



City of Medford

Planning Department

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MEMORANDUM

Subject UGB Amendment, Phase 2: ESA Boundary Amendment
Supplemental Findings memo no. 3
Developed and Unbuildable Lands Determination

File no. CP-14-114

To Mayor and City Council

From John Adam, Principal Planner, Comprehensive Planning

Rev'd by Bianca Petrou, Assistant Planning Director

Date October 1, 2015 *for 10-01-2015 meeting*

HISTORY

The urban growth boundary expansion proposal from the Planning Commission included 398 acres of “developed or unbuildable land”¹ comprising steep slopes, agricultural buffers, wetlands, riparian corridors, developed areas, and the fairways in Centennial that will obtain an open space assessment.

Subsequent testimony² argued that the City can count more land as “developed or unbuildable,” thus allowing additional land to be added to the UGBA proposal. Staff met with the parties to review those arguments. The regional representative for the Department of Land Conservation and Development (DLCD), Josh LeBombard, also met with staff to review the arguments. Mr. LeBombard did not find all arguments to be convincing and was motivated to question how staff originally determined “developed or unbuildable” acreages. He then submitted a letter to the record³ stating the Department’s position, acknowledging that some additional land might be considered “developed or unbuildable,” and recommending that the City move the land for agricultural buffering into the “buildable” column, resulting in a 60-acre net reduction of the expansion. A response⁴ to the DLCD letter was submitted at the September 17, 2015 Council hearing.

¹ See p. 16 of the 08-06-2015 Council agenda packet (Commission Report, p. 4).
² Exhibits LL, letter from Savage, 08-06-2015; Exhibit QQQ, letter from Woerner, 08-13-2015; Exhibit FFFF, letter from Harland, 08-20-2015
³ Exhibit MMMM, letter from LeBombard/DLCD, 09-16-2015
⁴ Exhibit PPPP, letter from Pfeiffer, 09-17-2015

The purpose of this memo is to give the Council staff's recommendation on how much land can be classified as "developed or unbuildable." Given the now-heightened level of scrutiny on this aspect of the expansion, staff revisited its original assumptions to ensure they were defensible; if not defensible then to make them so. This resulted in new calculations, the removal of some areas, and the addition of others. Based on these calculations **staff recommends adding 43 acres**. That breaks down in 19 acres of low-density residential, 11 acres of high-density residential, 8 acres of commercial, and 6 acres of office commercial. There was a net gain of one acre in the industrial category that reduced the revised need by one acre. The attached map at the end of the memo shows the areas classified as "unbuildable."

The remainder of this memo lays out the technical arguments that will be incorporated into the findings if the Council finds them valid.

ANALYSIS

New Category of Land Need

For its urban growth boundary amendment the City calculated two types of land need: Residential and Employment. When the City adopted the Regional Plan as a chapter in the Comprehensive Plan, it committed itself to "Open Space" requirements that constitute a third category of land need. The Open Space requirement in the Planning Commission's recommended expansion amounts to 290 acres. That figure represents a proportional allocation per each subarea of the urban reserve. For example, eighty percent of MD-2 is included in the proposal, therefore eighty percent—or 32 acres—of Open Space is allocated to MD-2. If all of MD-2 were included (358 acres), the Open Space amount would be 39 acres.

The Regional Plan Element does not define Open Space, but the term is used in the chapter to describe various concepts: as separation between cities, as "recreation and visual relief" in cities, and as a consequence of agricultural buffering. Yet it is a component of land use allocations⁵ in the Plan.

The current, specific land need for parks is 153 acres according to the Housing Element⁶. That park acreage overlaps, but does not fully account for, the 290-acre Open Space requirement. The remainder of Open Space can be accounted under other classifications of unbuildable land: 120 acres for the "open space assessment" required of the Centennial golf course, then the remaining 20 acres could be taken up in some other class of unbuildable land, such as slopes above 25 percent, wetlands, riparian areas, or

⁵ It comprises 670 acres out of approximately 4,450 developable acres, or nearly 15 percent of the urban reserve. Residential and Employment make up the remainder.

⁶ See Table 40 on p. 64 of the Housing Element.

agricultural buffers. In other words, there is more parkland and unbuildable land than there is Open Space need (see also *Table 1* at the end of this memorandum).

The key point here is that beyond that 290-acre allocation there are still acres that under any other circumstances would be classified as “unbuildable.” It is more appropriate, therefore, to separate the two issues: first determine what is unbuildable, and then confirm that the Open Space requirement is being met. The suitability of some classes of unbuildable for Open Space categorization is only incidental to their classification; therefore, the next part details the arguments for classification as unbuildable.

Unbuildable Lands

State law and regulation help determine what types of land can be classified as “unbuildable.”

| <u>Type</u> | <u>Guidance in Statute or Rule</u> |
|--------------------------------------|---|
| Slopes of 25 percent or greater | OAR 660-008-0005 (2)(c) |
| Riparian corridors | OAR 660-008-0005 (2)(d); Goal 5; OAR 660-023-0090 |
| Developed land | OAR 660-009-0005; 660-021-0010 (5) |
| Wetlands | Goal 5; OAR 660-023-0100 |
| Land with an open space assessment | ORS 179.186 |
| Land devoted to agricultural buffers | OAR 660-024-0010 (6) |

In a sense agricultural buffering requirements constitute a fourth category of land need that was not anticipated in the calculation of housing and employment need⁷. In the Rule cited above a “Net Buildable Acre consists of 43,560 square feet of residentially designated buildable land after excluding future rights-of-way for streets and roads.” In both the housing and commercial need calculations, buildable land and the land for streets were the sole constituents of gross acreage needs. Staff believes it is unreasonable to say that the buffers should be absorbed as one of the constituents of gross land need at this late point in the process. Also, staff proposes zoning the buffers under an “open space” designation⁸ to more easily differentiate lands for density-tracking purposes. The agricultural buffering requirements consume a lot of land, and once committed to that purpose they will likely continue to do so in perpetuity. While it is true that in some cases the agricultural buffers may incorporate streets and trails, as is allowed in

⁷ As was argued in Exhibit QQQ.

⁸ The City intends to create an open space/public use zoning district so that Prescott and Chrissy Parks, among all the others in the City, do not have to have misleading residential designations.

the Development Code⁹, it would be a mistake to assume that most of the buffers will have such features.

Staff proposes a compromise position in the form of a revised methodology for calculating the buffers. That methodology is described below. It was used to calculate the amount of land dedicated to buffers in the table at the end of this memo.

Revised methodology for calculating agricultural buffer

The first time staff calculated how much land the agricultural buffers would consume, we used a uniform 150-foot-wide buffer along all exterior edges except where future streets would be intervening and where the adjacent rural land was not zoned Exclusive Farm Use. Since questions have been raised, staff revisited those estimates to make them more defensible. The new rules were as follows.

| <u>Adjacency</u> | <u>Buffer width</u> | <u>Explanation</u> |
|------------------|---------------------|---|
| Streets | 50 feet | Street right-of-way can be a distance component of a buffer. This rule was applied in all cases where there would be a future right-of-way for a high-order street. |
| Residential | 150 feet | Possible range is 100 to 200 feet |
| Commercial | 100 feet | Possible range is 50 to 150 feet (200 feet in special circumstances) |
| Industrial | 50 feet | Possible range is 50 to 100 feet |

In one case there was no buffer included: at the northern end of the expansion area in MD-2, a stream and vegetation on the land outside the expansion area would satisfy the 50-foot buffering requirement for industrial land.

Other Additions

Seven more acres in houses and substations were found and added also to the “developed” classification.

Less clear is how irrigation canals should be classified. There are arguments on either side of this question. One argument is that the canals can be piped and co-located with-in rights-of-way, which would require pressurization. In other cases—and as has been so far the common practice—canals will have to be accommodated in the midst of development. The total amount for canals is just over six-and-a-half acres. Staff is including those areas in the “unbuildable” category.

⁹ Medford Municipal Code, Section 10.804.B.4 and 10.804.G.5.

Table 1. Classifications within the Residential and Unbuildable Categories that Intersect the Open Space Category

| | Residential <i>886 total acres</i> | Unbuildable <i>436 total acres</i> |
|--|--|--|
| | dwellings 458 | canals 7 |
| | other 275 | developed 112 |
| Open Space <i>290 total acres</i> <i>[required in the PC's recommendation by the Regional Plan]</i> | parks 153 | open space assess. 120 |
| | | agricultural buffers 87 |
| | | slope 12 |
| | | wetlands 37 |
| | | riparian 77 |
| | | public lands 23 |

Note that the individual classes of unbuildable land overlap one another in some places, so the total amount of "Unbuildable" at the top of the table is the aggregate of the layers minus the overlap amounts.

