



May 12, 2020

Gorge Commissioners
Columbia River Gorge Commission
P.O. Box 730
White Salmon, WA 9862
(Sent by email to Connie.Acker@gorgecommission.org)

Subject: Gorge 2020 Urban Area Boundary Chapter Edits Work Session

Commissioners,

Thank you for the opportunity to provide comment on the Urban Area Boundary Chapter Edits prepared for consideration at the May 12 Gorge Commission meeting. Wasco County has been a participant in the Gorge 2020 process since it began nearly four years ago and would like to share the following feedback:

Proposed Policy 1 States:

The National Scenic Area Act does not require the Gorge Commission to consider requests to revise Urban Area boundaries. The Act does not entitle a county or any person or entity to have the Gorge Commission consider a request to revise an Urban Area boundary.

This language removes due process obligations from the Commission, making the review of any needed boundary revision an optional consideration. Urban area boundary revisions are not simple requests, require extensive analysis and consideration. They have implications for infrastructure, tax payers, and future development patterns. If a city and county were willing to invest in a formal application, the expectation would be that it would be reviewed for consistency and a decision would be issued.

Proposed Policy 4 states:

Counties shall inform the Gorge Commission of their intent to seek an Urban Area boundary revision in time for the Gorge Commission to seek sufficient funding in its biennial budget for reviewing the boundary revision application.

Gorge Commission meetings in 2019 and 2020 have included Gorge Commission discussion and staff clarifications that the current requirement is that counties would inform the Gorge Commission during the development of their biennial work plan and budget making process. The proposed language does not specify and could become an arbitrary timeline that is not possible to meet.

Proposed Policy 5 states:

At the beginning of each biennial budget, the Gorge Commission will determine whether its funding is sufficient to allow it to analyze one or more Urban Area boundary adjustment applications during that biennium and communicate its determination to the counties.

The Gorge Commission's budget is historically insufficient to accomplish even core requirements of the Act and Management Plan. If a city's proposal is contingent upon Commission funding, it may never be processed. Boundary revision applications require years of research and analysis. If a city or county were to spend several years and hundreds of thousands of dollars on studies only to be turned away because of Commission staff capacity constraints, it would be a careless use of taxpayer dollars.

Proposed Policy 6 states:

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 PART IV-Administration IV-1-10 boundaries.

The need for this requirement is not clear, particularly because the studies required by the Gorge Commission are proposed to be separate, regional studies, not required by the state.

Proposed Policy 7 states:

The Gorge Commission will consult with Oregon's Department of Land Conservation and Development and Washington's Department of Commerce Growth Management Services to determine an appropriate process to meet the Gorge Commission's standards as well as state standards.

Wasco County is concerned with the lack of consistent outreach to DLCDC staff. The Gorge Commission may not need to seek formal acknowledgement following plan review, but the state still needs to find that the Management Plan "achieves on balance the purposes of the statewide planning goals". This necessitates a formal review. And, if it finds that it does not satisfy this achievement, LCDC can decertify the Management Plan. Please see ORS 196.107 for more information.

Proposed Policy 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.

- A. *Generally, a revision to an Urban Area boundary may be considered minor if:*
 - i. *the revision involves no net change in the total area of the Urban Area, or*
 - ii. *if the revision is cumulatively 20 acres or 1% of the total area of the Urban Area, whichever is less, or*
 - iii. *[if the revision involves transferring 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.] THE COMMISSION DID NOT COMPLETE ITS DISCUSSION WHETHER TO INCLUDE THIS CONCEPT OF "MINOR."*
- B. *The Gorge Commission will consider revisions that differ from this general guidance on a case-by-case basis.*

The proposed language is not any clearer than current policy language and adds limiting factors that have not been agreed upon by the full Commission. Adding arbitrary limitations and increasing ambiguity is not helpful, and is not progress.

Proposed Policy 10(B) states:

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 land supply and need of the other Urban Areas that adjoin or are near to that bridge and other nearby Urban Areas.

All Gorge communities are unique and vary significantly in needs and goals. Obligating assets and resources of one community for the needs of another is simply not a feasible expectation. The Gorge Commission cannot assume this requirement would be reasonable or even possible, particularly for cities in different states.

Proposed Policy 11 states:

The Gorge Commission may 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.

Proposed Policy 13 states:

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.

It is our interpretation that proposed Policies 11 and 13 are in conflict with Oregon Revised Statute 196.109, which states:

“If the urban area boundaries of the Columbia River Gorge National Scenic Area are revised to include land that was once within the general management area or the special management area, the management plan no longer applies to that land and the applicable provisions of ORS chapters 92, 195, 197, 215 and 227 and the rules, plans and ordinances adopted thereunder apply. [1993 c.317 §4]”

This statute implies that DLCD and the city would have jurisdictional authority in any new urban area lands, and would not be required or even authorized to apply National Scenic Area laws. We formally request LCDC and DLCD be contacted to provide formal comment on this proposed policy language.

Proposed Policy 14 states:

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

This policy contains two parts: (1) requires applications (from counties) to prioritize revisions in areas where there would be no reduction of land use, suitable or designated for agriculture, forest, and open space, and (2) allows the Commission to establish (by rule) an inventory lands deemed appropriate for potential expansion. In regards to part 1, most urban areas are adjacent to lands used or suitable for agriculture, forest and open space. Before this policy is decided upon, Commissioners should evaluate an inventory of lands adjacent to exiting urban areas and determine how limiting this criterion could be. Part 2 allows for the Commission to obligate communities to evaluate properties they do not need and are not requesting. We agree that any requested modification should address alternatives, public interest and practicability, but only those properties that are viable options for consideration.

In conclusion, we strongly encourage you to give this topic the time and public conversation it needs to become effective policy. The plan update process has been an outstanding task for many years and is currently adhering to an arbitrary, self-imposed deadline. A rushed product will not come without cost to the residents of the Columbia River Gorge.

Thank you for this opportunity to provide comment.

Sincerely,



Scott Hege, Chair
Wasco County Board of County Commissioners