

City Councils' Questions RE: Tobacco Retail Licensing & Responses from Clackamas County Public Health Division

City councils raised the following questions when Clackamas County Public Health Division presented Tobacco Retail Licensing, proposal to prevent youth from accessing tobacco and nicotine products.

This summary is to help ensure that jurisdictions receive the same information about Tobacco Retail Licensing.

How many new employees will the County have to hire to operate Tobacco Retail Licensing?

The Public Health Division would hire one Program Coordinator for a Tobacco Retail License Program.

What is the proposed enforcement strategy? How would it be different than current enforcement? What are the current penalties for illegal sales? What is the role of local law enforcement?

Proposed enforcement would include two inspections per year for every business selling tobacco and nicotine products. One would be with Public Health staff to help retailers understand and comply with laws; the other would use minor decoys to ensure retailers do not sell to people under 21 years of age. Clackamas County Public Health Division would provide the education and operate the compliance checks with youth.

Currently, the Oregon Health Authority enforces the tobacco minimum sales age law and coordinates with the Oregon State Police to conduct compliance inspections. A clerk may be cited for Endangering the Welfare of a Minor if caught selling tobacco or nicotine products (e-cigarettes) to a person under 21 years. Minimum fine of \$200, maximum of \$2000. Due to the State's limited capacity and resources, a random sample of retailers are inspected. A TRL in Clackamas County would augment the state's system so that every tobacco retailer is inspected annually.

Local law enforcement is able to issue citations for "Endangering the welfare of a minor" ORS 163.575 to store owners for illegal sales. Class A violation, minimum fine for each violation is \$100.

What is the Board of Health's authority to pass a county-wide TRL? What do cities have to do to support TRL?

The County as the Local Public Health Authority, has broad authority under state law (ORS 431A.010 and ORS 431.413) to adopt and implement public health programs to protect the public health and safety. Cities should follow their own governing processes if a city wishes to support TRL in their city, for example, by resolution or an IGA with the County.

Based on the experiences of other counties in Oregon that have implemented TRL, what impact has TRL had on illegal sales to youth?

Multnomah and Klamath Counties have not had TRL in place long enough to measure change in underage sales. The license fees in Benton & Lane Counties are not high enough to support compliance checks.

A recent assessment of 33 communities in California that implemented a tobacco retail license showed dramatic decreases in illegal sales to youth since passing TRL.

Why are bars and adult venues required to have a license to sell tobacco if youth under 21 years are not permitted on the premise?

While youth are legally not allowed into bars and adult venues, they occasionally manage to skirt the system to enter. The tobacco retail license enables CCPHD to provide compliance checks as well as help retailers know and understand tobacco retail laws.

Oregon law preempts any local jurisdiction from regulating vending machines. So if a bar / adult venue has only a vending machine, CCPHD cannot require them to get a tobacco retail license. Oregon Revised Statutes §167.404 Cities and counties by ordinance or resolution may not regulate vending machines that dispense tobacco products or inhalant delivery systems. [1991 c.970 §3; 2015 c.158 §10]

What is the fee for a liquor license and how does it compare to the fee proposed for TRL?

The liquor license fee ranges from \$100 for Distilleries to \$500 for Breweries. The fee for a full on-site commercial sale is \$400. A list of licensing types and fees is available online

<https://www.oregon.gov/olcc/LIC/Pages/index.aspx>

We are proposing a licensing fee of \$500-\$600 annually. This amount is necessary to provide adequate education and enforcement to the 232 known tobacco retailers in Clackamas County.

How does the enforcement for underage liquor sales compare to enforcement for underage tobacco sales?

The OLCC is responsible for ensuring compliance with liquor laws. One way of doing so is through minor decoy operations to ensure retailers do not sell or serve alcohol to people under 21 years. The OLCC is under staffed to adequately ensure compliance with State liquor laws. Their capacity has been further stressed since the legalization of marijuana as they are responsible for ensuring compliance with marijuana laws as well. For example, the last inspection in Estacada was to one business in 2015. The OLCC posts inspection results on their website https://www.oregon.gov/olcc/Pages/reg_program_overview.aspx

For businesses licensed by the OLCC, the penalty for failing to verify the age of a minor (category III offense) is a 10 day suspension of license or \$1650. The second offense is a 30 day suspension or \$4950. A summary of common violations and penalties is available here

https://www.oregon.gov/OLCC/pages/laws_and_rules.aspx#Penalty_Schedule/Sanction_Schedule

If adopted, a Tobacco Retail License would include two inspections per year for every business selling tobacco & nicotine products. One inspection with a Public Health staff to help retailers understand and comply with tobacco-related laws and the other using minor decoys to ensure retailers do not sell to people under 21 years.

Penalties for selling tobacco to people under 21 years would be determined with the guidance of a Rules Advisory Committee. Currently under the state's inspections, clerks may be cited for Endangering the Welfare of a Minor. Minimum fine of \$200, maximum fine of \$2000.

What is the argument against TRL? Is there anything negative to approving TRL?

It's no surprise that the tobacco industry opposes TRL. Their revenue relies on young people developing a life-long addiction to tobacco and nicotine products.

If the Board of County Commissioners, acting as the Board of Health, adopts a county-wide Tobacco Retail License, Clackamas County Public Health Division (CCPHD) will be directed to administer and implement the program. Shifting responsibility to CCPHD will result in consistent education and enforcement and will equitably prevent all youth in the county from developing an addiction to nicotine.

Will a small mom and pop store get charged the same as a larger entity such as Fred Meyer or Winco? Can the fee be sliding based on the retailer size or amount of sales?

A flat fee of \$500 - \$600 is based on the cost to administer the license, educate retailers and conduct inspections with the 232 known retailers in the county. The total cost of the program will be divided among all retailers. Every retailer, regardless of the size, will receive the same level of service in order to comply with laws governing sale of tobacco and nicotine products.

The licensing fee must be set no higher than the actual costs incurred by the government to operate the program. We have learned from other jurisdictions that a tiered based fee structure has been challenged in court.

In 2009, the New York State Legislature adopted legislation to replace the licensing fee of \$100/year with a graduated fee of between \$1,000 and \$5,000/year, depending on the volume of sales by a retailer. The amount of the proposed new fee was not based on any precise calculation of program costs. A trade association filed a lawsuit alleging that the fee increase was an unconstitutional tax, and the appellate court issued an order allowing the retailers to pay the \$100 fee until the court decided the case. The lawsuit was ultimately dismissed when the State Legislature adopted legislation to impose a flat licensing fee of \$300/year.

Long Island Gasoline Retailers Ass'n v. Paterson, 83 A.D.3d 913 (App. Div. 2011). Case summarized by ChangeLab Solutions, Tobacco Retailer Licensing Playbook | changelabsolutions.org/tobacco-control

A flat fee is easiest to administer and less burden to retailers. A tiered fee would require retailers to prepare documentation of profit that would need to be reviewed prior to any license or renewal.

There are options for retailers to recoup the cost of a TRL. A \$500 - \$600 fee amounts to \$1.37 - \$1.64 per day to sell tobacco products. The impact on store revenue would be minimal as retailers are able to raise tobacco prices and/or adjust the prices of other store items to offset the cost of the license fee.

Why can't Department of Revenue records be used to identify retailers?

In Oregon, tobacco taxes are levied at the distributor or wholesaler level, rather than at the retail level. Some retailers, like Costco, might have a license through the Dept. of Revenue so they can distribute to other retailers. Most retailers get their tobacco from the tobacco company distributors themselves (RJR and Altria sales reps grease the wheels for this process by visiting stores and signing them up on distribution contracts). The distributors are responsible for paying for and applying the Oregon tax stamp. The distributors don't inform the Dept. of Revenue to whom they distribute products. Therefore, the Department of Revenue doesn't have a comprehensive list of who sells tobacco in the state of Oregon, only who "distributes" tobacco.

Would paraphernalia and non-nicotine liquid be taxed too?

No, this is not a tax. Any store that sells products containing tobacco or nicotine would need to maintain a tobacco retail license.

Is TRL being pursued across the metro area?

TRL was implemented in Multnomah County in 2016. Washington County is considering TRL but is not yet ready to move forward. If TRL passes in Clackamas County, it will help build the case to approve TRL across the tri-county area.

What is the process for implementation?

The details to implement TRL will be determined. However, retailers will have a period of time to obtain their license before enforcement began.

How has TRL been received by chambers of commerce?

The Public Health Division has meetings scheduled in September to discuss the business case for TRL.

There are examples of chambers supporting TRL in other places. Driven by the economic benefits of a healthy workforce, Kansas City Chamber of Commerce is leading the Tobacco 21 initiative in Kansas to reduce tobacco-related tobacco illness.

How much does a Juul cost?

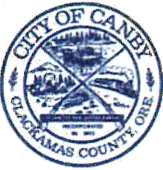
A starter kit, including the Juul device and four flavor pods, costs around \$50. Vaping devices such as e-cigarettes and Juuls are not taxed.

Are schools in support of TRL?

Public Health is going to talk about TRL with superintendents when school is back in session. A couple have already expressed support, stating that Juuls are a real distraction from learning.

Would the citizens vote on something like this?

While Clackamas County Public Health Division values community input, ballot measures are expensive. Instead of a vote in the mid-term election, Public Health will invite citizens and business owners to provide oral and written comments during the County Commissioners' public hearings.



City of Canby

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September 6, 2018

The Honorable Clackamas County Board of Commissioners
Jim Bernard, Chair
2051 Kaen Road
Oregon City, OR 97045

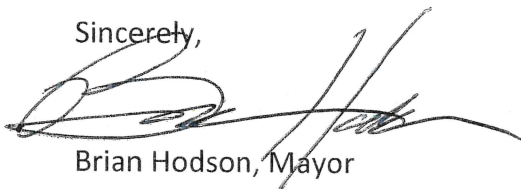
Subject: Adoption of a Tobacco Retail License and licensing fee in
Clackamas County

Dear Chair Bernard and County Commission Members:

Thank you for committing County staff to present to our City Council information relating to the County's initiative to require licensing of retail outlets selling tobacco and other nicotine products, including electronic cigarettes, and implement a licensing fee to address costs associated with educational and enforcement activities. County staff displayed a strong working knowledge of the health risks associated with tobacco use, and the percentage of adult smokers whose tobacco use started before the age of 21.

The Canby City Council is hopeful that through ongoing educational efforts, the youth of our communities will understand the additional health risks associated with tobacco use, and will choose not to engage in habits that have such an adverse impact on their lifelong health and well-being.

Sincerely,



Brian Hodson, Mayor



City of Canby											
Parks and Recreation Committee - Analysis of City Park Condition											
21-Aug-18											
	LEVEL OF SERVICE - CONDITION INDEX										
PARK	1	2	3	4	5	6	CURRENT MAINTENANCE/PARK TYPE	DESIRED MAINTENANCE	IDEAL LEVEL		
Wait Park	5	3	2				1.7	NO CHANGE	1		
Legacy Park	6	4					1.4	NO CHANGE	1-2		
Community Park			5	2	3		3.8	MORE HOURS	3		
Maple Street Park		6	2	2			2.6	NO CHANGE	2		
Arneson Gardens			9		1		3.2	NO CHANGE	3.5		
Locust Street Park	3	3	4				2.1	NO CHANGE	2		
Northwoods Park		5	3	2			2.7	NO CHANGE	3		



Metro



2018 GROWTH MANAGEMENT DECISION

Chief Operating Officer Recommendation

September 4, 2018

oregonmetro.gov/ugb

Metro manages the boundary that separates urban land from rural land in the Portland region and works with communities to plan for future population growth and meet needs for housing, employment, transportation and recreation.

Under Oregon law, greater Portland must have enough land inside its urban growth boundary for 20 years of growth. Land inside that boundary is available for construction of homes, employment centers and shopping areas for our region's residents. That means that even if the boundary wasn't expanded for two decades, all of the growth we expect in greater Portland can fit inside the existing boundary.

Every six years, the Metro Council looks at growth forecasts and development trends and decides whether to expand the boundary to meet its 20-year supply obligation.

Project web site: oregonmetro.gov/ugb

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Urban growth management recommendation

I am pleased to present my recommendations for the 2018 Urban Growth Management decision for the Metro Council's consideration.

Managing the urban growth boundary (UGB) is one of Metro's most important responsibilities. Every decision cycle, Metro staff conducts significant technical, legal, economic, policy and engagement work to provide a thorough picture of community aspirations, demographics, population and employment growth, development trends and estimates of buildable land inside the UGB.

Over the years, Metro has recognized that there are three fundamental elements that make development of new urban areas more likely: a commitment from city leaders and community members; a plan for paying for needed infrastructure; and real estate demand. This 2018 recommendation is based on our understanding of these three elements.

In 2010, Metro and our county partners designated urban and rural reserves to create more certainty about which areas could be part of the region's 50 year urban land supply and which would remain in farm and forest use. The Metro Council also adopted a policy that new urban areas would need a concept plan for urban reserves to be considered for inclusion in the UGB. This allowed cities more control over where and when they would choose to develop new areas.

After many years of legal challenges, urban and rural reserves were re-adopted by Metro and the counties in 2017 and formally acknowledged by the Land Conservation and Development Commission earlier this year.

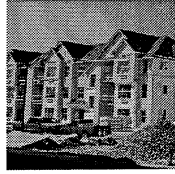
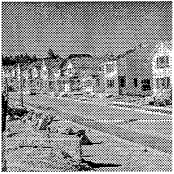
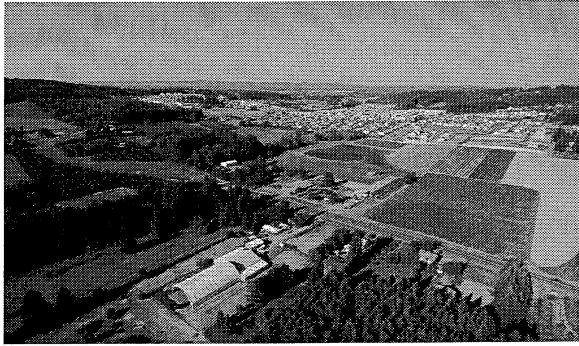


Those urban and rural reserve designations give us all – farmers, home builders, cities, service providers, residents, businesses and property owners – more certainty about growth. Those forward-looking decisions help us to move on to productive discussions of whether cities are ready for additional homes and businesses in expansions into urban reserves.

After the 2015 urban growth management decision, the Metro Council convened a task force to improve the region's process for growth management decisions. This group, made up of local officials and representatives of land development and preservation perspectives, recommended that cities propose UGB expansions to Metro, rather than Metro recommending areas to add to the UGB as had been previously done.

The task force also laid out a framework for what the region should expect of cities that propose expansions, emphasizing a focus on citywide development readiness and attention to housing affordability.

For the 2018 urban growth management decision, the Metro Council has implemented this new process for the first time.



This outcomes-based approach is intended to both address regional needs and to be responsive to city proposals as we ensure that the region has enough room for the new residents and jobs that we expect in the next two decades.

Under this new process, four cities – Beaverton, Hillsboro, King City and Wilsonville – proposed expansions. The four expansion proposals constructively explored the elements that lead to readiness for urban growth boundary (UGB) expansions: governance, infrastructure funding strategies and market conditions.

In addition to the four proposals, Metro has benefited from the peer-reviewed analysis of the draft 2018 Urban Growth Report (UGR), which was released at the beginning of July. The UGR pointed to the regional need for more housing, particularly for those earning lower incomes and for an aging population.

The UGR makes clear that most of the region's growth is happening inside the existing urban footprint, keeping the region on track to protect farms and forests and to make the most of what we have.

At the same time, however, the UGR shows that the Metro Council has latitude to determine whether there is a need to expand the UGB to address the need for additional housing supply.

The Metro Council, MPAC, MTAC and a City Readiness Advisory Group (CRAG) have each reviewed and discussed the four proposals and the findings from the UGR. I am grateful for the thoughtful discussions held at each of these venues, particularly as we continue to innovate our growth management process to respond to changing conditions and steady growth.

Based on the proposals, the UGR and the discussions, I believe that all four cities are ready to take the next steps towards getting homes built in the proposed UGB expansion areas.

These cities have demonstrated governance, infrastructure and market factors that will lead to housing development. All four cities are working to reduce barriers to development in their existing urban areas and seeking to improve their engagement with diverse communities. For those reasons, I recommend that the Metro Council expand the region's UGB in the areas proposed by these four cities.

I am mindful that there is extensive work left to do if the Council chooses to add these areas to the UGB, and this recommendation includes specific issues that should be addressed in each community. We should keep in mind that land added to the UGB is intended to address housing needs over the next 20 years

A handwritten signature in dark ink, appearing to read 'Martha Bennett', written in a cursive style.

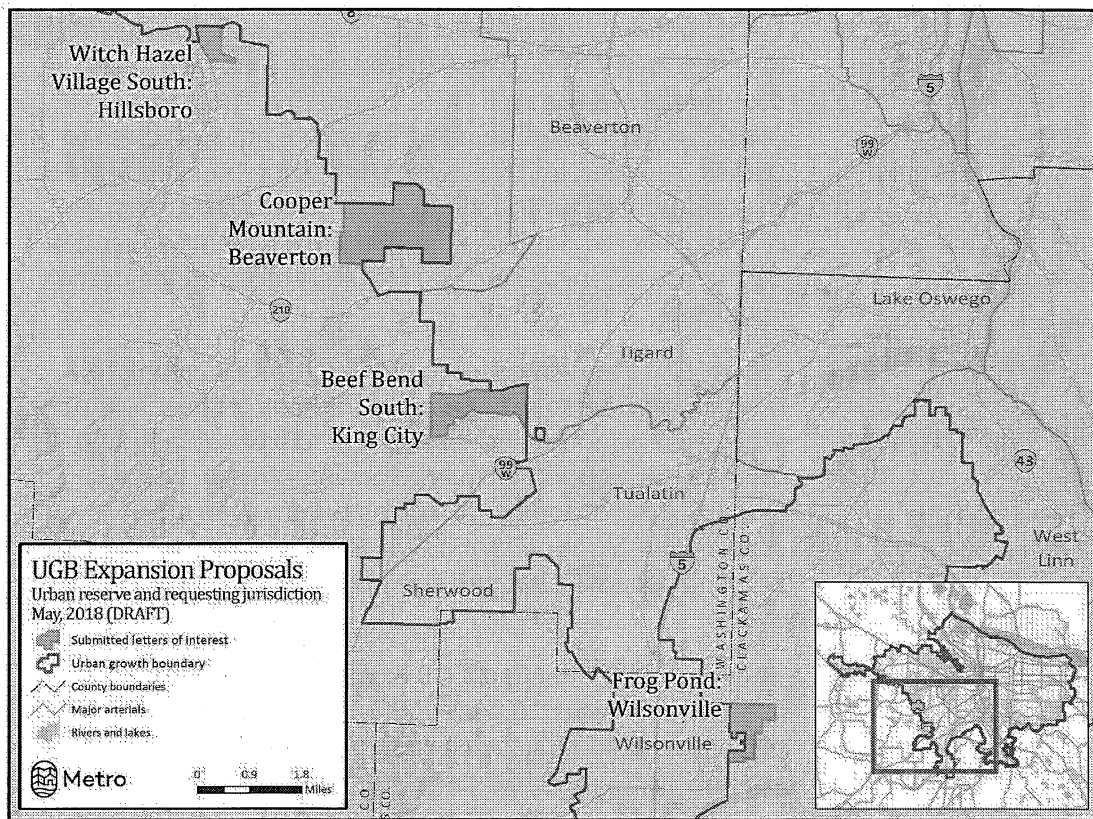
Martha Bennett
Metro Chief Operating Officer

City readiness to get homes built

Four cities – Beaverton, Hillsboro, King City and Wilsonville – have completed extensive work to propose UGB expansions for the Council’s consideration. After reviewing those proposals and hearing discussions at the Metro Council, MPAC, MTAC and feedback from the City Readiness Advisory Group (CRAG), I believe that all four cities are ready to take the next steps towards getting homes built in the proposed UGB expansion areas.

Following are additional considerations that led me to my recommendations as well as more details about the recommendations themselves.

Figure 1: Recommended UGB expansions



Achieving desired outcomes

To guide its decision-making, the Metro Council, on the advice of the Metro Policy Advisory Committee (MPAC), adopted six desired outcomes, characteristics of a successful region:

- People live, work and play in vibrant communities where their everyday needs are easily accessible.
- Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
- People have safe and reliable transportation choices that enhance their quality of life.
- The region is a leader in minimizing contributions to global warming.
- Current and future generations enjoy clean air, clean water and healthy ecosystems.
- The benefits and burdens of growth and change are distributed equitably.

The region needs more housing

It is clear to any observer that there are more people moving to the region each day. Our new neighbors are attracted here for a variety of reasons, including quality of life and the region's strong economy. With the expectation – supported by a peer-reviewed forecast – that population growth will continue, we need more housing to be built. We also need to ensure that those assets – clean water, clean air, and natural areas – that have attracted generations of people and encouraged us all to set down roots remain protected.

Among other goals, the Metro Council has long sought to encourage a variety of housing choices in the region. This is to ensure that people of diverse ages, incomes, and family sizes have options.

Land already within the UGB provides opportunities for a diverse range of housing. The region's track record, as documented in the 2018 UGR, shows that there is considerable market demand for urban housing close to transit, services, and amenities. Ensuring housing options in our downtowns and along main streets is our best strategy for reducing the amount of time people spend in traffic, protecting farms and forests, and reducing carbon emissions.

Metro, cities and counties should continue working to remove barriers to development in those locations, which will be the region's most important sources of housing. It's clear that it will sometimes be challenging to increase housing production in these areas even when our community plans call for it. We should also expect that housing construction will rise and fall with future business cycles.

The four recommended UGB expansions would provide additional choices. In particular, the expansions would provide additional growth capacity for single-family housing (both attached and detached), a housing type that is not addressed through redevelopment. Though there is some evidence that housing markets are shifting, long-standing trends demonstrate demand for this housing type. However, history also shows that this housing won't get built without governance and infrastructure. Beaverton, Hillsboro, King City and Wilsonville have shown a path towards addressing those issues.

The region needs an integrated mix of housing

Healthy communities have a mix of housing options for people of all backgrounds. To some extent, each of the four cities that proposed expansions have a mix of housing in their plans. Changing demographics, economic conditions and infrastructure funding realities require that we diversify our housing stock even more.

I recommend that, as the four cities proceed with their planning efforts, they revisit their proposed housing mixes to ensure that they provide adequate flexibility for a variety of housing options. This was a sentiment that we heard loud and clear in the CRAG review of the city expansion proposals. I found it noteworthy that CRAG members from the development community indicated that they see demand for a greater variety of housing choices, even in new greenfield development.

To ensure that our newest communities welcome people of a variety of backgrounds, life stages and financial abilities, I recommend that apartments, townhomes, duplexes, triplexes, four-plexes, single-family houses and cottage housing be integrated throughout the expansion areas rather than being physically separated by type. This too was a recommendation from CRAG.

We need to revive “missing middle” housing to address changing household sizes and incomes

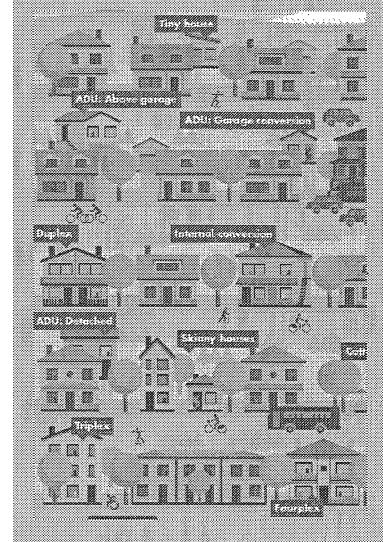
Over the last few decades, our region, like many, has specialized in building two types of housing: single-family homes with yards or mid-rise and high-rise housing. Housing types that lie between those two types – cottages, duplexes, triplexes and four-plexes – have been dubbed the “missing middle” since they have grown uncommon. Increasingly, we need these housing types to address our changing demographics.

Despite the fact that the average household has fewer people than in past decades, the average new single-family home has grown in size. In 1980, the median size of a single-family home in the tri-county area was 1,600 square feet. By 2016, the median size was 2,400 square feet.

All other things being equal, larger homes cost more to build than smaller homes. Providing choices of smaller homes is one way to help keep prices in check.

“Missing middle” housing

“Missing Middle” housing refers to options that lie on the spectrum between single-family homes with yards and mid-rise housing, for example, accessory dwelling units, cottage housing, and triplexes. However, these choices are often not widely available in the locations that provide the greatest access to jobs, services and amenities.



On the other hand, apartment buildings and condos can cost more per square foot and sometimes lack the features desired by families with children: additional bedrooms, storage space, and easy access to outdoor play space. Providing missing middle housing can suit some of those needs and preferences.

It's time that we revive missing middle housing types that served us well in the past. I recommend that the four cities work to ensure that their final plans for the proposed expansion areas allow the flexibility to diversify our housing stock.

My recommendations for each city also address accessory dwelling units (ADUs). While ADUs will not solve all of our housing challenges, they can play a role in providing additional choices. In particular, ADUs may hold promise for our aging population, used either by the elderly or by a caregiver. Likewise, ADUs can provide rental income to households that otherwise may not be able to afford to own a home. Our decisions today need to leave open flexibility in the future to build these housing choices.

Explore ways to reduce fees for smaller homes

Many observers were struck by how expensive new housing would be in the expansion areas proposed by the four cities. None of the four cities proposed providing below-market-rate housing in the expansion areas. While new housing is rarely affordable and there are valid concerns about siting affordable housing in locations with limited access to services like transit, there are things that we should be doing to reduce costs.

When refining their plans to allow for more housing variety, I recommend that the four cities look for ways to employ variable system development charges (SDCs) that are lower for smaller homes or more efficient use of land. SDCs pay for needed streets, sidewalks, parks and pipes, but there is evidence that smaller households and smaller homes place less of a burden on these public facilities. Additionally, the cost to individual households can be reduced when spread across more homes.

Overall recommendations for four city expansion proposals

With the goal of expanding housing choices and reducing housing costs, I recommend that the Council place several conditions on any UGB expansions:

- Set an expectation that the cities will allow and encourage the integration of different housing types throughout the expansion areas.
- Set an expectation that the cities will explore ways to implement variable SDCs to reduce the costs of building smaller homes.
- Require that any future homeowners associations in the expansion areas not regulate ADUs¹. Any such regulation should occur only through city zoning that complies with state law.
- Set an expectation that the four cities will explore ways to encourage the construction of ADUs in the expansion areas. For example, this could be accomplished either by encouraging construction of ADUs at the same time primary dwellings are being built or by placing square footage limits on primary dwellings to ensure that adequate lot space remains for future construction of ADUs.
- Set an expectation that the four cities will involve Metro Planning and Development staff in their work to complete comprehensive planning for the expansion areas.
- Set an expectation that the four cities will seek to engage diverse communities, interests and expertise in their work to complete comprehensive planning for the expansion areas.

1. The 2018 Build Small Coalition audit of city and county codes for ADUs also looked at a sampling of home owner association regulations and found that some of them made it impractical or impossible to build an ADU, even when the zoning code would allow it.

City proposals at a glance

Beaverton

Urban reserve:

Cooper Mountain

Gross acres: **1,232**

Buildable acres: **600**

Homes planned: **3,760**

Hillsboro

Urban reserve:

Witch Hazel Village South

Gross acres: **150**

Buildable acres: **75**

Homes planned: **850**

King City

Urban reserve:

Beef Bend South

Gross acres: **528**

Buildable acres: **400**

Homes planned: **3,300**

Wilsonville

Urban reserve:

Advance Road (Frog Pond)

Gross acres: **271**

Buildable acres: **192**

Homes planned: **1,325**

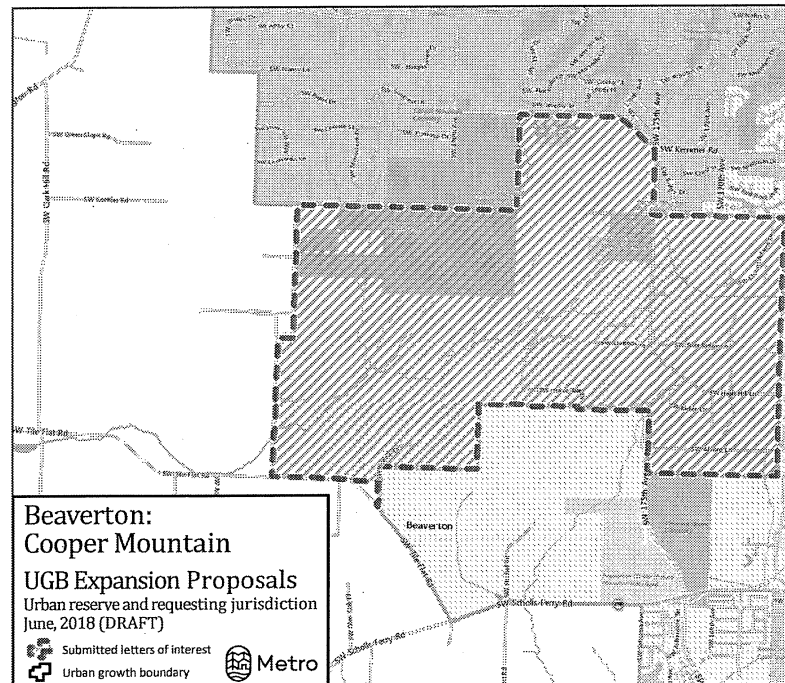
Beaverton: additional considerations

Beaverton has demonstrated its commitment to removing barriers to development in its downtown. With Metro grant assistance, the city is embarking on an anti-displacement housing strategy. With its diverse population and commitment to equity, the city's work on this program is essential. I encourage the city to look for ways to apply lessons learned in that process to future planning for the Cooper Mountain area.

The City of Beaverton's strong track record for getting housing built in the South Cooper Mountain area is a major reason why I recommend that the Council expand the UGB in the Cooper Mountain urban reserve. The city is ready to govern and serve the proposed expansion area and there is evidence that market demand is strong.

The City of Beaverton concept planned the entire Cooper Mountain urban reserve at Metro's request. This was, in part, because the area's topographical features and environmental assets present unique challenges for development, resulting in less than half of the area being buildable. The City of Beaverton gave considerable thought to how best to protect those features and provide infrastructure to support housing development.

Figure 2: Map of Cooper Mountain expansion proposal



To ensure that a UGB expansion leads to development, I recommend that the Metro Council add the entire Cooper Mountain urban reserve to the UGB, thereby enabling the city to provide infrastructure in a coherent fashion. The city concluded that the western portion of the reserve would be crucial for providing infrastructure to the portion to the east, which abuts the UGB. Adding just the western portion is not legally feasible since it would create an island of rural land surrounded by land in the UGB.

The City of Beaverton's concept plan for the expansion area proposed that roughly 50 percent of the housing would be single-family attached or multifamily. Further discussion with Beaverton staff has clarified that the city's concept plan would not require the development of single-family-detached housing in remaining areas and that missing middle housing types would be allowed in all areas.

To ensure that flexibility gets utilized, I recommend that the city look for ways to encourage or incentivize missing middle housing types. The city's forthcoming Housing Options Project can inform the city's efforts in this regard.

Likewise, the city's Housing Options Project will allow the city to update its code for ADUs. In the course of that work, I encourage the city to look for ways to reduce or eliminate parking space minimums for ADUs. Doing so will make ADU construction more feasible.

Hillsboro: additional considerations

The City of Hillsboro has demonstrated its commitment to urban development in Orenco Station and Tanasbourne/AmberGlen. Those efforts serve as a model for urban centers around the region. I encourage the city to continue applying those best practices and to look for additional ways to create and preserve affordable housing in station communities.

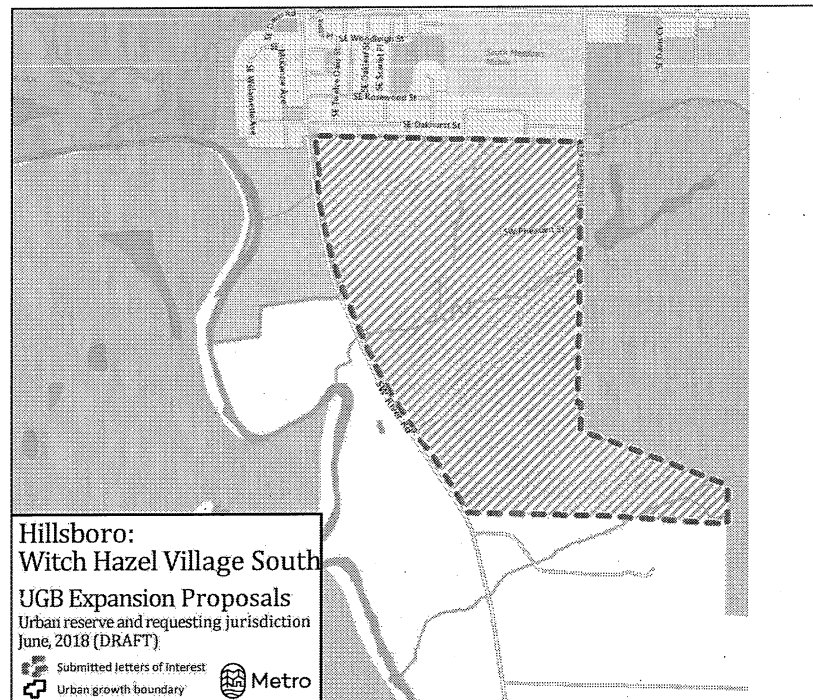
The City of Hillsboro's strong track record for getting housing built in the Witch Hazel and South Hillsboro areas is a major reason why I recommend that the Council expand the UGB in the Witch Hazel Village South area. The city is ready to govern and serve this area and there is evidence that market demand is strong.

The UGB expansion proposed by the City of Hillsboro is a portion of a larger urban reserve. I encourage the city to continue applying the lessons it has learned about

infrastructure provision, funding mechanisms and housing variety to future planning efforts for the remainder of the urban reserve.

The City of Hillsboro's concept plan for the expansion area proposed that up to 70 percent of the housing would be single-family attached or multifamily. I commend Hillsboro for its commitment to providing housing options and recommend that the Council maintain an expectation that the city will make good on it. I also recommend that the city provide enough flexibility in its zoning designations to integrate those housing choices throughout the plan area. These efforts will help to ensure that we adhere to our long-term urban and rural reserve agreements.

Figure 3: Map of Witch Hazel Village South expansion proposal



King City: additional considerations

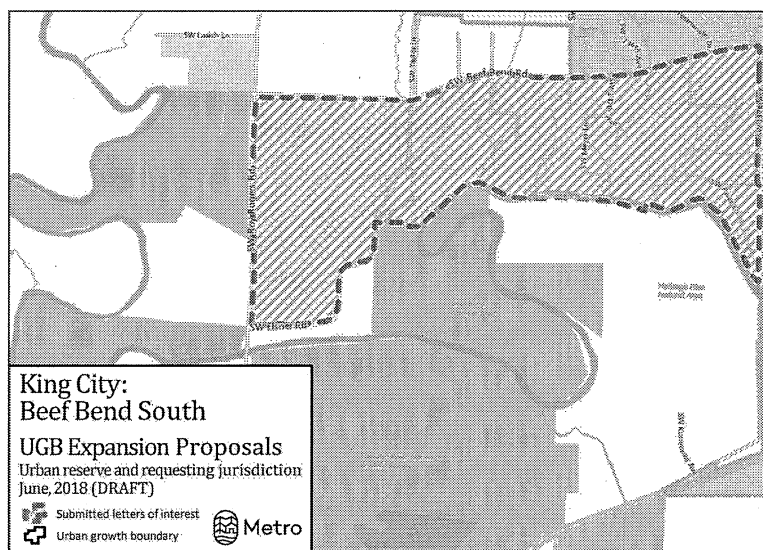
Being a relatively small city, King City has surprised many with the amount of work it has done to submit a proposal for a UGB expansion. Likewise, many people have observed that King City's ambition to diversify its population and housing options is sincere. King City's elected officials and staff deserve credit.

King City's commitment to being a welcoming community and diversifying its housing stock is a major reason why I recommend that the Council expand the UGB in this urban reserve. With additional support, the city will be ready to govern and serve this area and there is evidence that market demand is strong to the north in the River Terrace area of Tigard.

King City's concept plan for the expansion area proposed that 50 percent of the housing would be single-family attached or multifamily. Most of that (1,000 housing units) was proposed as multifamily housing in a new town center. King City deserves acclaim for its bold thinking about a new town center, but the scale and density proposed may be overly optimistic at this time. CRAG members felt that a smaller scale town center may be more viable. CRAG members also expressed concerns that a new town center near the edge of the UGB would generate additional automobile traffic from outside the concept plan area.

The conditions that I suggest below are intended to address those concerns and to ensure that development happens in a coordinated fashion. Along with recommending that the Council expand the UGB as proposed by King City, I recommend the following:

Figure 4: Map of Beef Bend South expansion proposal



- The Council should set aside 2040 Planning and Development grant funding in the 2019 grant cycle² for King City to revise its concept plan as follows:
 - Work with Washington County and Tigard on infrastructure plans, including stormwater, sanitary sewer and transportation to demonstrate that development will happen in a coordinated fashion.
 - Conduct additional analysis to better understand the market feasibility of creating a mixed-use town center in the proposed expansion area.
- Depending on the town center market analysis:
 - Consider planning for more single-family attached housing – townhomes, duplexes, triplexes and fourplexes – as a possibly more viable alternative to dense multifamily housing development in a new town center.
 - Consider ways to reduce the possibility of a new town center generating significant automobile traffic from outside the concept plan area.
- Complete a Transportation System Plan as required by the state. This will allow the city to consider its evolving transportation needs to achieve its community goals. It is my understanding that the state has provided King City with grant funding for this purpose and that work is beginning.
- King City mentioned in its proposal its interest in encouraging manufactured housing to keep housing prices in check. However, under state law, all cities must allow manufactured housing in single-family zones. I encourage King City to

look into ways that it could go beyond basic state requirements to proactively encourage manufactured housing options to keep housing more affordable.

- Continue efforts to realize the city's vision for its existing town center.
- Revise the city development code, which effectively prohibits ADUs. This is necessary to come into compliance with state laws intended to provide more housing variety. To facilitate development ADU development, I encourage King City to:
 - Comply with state law and Metro code by revising the city code to clarify that at least one ADU is allowed for each detached single-family home in each zone that authorizes detached single-family homes.
 - Remove or reduce the minimum lot size requirement for ADUs. Currently, King City's code only allows ADUs on lots that are at least 7,500 square feet, but the city's zoning code establishes a maximum lot size of 5,000 square feet. This effectively prohibits building new ADUs in King City.
 - Remove or revise design standards for attached ADUs to ensure that they are clear and objective.
 - Provide clarity on system development charges for ADUs. Ideally these charges would be waived or reduced.
 - Remove or increase the requirement that ADUs be no bigger than 33 percent of the square footage of the primary home (which also may effectively preclude most homeowners – particularly those with smaller homes – from building an ADU).

2. The amount would be determined in consultation with King City, Washington County, and the City of Tigard.

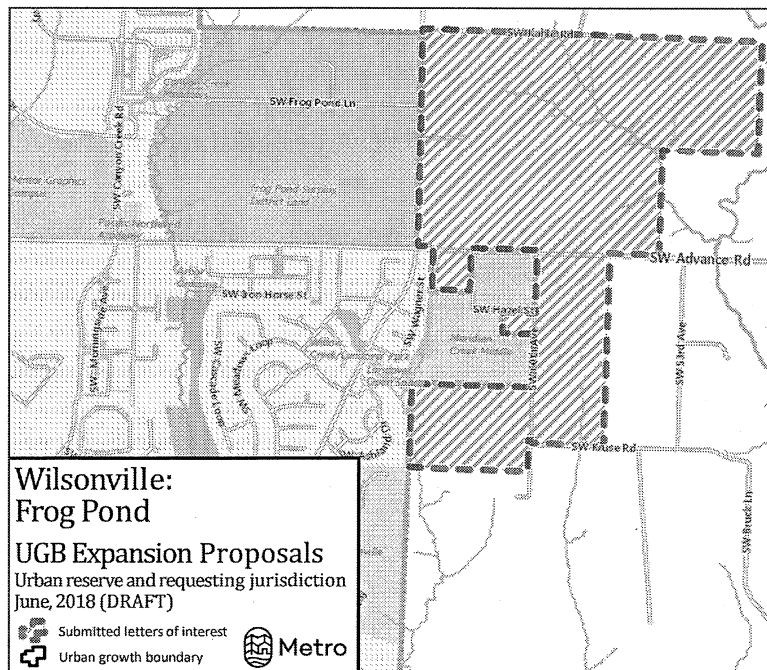
Wilsonville: additional considerations

With grant assistance from Metro, Wilsonville has devoted considerable effort to its Town Center. I encourage the city to look for ways to enhance multimodal transportation connections between the Town Center and other parts of the city, including the recommended UGB expansion area. I also encourage the city to look for ways to acquire land in its Town Center to spur mixed-use redevelopment.

The City of Wilsonville's strong track record for getting housing built in the Villebois area is a major reason why I recommend that the Council expand the UGB in the Advance Road urban reserve. The city is ready to govern and serve this area and there is evidence that market demand is strong.

The City of Wilsonville has expressed interest in an expansion into the Advance Road urban reserve area expansion for several years. The 2018 growth management decision is the first instance when the Metro Council has the ability to add the area to the UGB since the following conditions are now in place:

Figure 5: Map of Frog Pond expansion proposal



- Urban reserves are acknowledged by the state.
- The draft 2018 Urban Growth Report finds that the Council has the latitude to determine that there is a regional need for a UGB expansion.
- Wilsonville has completed a concept plan for the urban reserve and has submitted an expansion proposal for consideration.

In concept planning the Advance Road urban reserve, the City of Wilsonville sought to correct a perceived excess share of multifamily housing in the city. The City of Wilsonville's concept plan for the expansion area proposed that roughly 33 percent of the housing would be single-family attached and included no multifamily housing. Sixty seven percent of the proposed housing was to be single-family detached housing.

While providing single-family detached home options is desirable, the CRAG made clear its view that we need to create future neighborhoods that provide more choices of housing types. With that in mind, I recommend that the city look for ways to integrate additional housing choices throughout the plan area.

I encourage Wilsonville to continue to support construction of ADUs through its waiver of system development charges. I understand that Wilsonville is currently considering amendments to its code related to ADUs in order to comply with changes to state law. I recommend that the code be updated to provide clear and objective design standards for ADUs.

Likewise, the city should update its code to comply with state law by clarifying that at least one ADU is allowed for each detached single-family home in each zone that authorizes detached single-family homes.

The changing nature of employment and the economy

No cities proposed UGB expansions for employment uses for consideration in this year's decision. As noted in the 2018 UGR, that fact is accompanied by a number of other signals that point to changes in our nation's and region's economy. The mix of jobs continues to shift toward sectors like medicine and education that serve the population or provide professional services. Likewise, the locations chosen by firms are changing, with an increasing focus on urban centers.

Our region's dedication to creating a great quality of life has brought both an influx of new residents and rapid job growth. This growth challenges the region's livability with cost of living and equity concerns, wage disparities, challenging commutes, and fewer affordable housing options. Our firms can't always find the workers they need or move goods and people efficiently.

We have robust land use and transportation planning, but we also need to ensure our economy thrives. We need to think about where businesses are growing, what they need, how people get there, and how products get to market. This goes beyond raw job numbers and acreage to creating a place that attracts business and talent. Strengthening our regional economy means growing new industries, supporting local business, creating connected communities with access to family-wage jobs, and building opportunity for all.

Metro and the Brookings Institution have been developing an Economic Value Atlas due to be completed by the end of 2018.



The Economic Value Atlas is an analytical tool to align planning, infrastructure and economic development to bring together new data and information to better understand where our region's economy is heading. This place-based analysis can help guide future regional investments in line with our values and desired economic outcomes.

I recommend that Metro's Planning and Development department return to the Metro Council in early 2019 with a proposed work program that applies the new Economic Value Atlas tool to address future regional employment trends and the implications for the region's land and infrastructure investments. We need to better understand what these changes portend and how we can ensure economic prosperity for people of all racial and ethnic backgrounds, maintain our region's economic competitiveness and preserve our unique quality of life into the future.

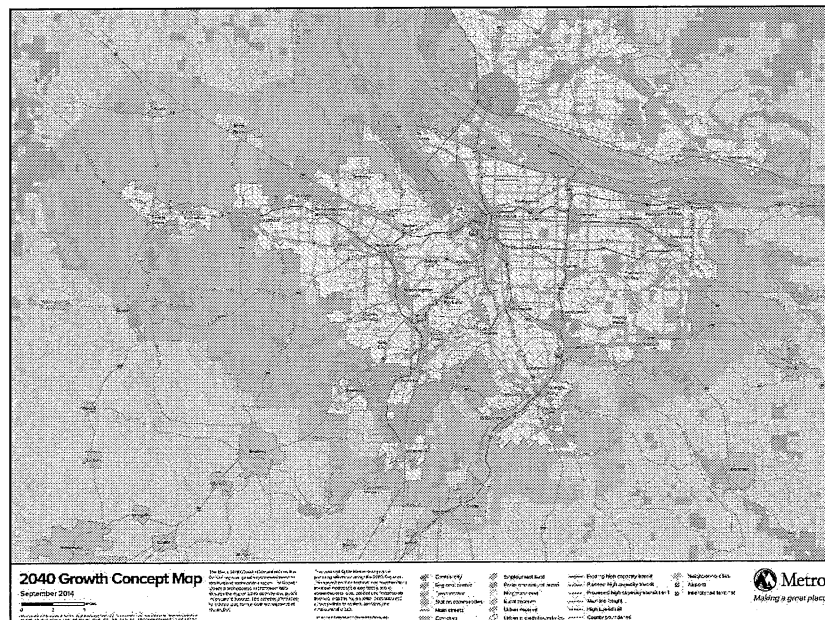
Refreshing the region's vision for its future

We have recognized the need to make improvements to the urban growth management process to respond to changing conditions. We also recognize that economic, demographic, technological, climate change and other global and national trends will affect our region in the decades to come. It's our obligation to look forward and to be ready.

Our region had the foresight 23 years ago to adopt the 2040 Growth Concept, which has helped guide how greater Portland has responded to these inevitable changes in a way that reflects shared community values. The Growth Concept has served us well and its general direction of focusing most growth in well-connected centers and corridors will serve us well in the future.

But a lot has changed since the region adopted the 2040 Growth Concept in 1995. I believe it is important to periodically update our plans, just as we update our processes. I recommend that Metro's Planning and Development staff return to the Metro Council in early 2019 with a proposed work program for updating the 2040 Growth Concept.

Figure 6: The 2040 Growth Concept, the regional plan for focusing growth in existing urban centers and employment areas

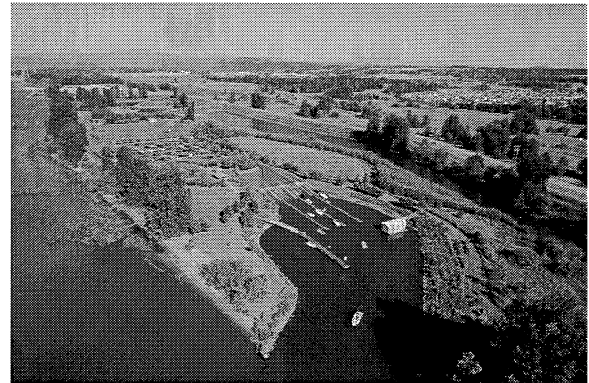


When it was completed, the Growth Concept was intended to be a forward looking, future-focused vision that emphasized protecting and improving our valued urban and natural areas as the population of these areas grew. This vision brought the region recognition for providing transportation choices and access to nature not seen in most large urban areas. While there is much for the region to be proud of, there are also lessons to be learned and new ideas to consider.

We must continue to be forward looking and future-focused as we refresh our regional vision. Not only must we emphasize the capital investments that this region values, we must ensure that our efforts also invest in the human capital – the people– of the region.

I do not intend for this effort to consider significant changes to the Growth Concept's vision for where growth will occur. Instead, I anticipate that this refresh of the regional vision will seek to integrate a number of topics and existing programs to consider new issues and trends affecting development in our region, including:

- Housing affordability and choices, including missing middle housing
- Changes in the economy and employment
- Impacts of technological change on how we get around and where people work
- Climate change mitigation and adaptation
- Access to parks and nature
- Clean air, clean water and healthy ecosystems
- Urban form for future UGB expansion areas



A refresh of the Growth Concept will also give us an opportunity to hear from new perspectives that deserve a voice in the future of our region. It's a chance to consider how our advisory committee structures can support the next several decades of regional decision making. I would expect us to consider ways to engage new and existing partners such as:

- Communities of color
- The business community
- Community-based organizations, non-profits and the philanthropic community
- The arts community
- Education and academia
- Youth
- Local governments and service providers

I look forward to the Metro Council's leadership in this effort.

Lessons learned in a new growth management process

This growth management decision is the first that is structured around city proposals for expansions. I believe the process was more productive and grounded than past decisions. Nevertheless, there is always room for improvement. After this decision is complete, I recommend that Metro and its partners discuss what worked and what needs improvement for future decision processes. In particular, it may be worth revisiting the question about how much specific direction should be given to cities proposing UGB expansions vs. allowing flexibility. Additionally, good questions have been raised regarding urban form and housing variety in UGB expansion areas.

Regional need for expansions

Under state law, UGB expansions can only be made when there is a demonstrable regional need for additional growth capacity. The draft 2018 UGR's analysis shows that the Metro Council has the latitude to determine whether there is a regional need to expand the UGB in any of the four proposed urban reserve areas. In particular, the Council could find a need for additional single-family housing options (attached and detached homes) as a basis for UGB expansions.

As documented in the range buildable land estimates in the draft 2018 UGR, the existing UGB has ample land planned for multifamily housing. Today, 36 percent of existing housing is multifamily housing. The 2018 UGR indicates that share is likely to increase over time as allowed under city and county zoning. No UGB expansion is required to accommodate multifamily housing growth.

On the other hand, history and growth scenarios show demand for single-family housing (attached and detached). The four expansion proposals present opportunities to provide more of those single-family housing choices.

The bottom line is that we have to establish a number of assumptions to determine whether there is a need to expand the UGB. Those include assumptions about the amounts of household growth in the region as well assumptions about the share of future housing that will be single-family housing.

Generally, I recommend that the Council assume the following preliminary numbers as a basis for the four recommended UGB expansions.³

*7-county new households from 2018 to 2038 (midpoint of range): **279,000***

*7-county new dwelling units (apply 5% vacancy rate⁴): **293,000***

*Metro UGB new dwelling units (64 to 70% capture of 7-county growth⁵): **187,500 to 205,000***

*Metro UGB new single-family dwelling demand (50% of new housing): **93,800 to 102,600***

*Metro UGB existing single-family (attached and detached) capacity: **92,900***

*Potential unmet single-family housing unit (attached and detached) need: **900 to 9,700***

The proposed UGB expansions would provide a total of approximately 6,100 single-family housing units along with approximately 3,100 multifamily units, for a total of approximately 9,200 homes. The proposed 6,100 single-family units in expansion areas would address the range of need for 900 to 9,700 single-family homes.

For the four cities to remain in compliance with the state's Metropolitan Housing Rule, each expansion area would need to include some amount of single-family attached or multifamily housing. Likewise, to ensure that people of varied backgrounds can find housing in these new communities, I have recommended that each city revisit their housing mix as they move into comprehensive planning for the areas. Generally, I expect the expansion areas to provide at least 9,200 new dwelling units.

3. These numbers are (a) preliminary and subject to change; (b) generally consistent with historical trends and/or statistically likely forecasts; and (c) intended to illustrate how a need could be established based on assumptions and analysis to date. These numbers reflect potential planning assumptions and do not imply any Metro Council policy.

4. A functional housing market requires more housing than households. Adding a vacancy rate is the means of converting households to dwelling units.

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Timeline (subject to change)

Pending Council's direction by resolution on September 27, staff will complete a final housing needs analysis for adoption by the Council in December as part of its growth management decision. The primary direction that staff will need in September is regarding the UGB expansions the Metro Council intends to make and any conditions that it would like to place on expansions regarding their housing mix.

- **Sept. 4, 2018** Metro's Chief Operating Officer recommendation presented to Council
- **Sept. 12, 2018** Metro's Chief Operating Officer recommendation presented to MPAC; MPAC recommendation to the Metro Council
- **Sept. 26, 2018** MPAC recommendation to the Metro Council (if not made on Sept. 12)
- **Sept. 20 and 27, 2018** Metro Council public hearings and direction to staff on whether and where the UGB will be expanded (and any other policy direction)
- **Dec. 6, 2018** Metro Council public hearing
- **Dec. 13, 2018** Metro Council decision on growth boundary expansion



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