

Testimony of Jim Standring Re: HB 3211
Before the House Committee on Rural Communities, Land Use and Water
March 24, 2015

Good afternoon Chair Clem and members of the Committee:

I am Jim Standring. I've built homes for families in Washington, Clackamas and Marion Counties since 1976. I love Oregon. So do my 6 children and 9 grandchildren.

I own property on Johnson Road in the Stafford Triangle. I disagree with the Hamlet's proposed HB 3211 compromise. They do not represent or speak for me and my property there.

I urge your Committee to please pass HB 3211. Contrary to Metro's testimony before your Committee last week, prominent City leaders and credible housing and employment land need research challenge the merits of Metro's Urban Growth Report's (UGR) determination that the Region has enough suitable and developable housing and job lands for the next 20 years. Recent testimony before your Committee about Damascus dis-incorporation also very clearly reveals how unreliable that UGR finding is.

Adoption of HB 3211 would provide Urban Reserve land that is suitable and readily developable for a full range of real housing types/choices needed by current and future families in Clackamas and Multnomah Counties.

I hope, however, that the Legislature will go further. I hope you will start to fix our broken land use system, itself. It has increasingly lost its way as demonstrated by persistent UGB expansion remands and failures on the part of Oregon communities and by recent Bills to ratify unsuccessful UGB expansions. (Attached are a couple possible starting fixes to the system for your consideration.)

I've observed our land use laws for years, including as a past president of the Home Builders of Metropolitan Portland and current Board member, and as a past Oregon Home Builders Association president. My comments today, however, are my own.

In 1973 SB 100 was signed into law. It was jointly supported by Home Builders, business, and the environmental community. We all wanted to protect Oregon's natural resources, agriculture and forests.

We also wanted effective, predictable and balanced land use rules and system that would provide and assure Oregon's communities adequate land for home and jobs as they grow over time in a timely manner. Today, the system fails in all these attributes.

I enjoyed working with Henry Richmond of 1000 Friends on issues we agreed on. We surprised many Legislators by jointly supporting issues and agreeing to leave disagreements at the curb.

Regrettably, the Oregon land use system forged in 1973, our current land use law, is not just broken: it is shattered. It desperately needs to be fixed by the Legislature. Numerous, contorted and complex LUBA and Court land decisions have made the system un-recognizable, fraught with legal pitfalls and simply unworkable.

I truly hope this Committee will recommend passage of HB 3211 and, importantly, take up needed changes to the land use system to bring it back to where it began.

Thank you for considering these remarks.

Attachments:

Hon. Tom Hughes, President
And Metro Councilors
600 NE Grand Avenue
Portland, OR 97232

Mayor Shane Bemis
City of Gresham

Mayor Wade Byers
City of Gladstone

Mayor John Cook
City of Tigard

Mayor Jef Dalin
City of Cornelius

Mayor Doug Daoust
City of Troutdale

Mayor Lori DeRemer
City of Happy Valley

Mayor Denny Doyle
City of Beaverton

Mayor Jeremy Ferguson
City of Milwaukie

Mayor Charlie Hales
City of Portland

Mayor Mark Hardie
City of Maywood Park

Mayor David Hatcher
City of North Plains

Mayor Heather Kibbey
City of Rivergrove

Mayor Tim Knapp
City of Wilsonville

Mayor John Kovash
City of West Linn

Mayor Bill Middleton
City of Sherwood

Mayor Doug Neeley
City of Oregon City

Mayor Lou Ogden
City of Tualatin

Mayor Gery Schirado
City of Durham

Mayor Ron Shay
City of King City

Mayor Patricia Smith
City of Wood Village

Mayor Steve Spinnett
City of Damascus

Mayor Kent Studebaker
City of Lake Oswego

Mayor Pete Truax
City of Forest Grove

Mayor Mike Weatherby
City of Fairview

Mayor Jerry Willey
City of Hillsboro

Re: 2014 Urban Growth Report

Dear President Hughes and Metro Councilors:

As the elected leaders of 25 cities in the Portland Metropolitan region, representing over 1.2 million citizens, we are writing to you to express our shared concerns about the 2014 Urban Growth Report ("UGR"). Please note that these concerns are in addition to those that may be submitted by individual jurisdictions. We request that you take these concerns and the corresponding recommendations under advisement in accepting the UGR and direct staff to work with its regional partners to make the recommended changes outlined below.

We appreciate the efforts on behalf of Metro Council and Staff to reach out to regional partners earlier in the process and to be far more inclusive than in past UGR efforts. As you are aware, many of our jurisdictions have participated in formulating the components of the UGR, including the buildable lands analysis and the first ever regional residential preference survey. While these efforts exceed those of the past, we have significant concerns in the following three areas:

1. Negative Impact of the UGR Assumptions and Outcomes on the Ability to Meet Climate Smart Targets.

The Urban Growth Report and the Climate Smart Communities project have been led by Metro on parallel tracks. However, there has been little technical work or policy discussion on how assumptions and decisions of the UGR will impact the region's ability to meet target reductions of emissions from light duty vehicles. The UGR has two assumptions that will likely negatively impact the region's ability to meet greenhouse gas emission reduction targets:

- Greater split in multi-family housing: The UGR assumes a change in the split between single-family housing and multi-family housing from 60% /40% to a 36% /64%.
- Large absorption of growth in Portland. The UGR assumes 58% of capacity is within the City of Portland.

The likely negative impacts of these assumptions include:

- Forcing those looking for affordable single-family housing to move to neighboring communities outside the Portland Metropolitan region, resulting in longer commutes. We have already seen this through increased growth in the neighboring cities of Canby and Sandy and Woodburn.
- What are the regional implications if the targeted increases in Portland's capacity are not realized?

Clearly, longer commutes and traffic congestion will hamper the region's ability to meet its targets. While the UGR discounts the notion of "jobs-housing balance," the simple fact is that, if we do not allow for residential development near high job growth areas, we preclude such a balance, resulting in no choice but longer commute times.

Recommendation: Include as a policy discussion in early 2015 the impact of the residential

assumptions in the UGR on the region's ability to meet greenhouse gas reduction targets. Leave open the ability to amend the UGR and/or change underlying assumptions in the UGR and Metroscope modeling to take into consideration the outcome of such conversations. This effort should include an analysis of the benefits of allowing expansion for residential growth close to job centers.

2. The Continued Unrealistic Reliance on Development in Damascus.

The 2009 Urban Growth Report assumed that infrastructure would not be available in Damascus until 2020 (or ten years after the growth management decision). Similarly, the current UGR assumes development will not occur in Damascus for another ten years. However, the reasonableness of this assumption must be questioned given:

- The 68% voter rejection of the most recent iteration of the Damascus Comprehensive Plan; and
- The October 22, 2014 Court of Appeals decision in *City of Damascus v. Brown*, (A156920)(Or. App. 2014), holding that HB 4029¹ is unconstitutional.

It's been ten years since Damascus incorporated, during which time the city has seen increased resistance to planning and development efforts. Additionally, Damascus faces challenging and costly infrastructure issues that, without the support of planning efforts, it is not likely to overcome. Given these facts, reliance on Damascus must be eliminated or reduced to ensure that the region can meet its 20-year housing demand.

Recommendation: While we recommend excluding the availability of Damascus from the current inventory for the entire 20-year period, the minimal action needed is:

- Reconsideration of when the region will see any significant development in Damascus;
- Significant reduction or elimination in the assumed number of units/year that will realistically be developed in Damascus;² and
- Analyze the impact by the elimination or reduction of the reliance on Damascus on the need to add additional replacement land to the UGB for single-family housing.

3. The Need to Incorporate Significant Results of the Residential Preference Survey into the UGR Prior to Making the Growth Management Decision.

As noted above, the UGR assumes a reversal in split between single and multi-family housing, assuming a much larger percentage for multi-family housing. However, the UGR was produced without benefit of the Residential Preference Study (the "Study"). Significant findings of the Study include:

- **65% of respondents live in single-family detached homes and 80% would prefer to live in a single-family detached home;**
- In contrast, 28% live in multi-family housing and only 13% prefer multi-family housing;
- Suburban residents prefer suburban neighborhoods over other neighborhood types;

¹ House Bill 4029 (2014) allowed "landowners with property located on the boundary of the City of Damascus to withdraw their property from the jurisdiction of the city and promptly seek annexation into another nearby City." *City of Damascus v. Brown* at p.11.

² As pointed out by Wilsonville in its October 14, 2014, letter concerning the UGR, an assumption of 1,000 units of housing/year in Damascus (with 80% of units as single-family housing) is unrealistic when compared to other new UGB expansion areas that have had community support for planning and development. In addition to Wilsonville's record high of 220 single-family units in 2014, Hillsboro's Witch Hazel development averaged 177 units/year and a recent market study indicates that South Hillsboro is likely to develop at an average of 500 units/year.

- Commute times have the least impact on choice of neighborhood; and
- Residents of urban neighborhoods or town centers are the second most satisfied behind rural neighborhood residents.

The Study *does not* mean the region has to make a choice, as explained by Metro staff, between “building single-family homes from here to Salem” or implementing the 2040 Regional Plan. Instead, the cumulative results of the Study indicate that the types of development we are seeing and planning for in new urban areas (i.e., with a mix of housing types and nearby amenities for residents – “complete communities”) meets the demands of residents.

Recommendation: The purpose of the Study was to better inform the UGR. Because of the timing of the Study results subsequent to the release of the UGR, the Study has not been taken into the account. Consequently, Metro must reconcile the UGR with the Study in 2015 prior to making its growth management decision. This will require adjusting assumptions in Metroscope to create a better balance between single and multi-family housing – a balance that is more reflective of the market, as expressed by the desires of the regional residents.

There is considerable risk if this adjustment is not made:

- Demand for multi-family housing may likely be lower than projected, with a corresponding increased demand for single-family homes.
- There is a likely negative impact on housing affordability. Because of the resulting underproduction of single-family homes and corresponding higher demand, prices of single-family homes will increase.
- Those seeking affordable, single-family housing will be forced to live in neighboring communities outside of the metro region.
- Longer commutes will have a negative impact on the ability of the region to meet its greenhouse gas emission reduction targets (*see issue 1 above*).

As noted above, while the 2014 UGR is an improvement over past efforts, without these changes in the above recommendations, the result will be significant negative impacts in meeting the needs of residents, as well as the region’s ability to meet its goals of reducing greenhouse gas emissions and creating great communities. We look forward to working with Metro to see that these changes are incorporated in 2015, prior to a discussion and decision on growth management.

Coalition *for a* Prosperous Region

Clackamas County
Business Alliance

Columbia Corridor
Association

Commercial
Association of Brokers

NAIOP Oregon
Chapter

Home Builders
Association of
Metropolitan Portland

Portland Metropolitan
Association of
Realtors®

Portland Business
Alliance

Westside Economic
Alliance

December 3, 2014

The Honorable Tom Hughes
Metro Council President
600 NE Grand Ave.
Portland, OR 97232

Dear Chair Hughes and Members of the Metro Council,

On behalf of the members of Coalition for a Prosperous Region ("CPR"), please accept these comments on the Draft Urban Growth Report ("UGR"). Members of the CPR value the positive collaborative relationship enjoyed with Metro in the past and are sending this letter in the spirit of that relationship

CPR Members are extremely concerned that the Draft Urban Growth Report, released by Metro in September, does not reflect either the findings of Metro's own Housing Preference Study, historic housing trends in our region, or comply with ORS 197.296(5). Metro's Housing Preference Study found that 80% of respondents preferred a single family detached home. While that was part of the open-ended response part of the study, the actual forced choice analysis in the Study demonstrated that, to a large degree, people will make decisions reflecting their preferences even when faced with trade-offs. In addition, single family homes have historically made-up 60% of the housing units built in our region.

Metro's projection that only 37% of housing units built over the next twenty years will be single family is a dramatic departure from both buyer preference and historic data and ignores the individual culture and lifestyle of the 24 cities throughout the region. The development trends of the last two to five years, which were largely a result of the historic housing recession we were in or coming out of during that time, need to be weighed in that context. Additionally, the projection fails to recognize the potential inability of municipalities to accommodate such high density housing in the quantity and price ranges projected.

CPR members ask that Metro use Metroscope to provide alternative planning scenarios in order to determine how much, if any, UGB expansion would be necessary if the single/multifamily assumptions were set at 50/50 and 60/40, respectively. This data would give Metro and others the information needed in order to determine how planning for growth could impact the region.

Members are also concerned that the cost of the infrastructure that will be necessary within existing jurisdictions has not been measured, nor that the capacity levels and market demand in the various Metro cities has been adequately examined to guide where future growth will occur.

CPR members ask that Metro's auditor measure whether the cities where the growth is projected have the infrastructure capacity to handle the growth and what the cost of that growth will be in those jurisdictions. Additionally, CPR members ask that Metro's auditor determine whether the housing growth contemplated reflects market demand or reality, and will be tenable to the impacted neighborhoods. There is a well-

documented increase in neighborhood opposition to urban infill, across all spectrums. Infill at the level contemplated in the UGR will dramatically change the character of many existing Portland neighborhoods in ways that might not be palatable to people currently living in them. Indeed, neighborhood opposition has not been limited to the City of Portland. There are recent, and high profile, examples of opposition in the cities of Lake Oswego, Gresham, Forest Grove and Milwaukie that is reducing, delaying or increasing the cost of proposed development. In fact, a preference for retaining the character of existing neighborhoods, and opposing dense urbanization, seems to cross both geographic and socioeconomic lines.

We are also concerned that the forecast range for additional jobs, between 120,500 to 648,500 new jobs in the Portland/Vancouver metro area by 2035, is too wide, with the low end being insufficient for a prosperous regional economy. We are troubled that the UGR does not adequately distinguish future demand for large industrial sites that are 25 acres or more, particularly the market readiness of those sites, which have been shown in the 2014 Industrial Lands Inventory Update to be extremely limited.

It is critical that we ensure the region's competitiveness, and it is unquestionable that having adequate land availability is a key factor in adding middle income jobs. Without sufficient large industrial sites of 25 acres or more to support job creation at all income levels, we will not be able to adequately compete with other regions to attract and retain quality jobs.

Industrial lands generate a significant amount of the region's middle-income jobs, particularly for those that do not have a four-year college degree. These jobs are necessary to achieve regional equity. **At a minimum, the 2014 Industrial Lands Inventory Update should be included as an appendix to the UGR and Metro should use subsequent Industrial Lands Updates to inform future UGR updates.**

Finally, members ask that Metro coordinate with TriMet in order to determine whether TriMet has the capacity to serve the projected areas, and what the cost of the increased capacity will be. Transportation options, as well as commute times, have a substantial impact on livability as well as carbon emissions.

In addition to asking Metro to gather additional data and perform further reviews, CPR asks that the Metro Council commit to addressing the inadequacies, omissions and concerns expressed by us and others and then modify the draft UGR to show how those issues are addressed before it is made final next year. We also recommend that a finding be made which states that impacted cities and agencies must confirm that their plans and capabilities align with the draft UGR before it is made final next year.

Thank you for considering our concerns and requests.

Sincerely,

A handwritten signature in black ink, appearing to read 'Drake Butch', written over a horizontal line.

Drake Butch
Chair
Coalition for a Prosperous Region

Proposed Amendments to an appropriate, pending 2015 land use bill):

Amendment #1: Insert the following **bolded** language into HB 2456 as Section 1 which would amend ORS 197.295 to read, and renumber remaining Sections of the Bill:

“197.295 Definitions for ORS 197.295 to 197.314 and 197.475 to 197.490. As used in ORS 197.295 to 197.314 and 197.475 to 197.490:

(1) **“Buildable lands”** means lands urban and urbanizable areas [*in*] **within and outside the urban growth boundary** that are **shown to be suitable, development-ready,** available and necessary for **employment or** residential uses. “Buildable lands” includes both vacant land and developed land likely to be redeveloped.

(2) **“Development ready lands”** means **buildable lands that are shown to have development feasibility, site suitability characteristics, reasonable access to the necessary public infrastructure and transportation facilities or services, and prospective governance by one or more local governments, including cities, counties and special districts.**

. . . .
”

Explanation:

Amendment would clarify that, as applied to doing each task required by 197.296 through .314, including determining the current UGB housing or employment land capacities, “buildable lands” means urban and urbanizable ***housing and employment*** land – both w/in and outside the UGB - that are shown to be:

- **“suitable”**: for the intended housing or employment use;
- **“development-ready”**: satisfy the 4 land characteristics listed in the proposed definition:
 - Development feasibility,
 - Site suitability,
 - Public infrastructure access, and
 - Prospective governance;
- **“available”**: (this characteristic has always been required by 197.295 but never interpreted by case law – to my knowledge); and
- **“necessary”**: (recent case law; i.e., *City of Newberg*, have narrowly interpreted this term.)

At least 2 of these refined buildable land elements would not allow counting places like Damascus and the unused, speculative Portland multi-family zoning capacity as valid UGB capacity in this 2015 UGB round as the Bill/amendments would take effect upon enactment in 2015 - before Metro’s UGB decision.

Amendment #2. Insert the following **bolded** language into HB 2456 as Section 2 which would amend ORS 197.298(3) to read as follows, renumber remaining Sections of the Bill and add a Section 4 to the Bill:

“197.298 Priority of land to be included within urban growth boundary. (1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

• • •

(3) Land of lower priority under subsection (1) of this section, **including lower priority land designated by a local government for needed housing or specific traded sector employment land uses in its comprehensive plan**, may be included in an urban growth boundary if land of higher priority is found **not to be buildable or ~~inadequate~~ adequate** to accommodate the amount of land estimated in subsection (1) of this section, for one or more of the following reasons:

(a) Specific types of identified land needs, **the needed housing, or the specific traded sector employment land uses based on documented site selection practices of the specific traded sectors**, cannot be reasonably accommodated on higher priority lands, **provided that the local government demonstrates that land to be designated for needed housing or the specific traded sector employment land uses is development-ready land**;

(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands;

”
• • • •

SECTION 4. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Explanation:

- If a need for more UGB housing or employment land is determined, this amendment would enable local governments and the Portland Region to focus on potential UGB expansion areas that contain *development-ready land* shown to be suitable for the needed housing or specific type of traded sector employment uses being sought if high-priority land do not contain such land. This high land-capability UGB expansion site performance standard would apply equally to any public- or private-sector UGB expansion proponent.
- Gives the Region similar type of UGB management authority granted to other Willamette Valley Cities by the following HB 2254 (2013) language:

“When the primary purpose for expansion of the urban growth boundary is to accommodate a particular industry use that requires specific site characteristics ... and the site characteristics may be found in only a small number of locations, the city may limit the (UGB alternatives) study area to land that has, or could be improved to provide, the required site characteristics.” HB 2254, Sec. 7(6).