

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF SUPPORTING)
REQUEST FOR ACKNOWLEDGMENT OF THE)
MSD URBAN GROWTH BOUNDARY FROM)
THE LCDC BY SUBMITTING RESPONSE)
TO FIVE QUESTIONS AND PLEDGING)
TO IMPLEMENT CERTAIN NEW POLICIES)
ON MANAGEMENT OF URBAN LAND)

RESOLUTION NO. 79-83

Introduced by the
Planning and Development
Committee

WHEREAS, CRAG Order No. 78-35 adopted the regional Urban Growth Boundary and submitted it to the Land Conservation and Development Commission for acknowledgment on December 21, 1979; and

WHEREAS, The LCDC did on July 12, 1979, continue acknowledgment considerations pending reply from MSD and the Department of Land Conservation and Development staff to the following five concerns:

- I. MSD commitment and timetable to complete functional plan elements on housing, transportation and public facilities and services,
- II. MSD policy statement on the control of urban sprawl. Policy statement to be implemented by adoption of conversion policies,
- III. MSD and county policy statements on control of development within the Tri-County area and outside the urban growth boundaries,
- IV. MSD policy/procedure for amendment of the Urban Growth Boundary,
- V. Examination of Agricultural Soft Areas (ASA); and

WHEREAS, The MSD has prepared a reply contained in a report dated August 21, 1979 and titled "Reply to LCDC Questions Regarding Implementation of the UGB"; and

WHEREAS, The content of this report was developed after

extensive discussion with the DLCD staff, elected officials and staff of the three counties and several cities, the Council and Planning and Development subcommittee and other interested parties; and

WHEREAS, Clackamas, Multnomah and Washington Counties are adopting and submitting resolutions supporting acknowledgment by LCDC and committing to adopt and implement strong policies on conversion of undeveloped land and on regulation of land outside the Boundary; now, therefore,

BE IT RESOLVED,

1. That the MSD Council approves for submittal to the LCDC the report titled "Reply to LCDC Questions Regarding Implementation of the UGB."
2. That the policies in Part II labeled Policy Guidelines Nos. 1-4 and those in Part V shown as protective regulation of productive, prime agricultural land shall be used in the review of local comprehensive plans to assure that these or equally strong policies are locally implemented.
3. That the MSD will utilize its powers under 1977 Oregon Laws, chapter 665, Sections 17 or 18, to enforce the policies referenced above in No. 2 or equally strong policies in the event that a local jurisdiction(s) does not voluntarily implement them by the dates specified in the report to LCDC.
4. That the MSD Council directs preparation of definitions described in Part III, B of the report to LCDC, which shall be completed in time to allow for adoption no later than December 1, 1979.

5. That the MSD Council approves the Policy for Amending The Urban Growth Boundary stated in Part IV of the report to LCDC as a guideline for consideration of proposed amendments.

6. That the MSD Council is prepared to consider adjustment and if necessary expansion of the Boundary in Clackamas County to redress unresolved issues stemming from previous Urban Growth Boundary deliberations.

7. That the MSD Council directs implementation of the actions regarding the Agricultural Soft Areas which are contained in the final report to LCDC.

8. That the MSD Council otherwise concurs with the statements and policies contained in the report to LCDC, which is hereby incorporated in this Resolution.

ADOPTED by the Council of the Metropolitan Service District this 23rd day of August, 1979.



Presiding Officer

JS/gl
4844A
0033A

REPLY TO LCDC QUESTIONS REGARDING

IMPLEMENTATION OF THE UGB

APPROVED BY THE MSD COUNCIL

August 23, 1979

- I. "MSD commitment and timetable to complete functional plan elements on housing, transportation and public facilities and services."

The following provides information about and estimates of time for MSD's regional planning. Since the regional products will have an influence on land use in the region, including the issues in question in the Urban Growth Boundary acknowledgment, this presentation is timely. It is not, however, offered as a formal compliance schedule.

A. The MSD is guided by statute to:

1. "Adopt land-use planning goals and objectives for the district consistent with goals and guidelines adopted under ORS 197.005 to 197.430."
2. Define and apply a planning procedure which identifies and designates areas and activities having significant impact upon the orderly and responsible development of the metropolitan area, including, but not limited to, impact on:
 - a. Air quality; and
 - b. Water quality; and
 - c. Transportation.
3. Prepare and adopt functional plans for those areas designated under subsection (1) of this section to control metropolitan area impact on air and water quality, transportation and other aspects of metropolitan area development the Council may identify.
4. Review the comprehensive plans in effect on the operative date of this 1977 Act or subsequently adopted by the cities and counties within the district which affect areas designated by the Council under subsection (1) of this section and recommend or require cities and counties, as it considers necessary, to make changes in any plan to assure that the plan and any actions taken under it conform to the district's functional plans adopted under subsection (2) of this Section.

- B. Goals and Objectives: A program designed to update and strengthen MSD's goals and objectives has been started. We anticipate a first product focusing on selected key issues to emerge for Council consideration late fall or winter of 1979. A longer-term, more extensive effort will follow the initial product. Regional housing policies will be addressed as goals and objectives rather than a functional plan. MSD has a set of Initial Housing Policies which speak to the areas of LCDC interest as contained in Goals #10 and #14. A description of current

work on a market-level housing allocation has been prepared. The MSD has already adopted a housing opportunity plan for assisted housing. Each of these housing documents is contained in the Appendix.

- C. Functional Plans: The MSD has or is preparing functional plans as described below.

MSD planning has been based upon the assumption that regional determination of basic urban and rural/natural resource land use designations should precede final determination of sewer, water, and transportation facilities and services. While these basic land use designations have and should reflect the location of existing facilities and services and the feasibility for future installation, final, full-scale facility and service planning should follow and support the land use designations.

1. Air Quality: As the designated lead agency for air quality planning, MSD has prepared (with DEQ) and adopted a State Air Quality Improvement Plan. Work is continuing at this time on the planning and implementation measures needed to attain federal air quality standards within the requisite 1982 and 1987 timeframes. Land-use impacts and implementation options will be considered in this process.
2. Water Supply: A water supply study for the region is being prepared at this time by the Corps of Engineers and MSD. The plan will document water supply resources and management available to the region, especially the urban portion. This work will likely be completed and adopted by mid-1980.
3. Transportation: A fully revised regional transportation plan is now being prepared. It addresses both highway and transit transportation. The planning area coincides with the Urban Growth Boundary with few minor exceptions. The planning program has provided updated and improved regional population and employment forecasts, which were used in the Urban Growth Boundary work. The analytic methodology, particularly in the allocation of where people will live and work, heavily incorporated both transportation and land-use information, policies and considerations. To support the whole effort, a complete inventory of 14 land-uses and vacant land was produced. The same information was used in the Urban Growth Boundary work.

The transportation plan will likely be concluded by July, 1980.

4. Sewage Treatment: A regional Waste Treatment Management Plan was adopted in July, 1978. The Plan establishes a framework for expansion and modification of sewerage works throughout the metropolitan area. It supports the Urban Growth Boundary through (1) its Treatment System Service area map and text, which limit the use of public funds to those treatment system projects which are consistent with the plan, and (2) the Collection System Service Area map and text.

The plan is being implemented at the local level by the East Multnomah County Consortium (Gresham, Troutdale and Multnomah County), the Tri-City Service District (Clackamas County, Gladstone, Oregon City and West Linn), the City of Portland Sludge Management Project, and other local projects. The Tri-County project has been programmed for federal funding support and an election to form the District is being postponed until the funding is assured. The East Multnomah County Consortium is in a similar situation. Federal funds have been cutback recently throughout the state, and MSD is actively supporting diversion of funds to the Portland metropolitan area for implementation of the Tri-City project and other local projects. For example, MSD has recommended measures to be taken by the Oregon Environmental Quality Commission which would expedite funding of these local projects.

5. Drainage Management: A drainage study is being prepared by the Corps of Engineers and MSD. Policies have been recommended to the MSD Council and will be distributed for public review and comment soon. The Johnson Creek Basin has been designated an area of regional concern and interim development guidelines are being adopted by the six local jurisdictions in the basin. (Clackamas County adopted the guidelines in July, 1979.)
6. General: When the work described above is complete, the MSD urban area will have plans for adequate sewage treatment, water supply and transportation facility/services for the population and land projected and justified in the Urban Growth Boundary Findings. And the region will comply with federal air quality standards.
7. Revision of Local Plans: In order to deal with the dispersal of local compliance dates and the ongoing planning program of MSD, the LCDC agreed to inclusion of "opening language" in land plans. This language is to make certain within an acknowledged local plan, and to all parties interested in the plan, that the

plan may be opened periodically for amendments that consider compliance with regional Goals and Objectives and/or functional elements. The schedule agreed to by LCDC and CRAG for reopening acknowledged local plans follows:

- Plans acknowledged prior to March 1978 open for amendment, December 1978-February 1979 and annually thereafter;
- Plans acknowledged prior to March 1979 open for amendment, December 1979-February 1980, and annually thereafter;
- Plans acknowledged prior to March 1980 open for amendment, September-November 1980 and annually thereafter; and
- Plans acknowledged after March 1980 open for amendment annually beginning in 1981.

The "opening language" will be used to incorporate future MSD goal, objective and functional plan policies into local plans.

8. Post-Plan Acknowledgment: Because local plans will be acknowledged over a two year period, they cannot be coordinated fully with each other and regional policies at the time of acknowledgment. Therefore, MSD will undertake after all local plans are completed to "sum" and evaluate them against the regional goals, objectives and functional plans. Inconsistencies can then be corrected as necessary by using the "opening" provision to amend the local plan(s).

Acknowledgment plan review is designed to deal with the regional policies. It will, therefore, prevent most of the major local/regional inconsistencies that otherwise could occur. The post-acknowledgment review should be in the nature of fine-tuning local and regional coordination.

- D. The LCDC local jurisdiction plan acknowledgment process will be instrumental to achievement of the State purposes set forth in the Goals. The MSD has undertaken a thorough, rigorous review program, which it remains committed to pursue in cooperation with the DLCD.

Plan acknowledgment (and updating as noted in #7 and #8 above) is the prime opportunity to assure that specific purposes such as those described in this document can be met. MSD will proceed based upon agreements reached in the Urban Growth Boundary acknowledgment process to

incorporate into plan review strong guidelines designed to protect and use efficiently land within the Urban Growth Boundary.

II. "MSD policy statement on the control of urban sprawl. Policy statement to be implemented by adoption of conversion policies."

Response to this inquiry is contained in four policy guidelines which the MSD herein adopts by resolution. These policy guidelines will be used during plan review to assure that they or equally strong alternative policies are enacted and implemented by local plan and ordinance adoption. All jurisdictions must adopt such policies by scheduled compliance, except that jurisdictions scheduled for compliance acknowledgment prior to March 1980 may have until September 1980 to amend their plan to include such policies in their plan. In those instances where adequate policies have not been enacted on schedule, the MSD will undertake enforcement of these policies.

Included in the Appendix to this document are resolutions from each county noting support for acknowledgment of the Urban Growth Boundary and pledging to adopt strong conversion policies.

In addition to the specific policy guidelines stated below, it should be noted that an urban growth boundary is itself a tool for controlling sprawl. In the case of the MSD Urban Growth Boundary, virtually all the land within it has been committed to urbanization by past public and private actions. The Boundary, therefore, circumscribes the sprawl which has already occurred. Future enlargement of the urban area will meet the tests of timeliness and efficiency and be supported by additional findings of need. Because the MSD Boundary is intended to define a long-term planning and development area, changes are expected to be infrequent and small-scale.

POLICY GUIDELINES ON THE CONTROL OF URBAN SPRAWL

Policy Guideline No. 1:

New urban development within the Urban Growth Boundary shall be contiguous to areas of existing development to encourage "filling in" of buildable lands and to reduce "leapfrog" or "sprawl" development. Contiguous means in this instance surrounded by development on at least three sides or adjacent to developed parcels. However, new development may be non-contiguous to existing development if, the development is compatible with the efficient provision of public facilities and services.

In cities or counties where the local plan distinguishes immediate from future urban areas (with policies prohibiting development in future areas), this MSD policy shall apply only in the future urban areas.

Policy Guideline No. 2:

Undeveloped land within the Urban Growth Boundary shall be preserved and maintained through the use of appropriate local ordinances and controls for future urban development. Such ordinances and controls shall ensure opportunities for future urban level parcelization of property and the future provision of urban level services by restricting new parcelization to ten (10) acre minimum lot sizes until provisions of Policy Guideline No. 3 are met for residential land or until urban services are assured for commercial and industrial lands..

"Undeveloped land" shall mean in Policy Guidelines #2 and #3 land which can support a planned public, residential, commercial or industrial use and is shown as vacant on the MSD land use inventory. Industrial and commercial development shall not occur without assurance of urban services.

Policy Guideline No. 3:

Undeveloped land in the Urban Growth Boundary may be converted to residential uses only when the proposed development a) complies with a local plan which meets MSD's review for residential densities according to Goal #10 Housing, and Goal #14 Urban Growth Findings*; b) complies with the average residential densities assumed by the

*Future residential developments are forecast to increase in the Urban Growth Boundary Findings from 5.9 to 6.0 units per net acre. This forecast is based on what already exists in the metropolitan area and on the current past trends to increase large-lot residential zoning. The Urban Growth Boundary Findings are based on regional averages regardless of present zoning and differences in local development patterns. Therefore, density assumptions in the Findings cannot be directly applied to the review of existing local plans or zoning.

When local plans are reviewed for compliance with LDCD Goals #10 and #14, the overall density in a city or county should meet or exceed those for new development in the Findings with few exceptions. These densities are 4.04 units per net acre for single family residential and 13.26 for multi-family and developed at a ratio of 1 multi-family for each single family unit.

Clearly, not all cities (usually very small cities) will be in strict conformance with these averages. Criteria for exceptions will be based on whether the land use plan shows an overall increase in densities and provides sufficient land for multi-family housing to meet the year 2000 housing mix.

In the event that a local jurisdiction desires to approve residential development prior to acknowledgment of their comprehensive plan at densities less than those described above, the approving authority must enter in the record their findings for why the MSD densities should not be met.

Urban Growth Boundary Findings if a local plan has not met MSD Goal #10 and #14 review, except for land with unique topographic or natural features, and c) sewer and water facilities and services are assured concurrent with final approval of the development proposal. Sewer, water and transportation facilities and services for such development must be coordinated with corresponding regional planning.

Policy Guideline No. 4:

Development on septic tanks and cesspools shall be prohibited within the Urban Growth Boundary except when:

1. septic tanks or cesspools are permitted by a local jurisdiction and DEQ for a) three (3) or more units per net acre, or b) for lots of record legally recorded prior to the adoption of this policy guideline; or
2. local plans identify lands with unique topographic or other natural features which make sewer system extension impractical, but which are practical for large lot homesites; or
3. an area is under a sewer moratorium, with sewerage services five years or more away, and a local comprehensive plan provides for the orderly use of septic tanks as an interim development measure and the same comprehensive plan adequately assures that future delivery of sewerage services is planned.

Local plans and ordinances allowing interim septic tank development must insure that such interim development be within a sewerage service district, must provide for the installation of on-site sewerage lines capable of being connected to a future sewerage system, except in the case of a single housing unit on lots of records, and must insure land use intensification when the sewerage system is available.

Supporting Local and Boundary Commission Policies

Land-use has historically been a local government responsibility and it is with local government that the most effective growth management controls can be implemented. Land use controls, public facility extension policies, building design standards and public land investment policies are all coordinated to control how and where growth occurs.

Inside of the regional Urban Growth Boundary the 27 affected local governments have adopted or will adopt new plans and ordinances to accommodate growth. Each of the three counties, who control the unincorporated vacant land inside of the Urban Growth Boundary, have adopted or proposed policies to control the timing and placement of new developments. Washington County designates "future" and

"immediate" growth areas; Clackamas County has proposed the use of conversion policies with criteria to designate "immediate urban" areas; Multnomah County uses "urban future" plan designations and conversion policies.

Cities coordinate the extension and provision of public facilities and services as well as land use controls.

The Boundary Commission judges urban service and city boundary changes within the metropolitan area. The Commission reviews annexation to sewer, water, lighting, recreation, etc., districts and city annexations. The Commission considers the Urban Growth Boundary and comprehensive plans in their decision-making process.

III. "MSD and County policy statements on control of development within the Tri-County area and outside the urban growth boundaries."

A. Two current MSD policies in the Land Use Framework Element (LUF) address this concern. The first is found in Article V, Section 2 (a) (1):

"Areas shown on the Regional Land Use Framework Map as "Rural Areas" indicate where the following land uses may be located and allowed:

"a. Housing at densities compatible with the character of designated Rural Areas. Minimum residential site sizes for all housing types are to be determined before January 1, 1979, by local jurisdictions based upon the following planning considerations:

"1. The need to preserve and conserve all agricultural and forestry land not otherwise exempted through exception procedures of Statewide Goal #2, Part II, of the Land Conservation and Development Commission."

A priority is established by this policy for agricultural and forestry land in non-urban areas. MSD has acted on behalf of this policy through the staff report and Board (CRAG) action on the Clackamas County Rural Plan Amendment I; by appealing several Clackamas County subdivisions in rural areas and by recommending requirements for a minor land partition ordinance and application of Goal #3 to building permits within rural Washington County. Such actions will be taken in the future if circumstances warrant.

The second existing policy is found in Article I, Section 2 (c):

"The Land Use Framework Element is to be implemented without substantial adverse effect on the housing industry's ability to provide housing within the income levels of the region's existing and future population."

Timely availability of serviced, buildable land must be assured for the normal 2-5 year development cycle to meet this policy. The MSD has included in the 1979-80 budget and program a new project on "development assistance" which will lend regional support on behalf of capital improvement, permit procedure improvement, and other similar efforts needed to assure availability of land. Our Land Market Monitoring Project will augment the Development Assistance Project.

Also important to meeting this policy is control of development outside the Boundary. Extensive development in rural areas will undermine the Boundary without benefiting all family income levels in the housing market. We have already mentioned actions taken by the MSD to help slow down rural development. But, since most of the region's non-urban land is outside the district, strong leadership must be given by the LCDC and counties for full realization of this goal. The MSD will continue and improve upon doing its part. Item B following is one additional proposed action.

- B. Concern over the negative impact of extensive rural area development on the viability of the Urban Growth Boundary leads to a need for better understanding of what is meant by "extensive rural development." MSD staff is proposing to the Council that by December 1, 1979 definitions of urban and rural be prepared by MSD and adopted. The definition will be intended and designed for use in judging when rural area development is, in fact, urban development. The MSD would then be in an improved position to consult with counties on regional policies regarding urban and non-urban densities; to appeal rural land use actions which are inconsistent with the definition and to make comment on local comprehensive plans, ordinances and land use actions in the rural areas.
- C. The MSD will use plan review powers to open local plans for amendment and when warranted use its goals, objectives and functional plans as the chief means to implement these policies. In so doing, we are operating under Section 17 of HB 2070, which states:

"(2) Review the comprehensive plans in effect on the operative date of this 1977 Act, or subsequently adopted by the cities and counties within the

district and recommend or require cities and counties, as it considers necessary, to make changes in any plan to assure that the plan conforms to the district's metropolitan area goals and objectives and statewide goals;

- "(3) Coordinate the land-use planning activities of that portion of the cities and counties within the district; and
- "(4) Coordinate its activities and the related activities of the cities and counties within the district with the land-use planning development activities of the Federal Government, other local governmental bodies situated within this state or within any other state and any agency of this state or another state."

Under Section 19 the MSD performs the LCDC coordination and review functions.

"SECTION 19. (1) For the purposes of ORS 197.190, the district formed under ORS chapter 268 shall exercise within the district the review, advisory and coordinating functions assigned under subsection (1) of ORS 197.190 to each county and city that is within the district."

IV. "MSD policy/procedure for amendment of the Urban Growth Boundary."

A. The Urban Growth Boundary Findings adopted by the MSD Council state the policies that will guide future amendments to the Boundary:

- "1. The Urban Growth Boundry is assumed to be a long-term instrument that will stabilize future land-use policies.
- "2. The efficiency of land-use, preservation of prime agricultural lands for agricultural use and improved efficiency of public facilities and services comprise the objectives of the Urban Growth Boundary."

In keeping with these policies MSD expects to make only small changes to the Boundary in response to petitions from government agencies and individuals. Proposed changes will be considered annually. Chapter 2.3, Section 7 (b), of the Rules and Regulations provides for this type of change.

"Any agency or individual within the CRAG region may at any time, petition the Board of Directors to amend the plan or elements thereof. Such petition shall be in writing on a form provided by, and submitted to, the Executive Director. At or during a specified time each year, simultaneously with or immediately following annual review of Goals and Objectives, all completed petitions shall be considered by the Board of Directors."

MSD is obligated to review comprehensively the Urban Growth Boundary every four years as provided by Chapter 2.3, Section 7 (a):

"The plan, or adopted elements thereof, shall be regularly and comprehensively reviewed and, if necessary, revised every four (4) years. Such review shall include a staff review and report to the Board of Directors, committee recommendations, receipt of comments and proposals from members and an opportunity for citizen participation. Such review should be conducted simultaneously with, or immediately following, comprehensive review of the Goals and Objectives."

B. MSD has also committed to monitoring the Urban Growth Boundary. Article I, Section 2 (b), of the Land Use Framework Element provides that "...a constant monitoring process will be established...." This monitoring process is divided into two sections, a land-use data section and a policy impact evaluation section. The first is designed to collect and display changes in land use for the whole SMSA and more specifically for the area inside of the Urban Growth Boundary. Data will include shifts in zoned vacant land, building and subdivision activity, public facilities, vacant land consumption and other related data. All data series will be categorized by census tracts, city limits, county, and by MSD subdistricts, and will be updated at least annually.

The second section, policy impact evaluation, explains why changes are occurring, particularly with respect to land prices. The price, and hence use of land, varies in response to private market conditions and in response to public policies such as land-use controls, taxation and public facility availability. The purpose of this section is to determine, through sampling land sales, which variables most affect the price of land. This will include an evaluation of the Urban Growth Boundary as well as other local land use controls.

The monitoring system will not in itself provide a final answer for when to change the Boundary, but it will help identify when and how the Boundary, and other land-use controls, affect the cost and availability of land.

- C. MSD will further define its amendment process to establish criteria for expansion of the Urban Growth Boundary and this will be completed by December 1, 1979. The criteria will include the following provision.

Policy for Amending
The Urban Growth Boundary

Any demonstration of need to expand the Urban Growth Boundary may be based upon an analysis of at least that portion of a county within the MSD and must be evaluated by MSD to assure that there are no better alternatives within the regional Urban Growth Boundary. Goal #14 considerations as interpreted by the DLCDC must be followed.

(Metropolitan counties with cities outside the Urban Growth Boundary are responsible for coordinating the establishment and change of urban growth boundaries for those cities.)

MSD agrees to consider at its next amendment period a request from Clackamas County to make adjustments, including expansion, of the Boundary.

V. Examination of Agricultural Soft Areas (ASA)

The Agricultural Soft Areas (ASA's) were initially identified for their location (between the IGA and proposed UGB), prime agricultural soil quality, size (over 2 square miles) and proximity to areas of prime agricultural lands outside of the Urban Growth Boundary. Each area was evaluated for agricultural and urban uses and staff recommendations were made to the former CRAG Board. Two whole ASA's and parts of 3 others were recommended for exclusion from the Urban Growth Boundary by staff. The CRAG Board approved the 2 whole ASA areas and part of another for exclusion. The remaining 6 areas were judged by either CRAG staff or the Board to be either committed to urban development or necessary for future urban development.

As a result of a re-examination conducted by the MSD and DLCDC staffs, portions of the 6 remaining ASA's have tentatively been identified as mostly productive, prime agricultural land. However, final identification should be delayed until a more thorough examination can be conducted with local staff and officials through field investigations.

The MSD Council voted unanimously on August 23, 1979 to support the following position on the ASA's:

1. Leave the ASA's in the Boundary, but apply special

protective regulations to areas identified as productive, prime agricultural land.

2. Approve as policy guidelines:

- a. Prohibition of residential development for 10 years.
- b. Permission of industrial/commercial uses (especially those requiring large parcels) upon establishing substantial findings that no alternative lands exist within the Boundary for the proposed industrial/commercial uses.

MSD will provide assistance to local jurisdictions regarding adoption and implementation of these policies. The schedule and responsibilities for enforcement of policy guidelines as described on page 5 shall apply to these policy guidelines.

JS/gl
4805A
D/4