

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 17-1408 FOR THE PURPOSE OF ADOPTING AMENDMENTS TO TITLE 14 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TO IMPROVE THE REGIONAL GROWTH MANAGEMENT PROCESS

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## BACKGROUND

### **An outcomes-based approach to growth management**

When the Metro Council made an urban growth management decision in November 2015, the Council indicated its intent to convene partners to discuss possible improvements to the region's process for managing residential growth. The desire for a new approach springs from lessons learned from past urban growth boundary (UGB) expansions, some of which have been slow to develop because of governance and infrastructure funding challenges. Likewise, the Metro Council, cities, counties, and stakeholders have expressed frustration with past decision processes that were characterized by theoretical debates that felt detached from viable growth options.

The proposed code amendments that the Council is considering in Ordinance No. 17-1408 represent a step towards improving how the region manages residential growth, with the goal of facilitating more transparent discussions of the merits of the actual growth options that may produce needed housing and jobs. These amendments build on past improvements that include:

- The Council has adopted numerous policies, including the 2040 Growth Concept, which emphasize existing urban areas as the region's growth priorities. In the last two decades, market demand for housing in urban areas has increased around the country. With plans in place, the greater Portland region has been uniquely ready to capitalize on that market demand for urban living.
- In 2010 and again in 2017, the Council adopted urban and rural reserves. These designations describe where the region may expand its urban footprint over the next five decades and which areas will be off limits to urbanization. Metro, Clackamas County, and Multnomah County are currently seeking state acknowledgement of these designations. In 2014, the state legislature codified urban and rural reserves in Washington County in state law.
- In 2010, the Council adopted a requirement that a concept plan must be completed by a local jurisdiction before the Council will expand the UGB there. This policy is intended to ensure that issues of governance, infrastructure funding, environmental protection, and planned uses are sorted out by a city before the land is added to the UGB.
- Since 2006, Metro has offered grant funding to assist cities and counties in removing barriers to development ("2040 Planning and Development Grants," formerly known as "Community Planning and Development Grants")
- In 2010, the Council adopted six desired outcomes into the Regional Framework Plan, expressing an intent to have them guide growth management decision making.

### **Urban Growth Readiness Task Force recommendations**

Beginning in the spring of 2016, Metro convened the Urban Growth Readiness Task Force to provide recommendations on how to continue to improve the region's growth management process. The Task Force included mayors, county commissioners, and representatives from 1000 Friends of Oregon, the Home Builders Association of Metropolitan Portland, and the Oregon Department of Land Conservation and Development. Council President Hughes served as Chair and Councilors Collette and Chase also served as liaisons.

The Task Force met five times and made consensus recommendations. Those recommendations can be generally described as:

- The Metro Council should exercise greater flexibility when considering city proposals for residential urban growth boundary (UGB) proposals into concept planned urban reserves.
- The Metro Council should clarify expectations for cities proposing residential UGB expansions into concept planned urban reserves. The Task Force identified topics of interest that cities should address and suggested that Metro staff work with the Metro Technical Advisory Committee (MTAC) to incorporate those topics into proposed code. The Task Force recommended that those expectations should strike a balance between providing flexibility and certainty.

The Metro Council accepted the Task Force's recommendations when it adopted Resolution No. 17-4764. Those recommendations guide the proposed code amendments that the Council is now considering under Ordinance No. 17-1408. The Task Force's recommendations and their relationship to Ordinance No. 17-1408 are further summarized as follows:

#### Exercise greater flexibility when considering city proposals for residential UGB expansions into concept planned urban reserves:

The general theme of the Task Force's recommendations was that the Council should exercise greater flexibility to respond to city proposals for residential UGB expansions into concept planned urban reserves. This will be achieved through recent changes to state law that facilitate the Metro Council's ability to make "mid-cycle" growth management decisions as well as by exercising flexibility that is already allowed under the law in standard "legislative" growth management decisions that the Council makes at least every six years.

Based on Task Force recommendations, Metro and its partners successfully advocated for changes to state law that facilitate the Metro Council's consideration of city proposals for mid-cycle residential expansions. House Bill 2095, signed into law in 2017, allows Metro to make mid-cycle residential UGB amendments by amending its most recent Urban Growth Report analysis. The law limits each of these mid-cycle expansions to a total of 1,000 acres. The legislation also exempts mid-cycle decisions from the boundary location requirements described in Statewide Planning Goal 14 (Urbanization). In other words, Metro is not obligated to analyze all urban reserves in mid-cycle decisions and may focus only on those that are proposed by cities. The first mid-cycle decision process is anticipated in 2021. Proposed Ordinance No. 17-1408 describes Metro procedures for mid-cycle decisions.

Under state law, the Metro Council must assess regional housing needs at least every six years. Exercising greater flexibility in this standard legislative growth management process (including the 2018 decision) means that decision making will focus on the merits of city proposals for UGB expansions. This new approach recognizes that there is not one correct answer to whether expansions are needed, just different tradeoffs to consider. Informed by peer-reviewed analysis in the 2018 Urban Growth Report, the Council will decide whether city-proposed UGB expansions are warranted to achieve desired outcomes and produce needed housing.

#### Clarify expectations for cities proposing residential UGB expansions:

The Task Force recommended that, along with exercising greater flexibility in responding to city proposals, the Metro Council should have high standards for cities proposing residential UGB expansions into concept planned urban reserves. Fundamentally, the Task Force indicated that cities should demonstrate that an expansion area is likely to develop as planned and that they are implementing best practices for providing needed housing and achieving desired outcomes in their existing urban areas. The Task Force recommended that Metro should make those expectations clear to cities while also providing enough flexibility to accommodate proposals from cities with differing circumstances.

To advance the Task Force's recommendations, the Metro Council asked staff to work with MTAC to propose amendments to the Metro code that would provide that clarification. Ordinance No. 17-1408 includes amendments to Metro code to achieve that end. As written, these expectations would apply to legislative and mid-cycle UGB amendments. These expectations are similar for both types of decisions, but are somewhat more rigorous for mid-cycle decisions since that process was designed to address more immediate opportunities presented by cities. The expectations for legislative decisions, such as the 2018 growth management decision, are presented as factors that the Council will consider.

#### **MTAC recommendations**

MTAC began providing conceptual feedback to the Task Force in July 2016 and began discussing possible code amendments shortly thereafter. In total, MTAC discussed background concepts or proposed code amendments at 10 meetings, including:

July 6, 2016  
July 13, 2016  
August 3, 2016  
September 7, 2016  
October 19, 2016  
December 7, 2016  
February 1, 2017  
April 5, 2017  
August 2, 2017  
September 6, 2017

MTAC's discussions centered on how to achieve an appropriate balance of flexibility and certainty in the proposed code amendments. At its September 6, 2017 meeting, MTAC made a unanimous recommendation to MPAC on proposed code amendments. MTAC's proposed code amendments are intended to provide flexibility to cities and the Metro Council. Recognizing that flexibility also may create ambiguity, MTAC recommended that Metro staff develop administrative guidance that further clarifies how a city might make a compelling residential UGB expansion proposal that meets the intent of the proposed code. That administrative guidance is not intended for formal adoption by the Council. Staff expects that the administrative guidance will be edited for future growth management decisions based on lessons learned in the 2018 decision or to reflect contemporary policy interests. Draft administrative guidance is included as Attachment 1 to this staff report.

#### **Council work session discussion**

The Metro Council discussed the proposed code amendments (version recommended by MTAC) at its September 14 work session. The Metro Council suggested one change to the mid-cycle UGB amendment criteria described in proposed code section 3.07.1428(b)2. That criterion references a timeframe during which the proposed housing is likely to be developed. MTAC recommended that this be a 20-year time

horizon. The Metro Council requested that this be changed to 10 years to recognize that mid-cycle decisions are intended to respond to more immediate opportunities to provide needed housing.<sup>1</sup>

The Council also discussed an initial draft of administrative guidance at the September 14 work session and suggested a couple of revisions. Staff has made those and a few other minor revisions to provide clarity. Those revisions include:

- Cities should substantiate any assertions that UGB expansions would reduce commute distances.
- Affordable housing is defined in the guidance as both market rate and subsidized housing that is affordable to households with incomes equal to or less than 80 percent of the median family income for the county. This definition was developed in consultation with Metro staff that specialize in housing development and affordability.
- The document provides additional guidance on how cities may demonstrate efforts relating to the region's sixth desired outcome (equity). Metro Planning and Development staff worked with Metro Diversity, Equity and Inclusion staff to make those clarifications.

The administrative guidance is not intended to be formally adopted, however it is included as Attachment 1 to this report for reference. If the Council chooses to adopt code that differs from what is proposed, staff will work to reconcile the administrative code with adopted code. Staff also anticipates that the administrative guidance will be revised in future decisions based on lessons learned in the 2018 growth management decision as well as contemporary policy interests.

### **MPAC recommendations**

The Metro Policy Advisory Committee (MPAC) had an initial discussion of the proposed code amendments at its September 27, 2017 meeting. After MPAC's September 27 discussion, Metro staff became aware of two concerns from local jurisdiction staff regarding the proposed code amendments. Those concerns included:

- A desire for Metro code to reiterate a state law that requires that any mid-cycle UGB expansion must be adjacent to the city proposing the expansion.
- A concern that the cities that are likely to propose residential expansions in the 2018 legislative decision haven't based their housing needs analyses on the current<sup>2</sup> Metro forecast as would be required under the code recommended by MTAC. The concern was that cities would not be able to revise their analyses in time to make an expansion proposal for the 2018 decision (proposals are due by the end of May 2018).

To address those concerns, Metro staff suggested slight revisions to the proposed code that went to MPAC for a recommendation on October 11, 2017. MPAC members agreed with those proposed changes.

MPAC moved to make one further revision to the proposed code being considered for their recommendation, seeking to clarify that coordinating a city's housing needs analysis with the Metro forecast means coordinating it with an adopted "distributed" forecast. This refers to a forecast that distributes regional growth at smaller geographies. Metro, the counties, and cities periodically undertake a coordinated approach to producing a distributed forecast that the Metro Council considers for adoption.

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<sup>1</sup> Legislative UGB amendments, which must be considered by the Council at least every six years, respond to a 20-year time horizon.

<sup>2</sup> The current forecast is the 2040 Distributed Forecast, which was adopted by the Metro Council in 2016 (Ordinance No. 16-1371) after coordinating with cities and counties.

Typically, Metro and local jurisdictions go through this process within a year or two of the Metro Council making a regional urban growth management decision.

MPAC unanimously recommends that the Council adopt the proposed Title 14 code amendments that are Exhibit A to Ordinance No. 17-1408.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

Staff is not aware of any opposition to this ordinance.

### **2. Legal Antecedents**

- Statewide Planning Goals 10 (Housing) and 14 (Urbanization)
- Oregon Administrative Rules, Division 24 (Urban Growth Boundaries)
- Metro Regional Framework Plan, Chapter 1 (Land Use)
- Metro Urban Growth Management Functional Plan
- Council Ordinance No. 10-1238A, which adopted urban and rural reserves and made changes to the Urban Growth Management Functional Plan that require cities to complete concept plans for urban reserves before the area will be included in the UGB. The ordinance also included amendments to the Functional Plan that provide guidance for the contents of concept plans.
- Council Ordinance No. 10-1244, which adopted changes to the Regional Framework Plan, calling for an outcomes-based approach to urban growth management.
- Council Ordinance No. 15-1361, which expressed Council's intent to convene partners to discuss possible improvements to the region's process for managing residential growth.
- Council Resolution No. 17-4764, by which the Council accepted the recommendations of the Urban Growth Readiness Task Force, including its recommendation to clarify expectations for cities proposing residential UGB expansions.

### **3. Anticipated Effects**

Future residential growth management decisions, including the Metro Council's 2018 decision, would be subject to the code requirements proposed in this ordinance. This will mean that cities will need to address these new code provisions when proposing residential UGB expansions. The proposed code amendments would also establish procedures for mid-cycle residential growth management decisions.

### **4. Budget Impacts**

No additional budget impacts are expected as a consequence of Council adoption of this ordinance. Staff anticipates devoting time to assisting cities that wish to propose residential UGB expansion. Likewise, some amount of staff time will be incurred reviewing city proposals. However, staff believes that this can be achieved with existing resources since this effort is anticipated in the 2018 growth management decision work program.

## **RECOMMENDED ACTION**

Staff recommends that Council adopt Ordinance No. 17-1408.

## **ATTACHMENTS**

Attachment 1: Draft administrative guidance for cities proposing residential UGB expansions in the 2018 urban growth management decision.