

[Email received 6/30/20. Attached letter is included below.]

To whom it may concern,

Please accept the attached letter as public comments from the Oregon Department of Land Conservation and Development in regard to the proposed Urban Area Boundary Revision policies in the Gorge 2020 Management Plan Update.

If you have any questions or need additional information, the best way to reach me is either via this email address or my cell phone: 541-306-8530.

Thank you.
Scott



Scott Edelman

Central Region Representative | Community Services Division
Oregon Department of Land Conservation and Development
1011 SW Emkay Drive, Ste 108 | Bend, OR 97702
Direct: 541-318-7921 | Cell: 541-306-8530 | Main: 503-373-0050
scott.edelman@state.or.us | www.oregon.gov/LCD



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

Central Oregon Regional Solutions Center

1011 SW Emkay Drive, Suite 108

Bend, OR 97702

www.oregon.gov/LCD

June 30, 2020



Columbia River Gorge Commission

c/o Robert Liberty, Chair

P.O. Box 730

White Salmon, WA 98672

RE: Gorge 2020 – Urban Area Boundary Revisions

Dear Chair Liberty and Commissioners,

Thank you for providing the opportunity to comment on the proposed changes to the Gorge 2020 Draft Management Plan. The Oregon Department of Land Conservation and Development (DLCD) is particularly interested in the Revision of Urban Area Boundaries section. We have appreciated being included in the work group that met to discuss this issue the past couple years and have several comments for your consideration on the current draft proposal.

First, we realize the expansion of urban area boundaries in the Columbia Gorge National Scenic Area (“Scenic Area”) has been an issue for nearly as long as the federal act has been in place; we applaud you for taking on the challenge of addressing it with this current management plan update.

Second, along with participating in the advisory committee, we have reviewed the letters submitted to you by Eric Walker and Angie Brewer. While our perspective may vary on specifics of the points raised in these letters, we support Oregon counties and cities and trust you will take the time to give their comments the merit they deserve as regional partners. Within the context of protecting the Scenic Area from unnecessary disturbance and development, we recognize the importance of these communities having the ability to meet their future residential growth and economic development needs. We support and agree that there should be a “high bar” for expansion of urban areas, including maximizing efficient use of land inside the existing urban area. However, we also encourage you to make the process as clear and prescribed as possible in order to avoid uncertainty and potential litigation as these communities try to meet their statutory housing and employment needs.

Finally, we would like to provide comments on the following sections of the draft urban area boundary policies:

Policies 1, 2 and 5

We agree with the concerns expressed by Mr. Walker and Ms. Brewer that this group of policies leaves some ambiguity and uncertainty related to the ability of jurisdictions to apply for review of an urban area boundary amendment. The language added at the end of policy 5, allowing the Gorge Commission to receive additional funds for their review, is helpful as it provides a vehicle for jurisdictions to contribute to the costs; however, we encourage you to simplify this section in order to avoid a potential avenue for litigation/challenge before the application is even considered. Our recommendation is that you accept applications based on a clear set of submission requirements, along with whatever fee is necessary to supplement the costs to the Gorge Commission.

Policy 6

We greatly appreciate the reference to state policies related to urban growth boundaries (UGBs); however, the language as currently proposed is somewhat vague and may provide unnecessary opportunities for challenges. For example, it references “state-required periodic plan updates,” which currently in Oregon are being conducted on an “as-needed” basis, rather than mandatory, as determined by the growth needs of individual jurisdictions. We recommend you replace the proposed language with something similar to the following:

The Gorge Commission will only consider applications to revise Urban Area boundaries that are consistent with state land use laws and rules to meet a demonstrated need for additional land to provide for vital public facilities and the residential and economic growth of a jurisdiction.

The key is that it should be the demonstrated land need that is the trigger for a proposed amendment, whether or not it is associated with a mandated periodic plan update.

Policy 7

Again, we appreciate your willingness and interest to include DLCD in the development of the process and review standards. We will be happy to participate and assist in whatever time and manner you deem appropriate and believe it will greatly improve both the State of Oregon and Gorge Commission processes to have this level of coordination among the Gorge Commission, DLCD, the impacted cities, and other regional partners. We will gladly commit the staff resources necessary to work on this with you.

Policy 8

We share the concerns expressed by Oregon cities and counties in regard to the “hard cap” on the cumulative expansion to an urban area boundary over time. Considering the method by which the federal act originally determined urban area boundaries, limiting Oregon cities to their existing urban growth boundaries at the time, this policy is disproportionately burdensome on gorge communities on the south side of the river. As you are aware, UGBs in

Oregon are intended to provide land for a 20 year growth horizon. As such, cities should have the ability to amend their UGBs as needed.

An amendment to a UGB should be more challenging and have a higher bar than an amendment in most other areas of the state. Adequately protecting the Scenic Area demands close scrutiny. We strongly support this concept due to the importance of protecting the Scenic Area; however, limiting expansion of a UAB to the lesser of 20 acres or 1% is not likely to prove reasonable to provide for future growth for Oregon communities.

We recommend that, instead of instituting a hard cap on future expansion, we work together, along with the cities impacted by these decisions, to develop rigorous standards through rule that ensure the most efficient use of land within existing UABs/UGBs that is practical and feasible prior to allowing opportunity for expansion. This may be an additional reason to give strong consideration to develop such standards with this management plan update rather than as a follow up step as indicated in Policy 7.

Policy 10.A.

We appreciate the reference to and inclusion of the Oregon the simplified urban growth boundary amendment method (OAR 660-038). This will not only provide a good basis for review standards that will ensure efficient use of land, while ensuring an opportunity for communities to meet their growth needs, but will also serve as a tool to coordinate state and Gorge Commission review. As we have expressed through our participation in the advisory committee, we support the Gorge Commission's interest in revising "specific Oregon factors and add[ing] specific National Scenic Area factors" in order to avoid replication and to address the unique needs and priorities within the Scenic Area.

Policy 10.D.

As an alternative to referencing "racial and ethnic minorities," we suggest ensuring that each strategy for urban area expansion emphasizes the needs of low, moderate income and historically marginalized community members, including people with disabilities as priority populations for consideration in housing need in terms of building type and supply. This will vary by community. In some cases, now or in the future, priority populations defined through this lens may include but may not be necessarily limited to a racial or ethnic minority.

Policy 14

We support the concept that prioritization of UAB should "prioritize revisions in areas where there would be no reduction of land used, suitable, or designated for agriculture, forest, and open space. In fact, this is in perfect alignment with the mission of our department and this is an important policy.

We do encourage you to make it clear that, in the absence of land that meets this standard, there is still an opportunity for expansion onto other lands. The second/last sentence of this proposed policy seems to indicate this by allowing the Commission to “establish a priority of lands to be considered for revising into Urban Areas.” However, this is a “may” statement, not a “shall.” We recommend that this policy be clarified to ensure there is a definite method for cities to propose an expansion based on a land priority if there is not an opportunity to expand onto land that does not affect agriculture. We would be happy to work with you on the land prioritization structure if you would find our participation helpful; a similar process/standard is already in place within Oregon’s UGB expansion rules.

Once again, thank you for the opportunity you’ve provided for DLCD to participate in the management plan update through the advisory committee, direct contact with staff (who have been extremely good to work with) and, now, with this letter. We hope you will accept them in our intended spirit of cooperation and appreciation for your important and challenging work.

Sincerely,



Gordon H. Howard
Community Services Division Manager