

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE REGIONAL FRAMEWORK PLAN AND CHAPTER 3.01 OF THE METRO CODE (URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES) TO ALLOW CONSIDERATION OF MAJOR AMENDMENTS TO THE UGB TO ACCOMMODATE NEED FOR HOUSING)
) Ordinance No. 07-1154
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) Introduced by Councilor Carl Hosticka
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WHEREAS, the Regional Framework Plan ("RFP") and Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) authorize "major amendments" to the urban growth boundary ("UGB") except during years in which Metro is determining the capacity of the UGB to accommodate long-term population and employment growth pursuant to ORS 197.299; and

WHEREAS, the Metro Council amended the RFP and Metro Code Chapter 3.01 to limit access to the major amendment process to proposed UGB amendments to add land for needs other than housing needs by Ordinance No. 01-929A (For the Purpose of Amending the Regional Framework Plan Ordinance No. 97-715B and Metro Code Sections 3.01.010, 3.01.025, 3.01.030, 3.01.035, 3.01.040, 3.01.045, 3.01.050, 3.01.055, 3.01.060, 3.01.065 and 3.07.1120 and Repealing Metro Code Sections 3.01.037 and 3.01.075 to Revise the Scope and the Criteria for Quasi-Judicial Amendments to the Urban Growth Boundary; and Declaring an Emergency) on December 13, 2001; and

WHEREAS, the Council determines the need for land for housing based upon a forecast of population growth which is necessarily based upon assumptions that may prove inaccurate over time, as has sometimes been Metro's experience; and

WHEREAS, the "periodic review" process Metro must follow under state law to determine the capacity of the UGB to accommodate long-term need for land for housing is not responsive to unanticipated short-term changes in circumstances; and

WHEREAS, Metro should have a process to respond to unanticipated changes in the need for land for housing; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. The RFP is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance, to allow consideration of proposed "major amendments" to the UGB to accommodate need for land for housing.
2. Metro Code section 3.01.030 (Major Amendments – Criteria) is hereby amended as indicated in Exhibit B, attached and incorporated into this ordinance, to allow consideration of proposed "major amendments" to the UGB to accommodate need for land for housing.
3. The Findings of Fact and Conclusions of Law in Exhibit C, attached and incorporated into this ordinance, explain how these amendments to the RFP and the Metro code comply with regional and statewide planning laws.

ADOPTED by the Metro Council this ___ day of _____, 2007.

WITHDRAWN

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 07-1154

Amendment to the Regional Framework Plan

1.9 Urban Growth Boundary

It is the policy of the Metro Council to:

- 1.9.1 Ensure that expansions of the UGB help achieve the objectives of the 2040 Growth Concept.
- 1.9.2 Determine when the UGB is expanded, whether the expansion will enhance the roles of Centers and, to the extent practicable, ensure that it does.
- 1.9.3 Use the regional UGB, a long-term planning tool, to separate urbanizable from rural land, based in aggregate on the region's 20-year projected need for urban land.
- 1.9.4 Locate the UGB consistent with statewide planning goals and this plan and adopted Metro Council procedures for UGB amendment.
- 1.9.5 Improve the functional value of the UGB in the location, amendment and management of the regional UGB, as described in policies 1.9.6, 1.9.7, 1.9.8, 1.9.9.
- 1.9.6 Expand the UGB first within any adopted urban reserves, upon demonstrating a need for additional urban land, to the extent consistent with ORS 197.298 and Metro's acknowledged urban growth amendment process.
- 1.9.7 Adopt criteria for amending the UGB based on applicable state planning goals and relevant policies of the this Plan:
 - a. Major Amendments: Amendments of the UGB may be made through a quasi-judicial or a legislative process. Metro will initiate the legislative amendment process when it determines there is need to add land to the UGB following the analysis of buildable land supply required every five years by ORS 197.299(1). The process involves local governments, special districts, citizens and other interests. A local government, a special district or a property owner may initiate a quasi-judicial amendment process to add land to the UGB for **[public facilities, public schools, natural areas and those nonhousing]** needs that (a) were not accommodated in the most recent analysis of land supply conducted pursuant to state law and (b) must be addressed prior to the next analysis.
 - b. Minor Adjustments: Minor adjustments of the UGB may be brought to Metro by a local government, a special district or a property owner for siting public facility lines and roads, for land trades and to make the UGB coterminous with nearby property lines or natural or built features in order to make the UGB function more efficiently and effectively.
- 1.9.8 Require cities and counties to adopt conceptual land use plans and concept maps coordinated among affected jurisdictions for all areas added to the UGB as Major or Legislative amendments.
- 1.9.9 Establish criteria for concept plans and implementing ordinances.

- 1.9.10 Prepare a report on the effect of the proposed amendment on existing residential neighborhoods prior to approving any amendment or amendments of the urban growth boundary in excess of 100 acres.
- 1.9.11 Provide copies of the completed report to all households located within one mile of the proposed urban growth boundary amendment area and to all cities and counties within the district. The report shall address:
 - a. Traffic patterns and any resulting increase in traffic congestion, commute times and air quality.
 - b. Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory.
 - c. The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.

Exhibit B to Ordinance No. 07-1154

Amendment to Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserve Procedures)

3.01.030 Major Amendments - Criteria

(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. ~~Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other non-housing needs.~~

(b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b), (c) and (d) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:

- (1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
- (2) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (3) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.

(c) ~~If the Council incidentally adds land to the UGB for housing in order to facilitate a trade, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept plan designation for the area.~~ **If the applicant proposes an amendment to the UGB to add land for housing, the applicant shall also demonstrate that the land proposed for addition to the UGB:**

(1) Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;

(2) Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;

(3) Can be designed to be walkable and service by a well-connected system of streets by appropriate and financially capable service providers; and

(4) Can be designed to preserve and enhance natural ecological systems.

(d) If the applicant proposes to amend the UGB to add land for residential use, the applicant shall submit a written statement, adopted by the elected officials of the city or county likely to be responsible for land use planning of the land to be added to the UGB and from the elected officials of the boards of likely providers of public facilities and services, as defined in section 3.01.010 of this chapter, that they are willing to provide services to the land.

**Exhibit C to Ordinance No. 07-1154
Findings of Fact and Conclusions of Law**

(will be completed and adopted following hearings on the ordinance)

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1154, FOR THE PURPOSE OF AMENDING THE REGIONAL FRAMEWORK PLAN AND CHAPTER 3.01 OF THE METRO CODE (URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES) TO ALLOW CONSIDERATION OF MAJOR AMENDMENTS TO THE UGB TO ACCOMMODATE NEED FOR HOUSING

Date: May 24, 2007

Prepared by: Tim O'Brien
Senior Regional Planner

INTRODUCTION

State law directs the Metro Council to complete a periodic analysis of the capacity of the urban growth boundary (UGB) and the need to amend it to accommodate long-range growth in population and employment. The Metro Council determines the need for land for housing based upon a 20-year population forecast that is coordinated with affected local governments. Past regional forecasts have represented the most likely and reasonable “middle of the road” growth projections that are based on a framework of how the region has responded to historical trends – including economic, industry, demographic, and national and global forces at work in the region. A number of assumptions are included in the 20-year forecast that may prove inaccurate over time and the periodic review process is not always responsive to unanticipated short-term changes in circumstances. The proposed changes to the Regional Framework Plan (RFP) and Metro Code Section 3.01 will provide a process for Metro to respond to unanticipated changes in the need for land for housing in addition to other non-housing needs.

Ordinance 07-1154 proposes three key changes related to the UGB Major Amendment process. Adoption of this ordinance will:

1. Remove the prohibition, enacted in 2001, on UGB Major Amendment applications for residential use;
2. Add additional criteria for UGB Major Amendments for residential use; and
3. Require a written statement adopted by the elected officials of the jurisdiction responsible for land use planning of the land to be added to the UGB and from the elected officials of the boards of the likely urban service providers that they are willing to provide services to the land being brought into the UGB through the Major Amendment process.

BACKGROUND

The Metro Regional Framework Plan (RFP) and Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) authorize amending the urban growth boundary (UGB) through a Major Amendment process. The purpose of the Major Amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of the buildable land supply under ORS 197.299 (1) and cannot wait until the next analysis. A city, county, special district or property owner may submit a Major Amendment application to Metro between February 1 and March 15 of each calendar year, except that calendar year in which the Metro Council is completing its analysis of the buildable land supply under ORS 197.299 (1). Currently, land may be added to the UGB under the Major Amendment process for the following purposes: public facilities and services, public schools, natural areas, land trades and other non-housing needs.

Existing Metro Code Requirements

Presently under the Major Amendment process, the applicant must meet the “need” and “locational factors” of Statewide Planning Goal 14: Urbanization, equivalent to Metro’s legislative amendment process. Briefly, the “need” criteria address:

- A demonstrated need to accommodate long-range urban population consistent with a 20-year forecast;
- A demonstrated need for land suitable to accommodate housing, employment opportunities and other uses such as public facilities, parks and schools; and
- A demonstration that the need cannot be reasonably accommodated on land already inside the UGB.

The “locational factors” criteria address:

- The efficient accommodation of the need;
- Orderly and economic provision of public facilities and services;
- Comparative environmental, energy, economic and social consequences; and
- The compatibility of the proposed urban use with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

Proposed Additional Metro Code Requirements for Residential Major Amendments

In addition to the existing code requirements noted above, this ordinance would require an application for a Major Amendment for residential uses to address additional quantitative and qualitative criteria including a demonstration that the land proposed for addition to the UGB can meet the following:

- Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;
- Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;
- Can be designed to be walkable and serviced by a well-connected system of streets by appropriate and financially capable service providers; and
- Can be designed to preserve and enhance natural ecological systems.

Finally, the applicant must also submit a written statement adopted by the elected officials of the jurisdiction responsible for land use planning of the land to be added to the UGB and from the elected officials of the boards of the likely urban service providers that they are willing to provide services to the land being brought into the UGB through the Major Amendment process.

The public hearing for any Major Amendment application is before a hearings officer. The hearings officer submits a proposed order and recommendation, with findings of fact and conclusions of law and the record of the hearing, for consideration by the Metro Council. The Council shall allow oral and written arguments by participants in the proceedings before the hearings officer. The Council shall adopt the proposed order and ordinance if the Council decides to expand the UGB, or revise or replace the findings and conclusions in a proposed order or remand the matter to the hearings officer. If the amendment is less than 100 acres the Council’s decision may be appealed to LUBA. If the amendment is over 100 acres the Council’s decision may be appealed to LCDC and then the Court of Appeals.

ANALYSIS/INFORMATION

Known Opposition: Staff is not aware of any formal statements of opposition, but it has come to staff’s attention that 1000 Friends of Oregon opposes this ordinance.

Legal Antecedents: The Metro Regional Framework Plan and Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) authorize amending the urban growth boundary through a Major Amendment process.

Anticipated Effects: The adoption of Ordinance 07-1154 will provide the opportunity to amend the UGB for residential uses through the Major Amendment process. It is not possible to know how many applications will be received, if any, but Metro staff has responded to numerous inquiries since 2001, when the code was changed to eliminate housing from the Major Amendment process, regarding the possibility for adding residential land to the UGB through the Major Amendment process.

Budget Impacts: Under Metro Code 3.01 the applicant is required to submit a deposit with the application to cover staff time for processing the Major Amendment application. This deposit is also used to cover the cost of the hearings officer and notice requirements. The applicant will be billed for any costs beyond the initial deposit.

Due to the difficult nature of demonstrating “need” as defined by Goal 14 during the period between Metro’s analysis of the buildable land supply under ORS 197.299 (1) and the additional financial and qualitative design criteria that will need to be evaluated, considerable staff time will be necessary to process Major Amendment applications for residential uses.

The application processing time period for a Major Amendment is 40 calendar days. Due to this relatively short time period and the extensive amount of work necessary to evaluate the application, write the staff report, and coordinate the hearing before the hearings officer, it will be necessary to re-allocate some staff duties exclusively to this work in both the Long Range Planning and Data Resource Center sections of the Planning Department to meet the deadline.

If the proposed Major Amendment would add more than 100 acres to the UGB, Metro code requires staff to prepare a report on the effect of the proposed amendment on existing residential neighborhoods that addresses the following (per Metro Code Section 3.01.025(h)):

1. Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
2. Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
3. The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

As this additional report is a requirement Metro has imposed upon itself and is not part of the application requirements, the staff time to complete this report is not covered by the deposit submitted by the applicant.

In addition, if the proposed Major Amendment would add more than 100 acres to the UGB, Metro would have to submit the amendment to LCDC in the manner provided for periodic review, according to ORS 197.626. The deposit submitted by the applicant does not cover the time spent by staff completing this process.

It is not possible to specify the budget impact at this time. Redeployment of existing staff using currently budgeted resources will be feasible if we receive only a limited number of applications for major amendment. If a significant number are received, and particularly if several applications involve more than 100 acres, it is unlikely that the required work can be performed timely within existing resources. Should that occur, we would return to Council for direction to reduce or eliminate certain existing work or

authorization to increase resources, either temporary staff or purchased services, during the processing of the amendments.