would have the effect of streamlining future expansions.

**Look to leverage affordable/diverse housing production with streamlining** - Creating targeted expansions that resulted in developed housing can be challenging but can be incentivized by leveraging streamlined processes in exchange for state housing affordability and diversity goals. It will be important that the resultant process balances streamlined processes with statewide land use planning goals, including protection of resource lands.

## **Meeting Notes**

*Meeting Outcome – Facilitate break-out and round-table discussion intended to solicit feedback and proposals to address the **UGB adjustment process**, including evaluation of options intended to **streamline the regulatory review process**.*

### **Update and Context Reminder**

DLCD directed to facilitate discussion on housing capacity (through a work group), with a focus on:

- How land within UGB's can be better utilized to increase housing type and unit, including reduction of restrictive and outdated zoning regulations
- How the process and level of data necessary to establish the need of UGB adjustments can be streamlined, considering protection of resource lands
- How regulatory review of UGB adjustments can be streamlined, while considering the protection of resource lands
- How to fund additional capacity in cities with populations below 10,000

### **Work Group Charter**

- 1) Advise DLCDD staff on issues specific to housing capacity as implemented through Housing Capacity Analysis and related statute and administrative rule.
- 2) Provide diverse perspectives and share knowledge and experiences working with Housing Capacity Analyses and Goal 10, and constructively critique staff's direction and proposals.
- 3) Consider and integrate the diverse perspectives, knowledge and experiences from the Housing Needs Work Group and the stakeholder engagement process.

## **UGB Adjustment Regulatory Review**

### **Goal 14 – Expansion Process Review**

- Ensure that the expansion best addresses the need and protects resource lands from irreversible conversions
- Three steps of a UGB adjustment
  - Establishing a study area
  - Prioritizing lands – urban reserves, non-resource lands, resource lands
  - Analyzing four location factors – efficiency, infrastructure, ESE, compatibility

### **Establish a study area**

- Start broad and exclude lands that are unsuitable

- Incorporate all urban reserve areas plus areas a minimum distance from UGB boundary.  
Exclude:

- Impracticable to provide public services
- Land subject to natural hazards
- Lands with specific scenic, natural, cultural, or recreational resources
- Non-urban federal lands

- Resultant final study area must be at least twice as large as land need

#### **Prioritize Lands**

- When expansion occurs, it's important protect high resource lands, and use them last. Start with lands that are intended for urban development
- Start with
  - Urban reserves, rural "exception" lands, non-resource lands
  - Marginal lands (Lane and Washington Counties)
  - Farm and forest land that is not primarily high-value farmland
  - Farm and forest land that is primarily high-value farmland

#### **Apply Location Factors**

- Ensure expansion area is best suited to meet need
- Locational factors include
  - Efficient accommodation of identified lands
  - Orderly and economic provision of public facilities and services
  - Comparative environmental, energy, economic and social consequences
  - Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB

#### **Other Considerations**

- Simplified UGB methodology – establishes alternative process, particularly beneficial for smaller cities.
- UGB land swaps – gives the option to remove lands and bring in other lands. If swaps is roughly equal, then no 20-year need analysis is required
- Urban Reserves – 30-to-50-year land supply; first priority in UGB adjustment

#### **Goal 14 – Expansion Planning Challenges (and the UGB Survey)**

- DLCD published survey in June
  - Sent to 31 jurisdictions that had pursued UGB expansions since 2016
  - 9 responses, 5 follow-up discussions
- Major Challenges Observed regarding UGB Adjustments
  - Analytically Complex – requires specialized expertise to complete
  - Legally risky – when one or more parties opposes the adjustment
  - Outcome Uncertain – and development may not occur as planned, if at all (Expansions don't guarantee development)
- Opportunities
  - Urban Reserve Planning –jurisdictions that have urban reserves have an easier time with UGB adjustments than those that do not
  - Small-scale expansions – reduce risk, time and costs associated with larger expansions
  - DLCD-lead analysis – Directly address analytical challenges and reducing costs
  - DLCD partnership – Helping cities create partnerships, "get to yes" via collaboration

- UGB land swap – Removing lands that have not and will not develop anytime soon

## **Overview of Policy Ideas**

### **DLCD Capacity for Goal 14**

- No current capacity within DLCD to do analysis for Goal 14
- Build staff capacity to complete or support Goal 14 analyses
- Leverage existing budget request (OHNA POP) to fund capacity

### **Emphasize Urban Reserve/Concept Planning**

- Having urban reserves reduces time required for expansion planning
- Incentivize or require urban reserve and concept planning
- DLCD could support funding for this process
- Urban reserve/concept planning increases certainty and enhances development and infrastructure readiness
- Look for ways to ensure that cities have allocated urban reserves

### **UGB Land Swap**

- Bring in lands that are more ready for development and remove those that are unused
- Incorporate into the HCA process
- Facilitate appropriate removal of lands unlikely to develop
- Strengthen with flexibility around priority analysis
- An option could be to consider swapping in marginal lands, priority analysis wouldn't be required to incentivize this path

### **Incentivize small-scale UGB adjustments**

- Incentivize streamlined small-scale expansion in exchange for statewide housing policy goals
- Design to be viable option while protecting resource lands
- Example of Skyline Village in Redmond, prompted HB 4079

### **Disincentivize Appeal of UGB Adjustments**

- Disincentives for appeals of adjustment (not high-value farmland)
- Intent to dissuade incentive for obstruction when need identified
- Must be crafted to avoid discouraging bona fide appeals
- Most challenging to implement, legally and technically

## **Discussion**

*Discussion Goal: How to increase clarity and certainty, better emphasize housing diversity and affordability, and address sequencing challenges.*

## **Discussion Questions**

1. What are your thoughts, concerns, and suggestions behind **the five policy concepts below**?  
What will it take to ensure the concept is implementable, effective, and politically viable?
  1. DLCD Capacity to Complete/Support Goal 14 Analysis
  2. Emphasize Urban Reserve and Concept Planning
  3. Incorporate the UGB Land Swap Process into the Housing Capacity Analysis
  4. Incentivize Streamlined Small-Scale UGB Adjustments
  5. Disincentivize Appeal of UGB Adjustments

## **Discussion**

### **DLCD Capacity for Goal 14**

- Every step of land use system is under capacity, what would it take to fully staff our land use system, if we wanted to really function efficiently? We don't necessarily solve anything if we solely address discrete steps
  - The land use system is not properly funded. A 2-year DLCD funding cycle does not align with processes that take much longer
- For mid-size and larger jurisdictions, this would be the least effective as the Goal 14 is hyper-localized. However, this would be very helpful for a small city and rural cities with minimal capacity
- What can the State/DLCD deliver to get the land within city UGB boundaries developed, with infrastructure? Building infrastructure takes time, so focusing on land that already has necessary utilities and infrastructure is more efficient and effective
- UGB streamlining needs to occur before DLCD capacity can increase
- This is an important need, but something that could be considered later as there are other considerations and policy suggestions that need to be investigated first. There should be allocated funding set aside to go to smaller cities that need additional support for this process?
- Small cities need funding for paying consultants, build the ability to support local jurisdictions
  - The smaller the city gets, the more important it is to get assistance
- It could be helpful to have DLCD manage these types of consultant contracts for UGB data and support

### **Emphasize Urban Reserve/Concept Planning**

- In the case of Eugene, it has taken more than four years to do urban reserve planning analysis. If it was required, funding would be even more of an issue
  - Would be cautious towards supporting a requirement on emphasizing urban reserve/concept planning
- The timing component in relation to UGB expansions would be something to consider further when looking at requiring urban reserve planning
- It should be incentivized, not required. If it was required, there should be mandated funding
- From a special services district perspective, incentivizing urban reserve planning could be beneficial in tying infrastructure to housing development
- Urban reserve planning is underutilized even though it is a great resource, could benefit from additional refinement
- Incentivizing urban reserve/concept planning would be compelling but may have some implications with Climate Friendly Equitable Communities (CFEC) and reducing VMT
  - Request that DLCD continue to have conversations with ODOT on the alignment of urban reserve planning with CFEC
- Urban reserves analysis focuses on land that would be best for future expansion and deprioritizes other land. When one looks at UGB criteria, urban reserves, marginal lands, and exception lands are what is looked at first for an expansion. If a jurisdiction then decides to conduct an urban reserve analysis, it has already studied exception lands. This duplication of

analyzing exception lands may not be beneficial. Instead, this could potentially be an area where one could re-incentivize urban reserves

- Sync up language between urban reserve and UGB analysis. Reconciling “developable” versus “buildable”
  - Clarity surrounding the urban reserve study area and noting the difference between the process of creating a UGB study area
  - Clarity around level of analysis required in urban reserve planning versus UGB analysis
  - Data regarding soils would be helpful
- Could garner additional support for urban reserve planning if it was accompanied with rural reserves
- Provide additional data on natural resources
- Could require every city that is currently going through the UGB process to include an urban reserve analysis for future convenience

#### **UGB Land Swap**

- How can we be sure that the land that is being brought in is actually meeting the housing needs we have?
- UGB Land Swaps are particularly beneficial and a helpful tool when dealing with older UGB boundaries that were created prior to regulations of deleting wetlands
- Some cities have UGBs that were set in the '80s and still haven't reached the population anticipated.
- Noting that despite a land swap being 1:1 there are intrinsic differences between two different lands
  - Using the term “1:1” for the land swap can be reductionist, particularly in the case of agricultural lands where the quality of the land is based not only on acreage alone, but irrigation rights, and additional factors that need to be identified and considered.
  - Concern about many 50 acres “bites” into ag lands; incompatible uses and reducing ag land viability
- This tool has been used on a case-by-case basis. Concern about “globalizing”
- Metro relies on jurisdictions on proposing expansions into urban reserves and show us concept plans. Excluding exchanges from the Goal 14 locational factor, focused on land that has been concept-planned by a city. Address the issue of land “readiness”
- When cities are doing a land swap, we make sure that the process isn't mired in bureaucracy that it becomes akin to a small UGB expansion
- Would like more clarity from the legislation
- UGB doesn't necessarily have to be tied to the HCA, could create additional problems for rural cities and small cities. May be useful for unique situations
- Measure 49 considerations
- Good idea to replace lands that cannot be developed – steep slopes, etc. Details are important. Need to identify guidelines. Need more detail to provide certainty
- Be sure to consider neighborhood features as part of this tool – parks, neighborhood scale commercial, etc.

#### **Incentivize small-scale UGB adjustments**

- Small-scale UGB expansions need to be specialized and targeted, needs to be used as a tool

- Cities can request proposals in housing development and select a proposal and then to prompt a small-scale UGB expansion
  - It's important to better achieve a fit between housing need and land supply
- The definition of “small-scale” has not been fleshed out because we don't know if this approach is what jurisdictions are interested in
- This approach is scaled to local need, the process of competition to increase affordable units can be a powerful tool
- 100 acres might be a feasible definition for small-scale to allow for the construction of complete communities, might be challenging to fit that into 50 acres
- Can be useful for small expansions. Like the idea of a “competitive approach” with guidelines to incentivize affordable unit development. 50 acres seems to small – 100 +/- seems about right to allow for a mix of development/reduce VMT
- Statewide database on what is being built could be helpful for tracking what is being built, what works and what doesn't, particularly for smaller communities
- Taking small parcels of land into a UGB adjustment may have significant agricultural land implications over time
- When looking at small-scale UGB adjustments, need to consider adjacent and necessary uses
- Extending services for a small expansion can be challenging

#### **Disincentive Appeal of UGB Adjustments**

- The incentive to appeal diminishes the more that there is integrity of the analysis on the requirements needed to prompt a UGB expansions
  - Identify the need
  - Be aware of what lands are chosen – don't pit food needs against housing needs
- Housing need sometimes stay hidden until a jurisdiction pursues a UGB expansion
- Several UGB expansions have been unsuccessful in addressing housing need. The type of land brought into the UGB is important in looking at the success of development
- The State should incentivize rezoning underutilized or “surplus” existing commercial or industrial land within the UGB to support housing
- The idea of disincentivizing appeal of UGB adjustments is good, creating a process upon which do this would be challenging
- Create a hybrid model that allows for by-right UGB adjustments that wouldn't be challenged by appeal and cross potential barriers
- There's a difference between appeals within cities and appeals within UGBs
- Just because there haven't been a lot of appeals doesn't mean that there isn't an interest on appeals (particularly jurisdictions that cannot afford litigation charges)
- Some of the jurisdictions could provide us with detailed information on how much their appeals costed, staff time, and impacts internally from having to deal with the appeal. Maybe if they redo the survey they could request this information.
- Would like to see the data to show that “too many appeals” are a barrier
- Jurisdictions are concerned about litigation so they don't consider these tools.
- NIMBYism is getting in the way of achieving housing goals. Need to think bigger to address conditions that make development difficult

### **Recap and Next Steps**

- Next meeting is Aug 31<sup>st</sup> from 2-4 PM
- Please share additional information and feedback from the session with Sean Edging, DLCD
- Reach out to Jamie ([jdamon@kearnswest.com](mailto:jdamon@kearnswest.com)) or Arpana ([anautiyal@kearnswest.com](mailto:anautiyal@kearnswest.com)) if you would like to have a 1:1 with DLCD staff

*Meeting Adjourned at 4:00pm.*

### **Additional Comments**

- Working intentionally on Goal 10 reduces gamesmanship on both sides. Have a UGB expansion process driven by cities
- DLCD could "borrow" expertise from other agencies and collaborate
- It could be helpful for DLCD to also review system plans and master plans to ensure they fit with the larger land use goals for a jurisdiction
- Part of the discussion is not just the review process, but after when a UGB expansion gets accepted. After a UGB is expanded, when does that land get used and are there any barriers to building on that land