



TO: Columbia River Gorge Commission
FROM: Michael Lang, Friends of the Columbia Gorge
RE: Friends comments on draft Urban Area Boundary Chapter Revisions
DATE: May 11, 2020

Thank you for the opportunity to comment on the draft edits to the Revision of Urban Area Boundaries section of the Management Plan. Friends of the Columbia Gorge (Friends) is a nonprofit conservation organization with approximately 6,500 members dedicated to the protection and enhancement of the scenic, natural, cultural and recreation resources of the Columbia River Gorge National Scenic Area. Friends supports livable, well-planned communities within the National Scenic Area.

- 1. Staff Report, Page 1. The staff report says, “Staff intends to use this framework to develop administrative rules with additional procedure and possibly substantive standards after the conclusion of Plan Review.”**

Comment: All substantive standards belong in the Management Plan first and should not be deferred to rulemaking. The Commission, Forest Service and the public deserve to know the entire scope of the substantive changes together and not have them revealed in a piecemeal basis.

Recommendation: Limit substantive changes to plan review and revision.

- 2. Title: Revision of Urban Area Boundaries, (p. 6 of the pdf.)**

Comment: The National Scenic Area Act (Act) allows for minor revisions of urban area boundaries, but the term minor is missing from the chapter title. Minor should be added to the title of this section.

Friends proposed revision (New text in bold blue):

Minor Revision of Urban Area Boundaries

- 3. Introduction, (p.7).** The Act requires the Gorge Commission to protect and enhance scenic, natural cultural and recreation resources; agricultural land, forest land and open space. It also requires the protection and support for economy by encouraging growth to occur in urban areas. This introductory text should be corrected to accurately describe the Commission’s role in the Act.

Friends proposed revision (Friends’ revisions in bold blue deletions in blue strikethrough, staff proposed revisions in red underline):

In doing so, the Act enables requires the Gorge Commission to protect and enhance for the scenic, natural, cultural, and recreation resources; agricultural land, forest land, and open space of the Columbia River Gorge, while protecting and supporting and serving the needs the economy by encouraging growth to occur in ~~of the thirteen Urban Areas.~~

Policies

4. **Policy 3, (p. 7).** The proposed policy is problematic in two ways. The Gorge Commission does not “only approve” applications. According to Sec. 4(f)(1) it “may make minor revisions” subject to compliance with the criteria. Sec. 4(f)(1) also requires consultation with the Secretary on all applications for minor revisions to urban area boundaries.

Friends’ proposed revision (New language in bold blue, deleted language in blue strikethrough Commission staff proposed in red):

3. ~~The Gorge Commission can only approve applications to revise a boundary of an Urban Area adjacent to the General Management Area.~~ All proposed revisions to an urban boundary require consultation with the Forest Service. Revisions to a boundary between an Urban Area and a Special Management Area, require Forest Service coordination, consultation and approval under section 4(c) of the Act in addition to Gorge Commission approval under section 4(f)(2)(A)–(D).

5. **Policy 4, (p. 7).** The timing for informing the Commission of intent to seek a boundary revision should be more specific and should take place prior to the submission of the requested budget to the governors.

Friends proposed revision (New language in bold blue, deleted language in blue strikethrough Commission staff proposed in red):

4. Counties shall inform the Gorge Commission of their intent to seek an Urban Area boundary revision prior to the submission of the agencies requested biennial budget to the governors in order ~~time~~ for the Gorge Commission to seek sufficient funding ~~in its biennial budget~~ for reviewing the boundary revision application.

6. **Policy 6, (p. 7).** This policy would requires the local governments to synch up urban area boundary revisions with urban growth boundary expansions. Since the standards are different and the Act is more restrictive, the urban area boundary revision process should be done first.

Friends proposed revision (New language in bold blue, deleted language in blue strikethrough, Commission staff proposed in red):

~~6. The Gorge Commission will only consider applications to revise Urban Area boundaries in conjunction with state required periodic plan updates or other times expressly specified in state law for revising urban growth or urban area boundaries.~~ Urban area boundary revision applications shall be reviewed by the Gorge Commission prior to review under applicable state laws for revising urban growth or urban areas boundaries.

7. **Policy 8.A. (p. 8).** This policy statement is vague and should be clarified to give it meaning. The term “case-by-case” should be deleted. The Commission needs to rely on its findings and conclusions in its decisions to inform its consideration of future applications. If minor is determined on every application on a case-by-case basis, why have any policies at all. Delete the word “generally.” Clarify that proposed revisions must comply with all of the criteria in Sec. 4(f)

Friends proposed revision (New language in bold blue, deleted language in blue strikethrough, Commission staff proposed in red):

8. The Gorge Commission will determine whether a proposed Urban Area boundary revision is minor pursuant to section 4(f) of the National Scenic Area Act. ~~on a case-by-case basis.~~ In addition, proposed revisions must comply with all of the criteria in Sec. 4(f).

A. ~~Generally, a~~ A proposed revision to an Urban Area boundary may be considered minor if:

8. **Policy 8.A.i. (p. 8).** This proposed new policy should be clarified to include no net increase in total area of the urban area. Proposed revisions that involve the reduction in total area would likely be considered to be minor.

Friends proposed revision (New language in bold blue, deleted language in blue strikethrough, Commission staff proposed in red):

i. the revision involves no net ~~change~~ increase in the total area of the Urban Area, or

9. **Policy 8.A.ii. (p. 8).** This proposed policy needs to be clarified in a couple of respects. It should include all proposed revisions over time of equal to or less than 20 acres or 1%. The term “cumulative” should apply over time.

Friends proposed revision (New language in bold blue, deleted language in blue strikethrough, Commission staff proposed in red):

ii. if the revision and all future revisions ~~is~~ cumulatively total equal to or less than 20 acres or 1% of the total area of the Urban Area, whichever is less, or

10. **Policy 8.A.iii. (p. 8).** This proposed policy would potentially allow the transfer of hundreds, even thousands of acres between urban areas. Without acreage limitations this would not be minor. Friends recommends putting a 20-acre limitation on land acreage transfers.

Friends proposed revision (New language in bold blue, deleted language in blue strikethrough, Commission staff proposed in red):

iii. if the revision involves transferring 20 acres or less of Urban Area acreage between two Urban Areas, provided that the transfer results in no net loss of the total National Scenic Area-wide acreage in the General Management Area.

11. **Policy 9, (p. 8).** Friends is concerned that it would be inconsistent with the Act to transfer nonconforming urban uses out of urban areas into the GMA. Replace the term “should” with “shall.”

Friends proposed revision (New language in bold blue, deleted language in blue strikethrough, Commission staff proposed in red):

9. Land formerly in an Urban Area that is transferred into the General Management Area ~~should~~ **shall** not contain development or urban facilities that is inconsistent with the purposes and standards in sections 3 and 6 of the Act.

12. **Policy 10.B. (p. 9).** Clarify that the determination of need in Sec. 4(f)(2)(A) requires analysis of buildable lands in adjacent or nearby urban areas.

Friends proposed revision (New language in bold blue, deleted language in blue strikethrough, Commission staff proposed in red):

B. Urban Areas that adjoin or are near to one of the three Columbia River bridges in the National Scenic Area must, at a minimum, ~~consider~~ **include the buildable land supply and need of the other Urban Areas that adjoin or are near to that bridge and other nearby Urban Areas** in the supply and need analyses.

13. **Policy 11. (p. 9).** Require enforceable conditions of approval to ensure that lands taken out of the GMA and into urban areas are used only to satisfy the need that was the basis for the revision.

Friends’ proposed revision (New language in bold blue, deleted language in blue strikethrough, Commission staff proposed in red):

11. The Gorge Commission ~~may~~ **shall** require the local government to adopt enforceable conditions of approval to ensure land added to an Urban Area is used only to satisfy the demonstrated needs that were the basis for adjustment.

15. **Policy 12. (p. 9).** Draft policy 12 should be deleted. As drafted, this policy literally says that the Commission is not bound by the Management Plan in its review of urban area boundary revision applications. Friends doubts that this is the intent, as it would violate the Act.

Friends’ proposed revision (deleted language in blue strikethrough):

~~12. Compliance with section 4(f)(2)(B), consistency with the standards in the Act used to develop the Management Plan and the purposes of the Act, will be determined on a case-by-case basis. The Commission recognizes that the application of the standards and purposes of the Act in the Management Plan may not be appropriate for determining compliance with section 4(f)(2)(B). The Commission may use the procedures and requirements in the Management Plan for guidance but is not bound to the procedures and requirements in the Management Plan for Urban Area boundary applications. By rule, the Commission may specify requirements to comply with section 4(f)(2)(B)~~

16. Policy 13. (p. 9). Policies in the Management Plan should clarify how the requirements of the Act will be implemented. This policy provides no clarification on implementation and should be deleted. Friends does not see any purpose in having a policy that says the Commission will review applications on a case-by-case basis and may adopt rules to implement criterion 4(f)(2)(C). Furthermore, substantive policies and guidelines belong in the Management Plan. For example, Commission Rule 350-81, the land use ordinance for Klickitat County, mirrors the substantive policies and guidelines in the Management Plan and contains procedures for implementing them. Policies for urban area boundary revisions should be treated the same way.

Friends' proposed revision (deleted language in blue strikethrough):

~~13. Compliance with section 4(f)(2)(C), demonstrating that the proposed revisions would result in maximum efficiency of land uses within and on the fringe of existing Urban Areas, will be determined on a case by case basis. The Gorge Commission may require a local government to adopt enforceable conditions of approval to ensure land added to an Urban Area satisfies section 4(f)(2)(C). By rule, the Commission may establish factors to evaluate whether proposed revisions to the boundary of an Urban Area result in the maximum efficiency of land uses.~~

17. Policy 14. (p. 9). Section 6(d) of the Act, Standards for the Management Plan, requires the protection and enhancement of agricultural lands, forest lands and open space. Section 4(f)(2)(B) requires minor revisions to urban area boundaries to be consist with these standards. To implement Sec. 4(f)(2)(B) and 4(f)(2)(D), policy 14 should prohibit boundary revisions in agricultural land, forest land and open space. Any substantive policies, such as a priority of lands, belong in the Management Plan.

Friends proposed revision (New language in bold blue, deleted language in blue strikethrough, Commission staff proposed in red):

~~14. To achieve compliance with section 4(f)(2)(D), a~~**Applications to revise the boundaries of an Urban Area shall avoid** ~~prioritize revisions in areas where there would be a no reduction of land used, suitable, or designated for agriculture, forest, and or open space. The Commission by rule may establish a priority of lands to be considered for revising into Urban Areas.~~

Conclusion

The proposal takes the controversial decisions about how to implement minor urban area revisions out of the hands of the Commission and instead directs staff to come up with the standards that will apply. The Commission has been clear that it wants to proceed with areas of general agreement and table controversial changes. If the Commission cannot agree on the standards that apply to minor urban area revisions then it does not make sense for staff to wade into this area of controversy. If the Commission cannot agree on the standards then the changes to the existing process should be tabled until the next iteration of plan review.