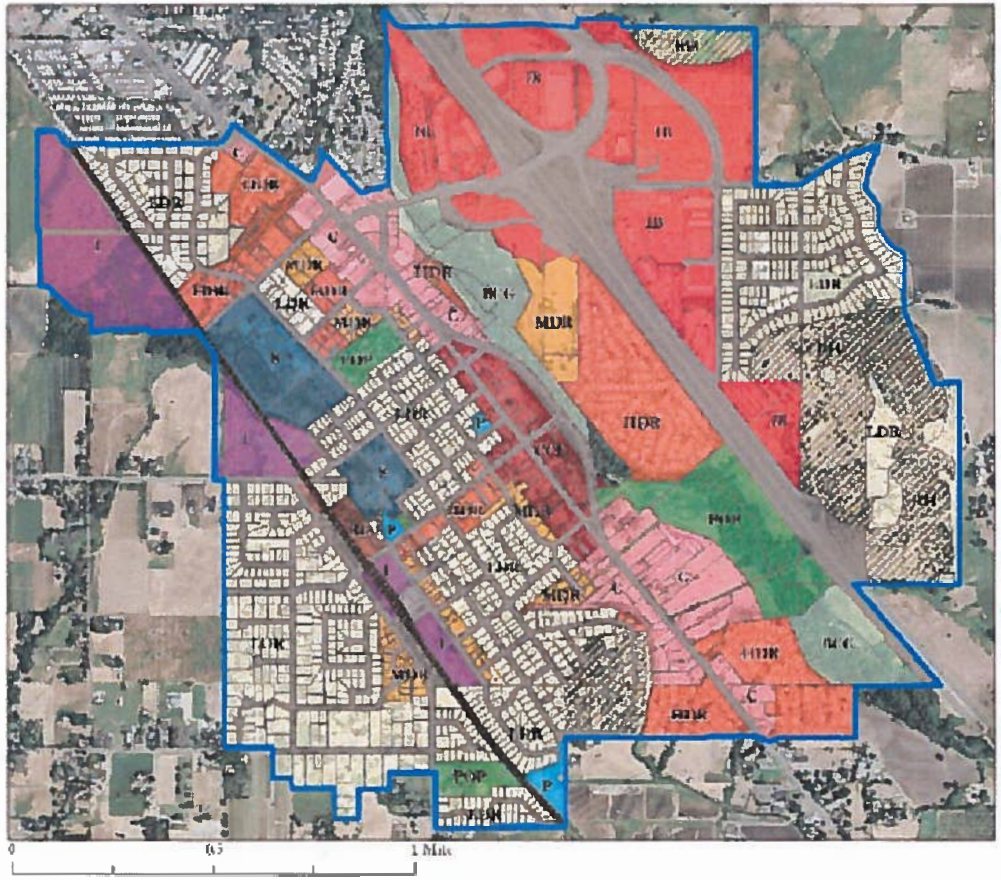
City of Phoenix
Land Use Element

CP 20-001

Public Hearing

Phoenix City Council

April 6, 2020



CITY OF PHOENIX
O·R·E·G·O·N

Comprehensive Plan Designation

LDR Low Density Residential
MDR Medium Density Residential
HDR High Density Residential
RH Residential Hillside
CCD City Center District
C Commercial
I Industrial
IB Interchange Business
S Schools
P Public
PP Park & Open Space
Right of Way
Railroad
Phoenix Urban Growth Boundary

Overview

- Standards for Review and Approval
- Comments & Responses/Revisions
- Findings of Fact and Conclusions of Law
- Recommended Action

Standards for Review and Approval

- Type IV, Legislative Land Use Decision, PLDC Section 4.1.6
  - 4.1.6(D) Notice of Hearing
  - 4.1.6(G)1. Statewide Planning Goals and Guidelines
  - 4.1.6(G)2. Comments from "applicable federal, state, or local agencies"

Standards for Review and Approval

- Type IV, Legislative Land Use Decision, PLDC Section 4.1.6
  - 4.1.6(G)3. Any applicable intergovernmental agreements
  - 4.1.6(G)4. Any applicable comprehensive plan policies and provisions, including Chapter 4.7-Land Use District Map and Text Amendments

Comments-Citizens

- Phone Conversation w/Rosalinda Araiza, 4095 Hilsinger Road
  - Wishes to remain in the UGB

Comments-Agencies

- Email exchange w/ Josh LeBombard, So. Oregon DLCD Rep. Minor revisions to draft Land Use Element:
  - Comment #1: page 3, why is "Roads" a separate designation?
  - Comment #2: page 13, error in text, "buildable" change to "unbuildable"
  - Comment #3: page 15, where is "only 1.5 acres free of …" documented

Comments-Agencies

- Email exchange w/ Josh LeBombard, So. Oregon DLCD Rep. Minor revisions to draft Land Use Element:
  - Comment #4: page 21, inserted ORS related to Regional Problem Solving
  - Comment #5: page 21, Committed Residential Density increases to 7.6 DU/acre in 2035
  - Comment #6: page 26, total employment acreage doesn't add up

Findings of Fact and Conclusions of Law

- All criteria can be found to be satisfied or not applicable according to the staff report dated January 13, 2020

Recommended Action

I move to adopt the proposed Comprehensive Plan amendment, file number CP 20-001, with findings of fact and conclusions of law as presented in the staff report, and including citizen and agency comments presented at this public hearing held on April 6, 2020.

Oregon's Statewide Planning Goals & Guidelines

GOAL 2: LAND USE PLANNING

OAR 660-015-0000(2)

PART I -- PLANNING

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

City, county, state and federal agency and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268.

All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The required information shall be contained in the plan document or in supporting documents. The plans, supporting documents and implementation ordinances shall be filed in a public office or other place easily accessible to the public. The plans shall be the basis for specific implementation measures. These measures shall be consistent with and adequate to carry out the plans. Each plan and related implementation measure shall be coordinated with the plans of affected governmental units.

All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances.

Affected Governmental Units -- are those local governments, state and federal agencies and special districts which have programs, land ownerships, or responsibilities within the area included in the plan.

Comprehensive Plan -- as defined in ORS 197.015(5).

Coordinated -- as defined in ORS 197.015(5). Note: It is included in the definition of comprehensive plan.

Implementation Measures -- are the means used to carry out the plan. These are of two general types: (1) management implementation measures such as ordinances, regulations or project plans, and (2) site or area specific implementation measures such as permits and grants for construction, construction of public facilities or provision of services.

Plans -- as used here encompass all plans which guide land-use decisions, including both comprehensive and single-purpose plans of cities, counties, state and federal agencies and special districts.

PART II -- EXCEPTIONS

A local government may adopt an exception to a goal when:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(1) Reasons justify why the state policy embodied in the applicable goals should not apply;

(2) Areas which do not require a new exception cannot reasonably accommodate the use;

(3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the standards for an exception have or have not been met.

Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

Upon review of a decision approving or denying an exception:

(a) The commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The commission shall determine whether the local government's findings and reasons demonstrate that the standards for an exception have or have not been met; and

(c) The commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards for an exception have or have not been met.

Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that;

(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with standards for an exception.

PART III -- USE OF GUIDELINES

Governmental units shall review the guidelines set forth for the goals and either utilize the guidelines or develop alternative means that will achieve the

goals. All land-use plans shall state how the guidelines or alternative means utilized achieve the goals.

Guidelines -- are suggested directions that would aid local governments in activating the mandated goals. They are intended to be instructive, directional and positive, not limiting local government to a single course of action when some other course would achieve the same result. Above all, guidelines are not intended to be a grant of power to the state to carry out zoning from the state level under the guise of guidelines. (Guidelines or the alternative means selected by governmental bodies will be part of the Land Conservation and Development Commission's process of evaluating plans for compliance with goals.)

GUIDELINES

A. PREPARATION OF PLANS AND IMPLEMENTATION MEASURES

Preparation of plans and implementation measures should be based on a series of broad phases, proceeding from the very general identification of problems and issues to the specific provisions for dealing with these issues and for interrelating the various elements of the plan. During each phase opportunities should be provided for review and comment by citizens and affected governmental units.

The various implementation measures which will be used to carry out the plan should be considered during each of the planning phases.

The number of phases needed will vary with the complexity and size of the area, number of people involved, other governmental units to be consulted, and availability of the necessary information.

Sufficient time should be allotted for:

(1) collection of the necessary factual information

(2) gradual refinement of the problems and issues and the alternative solutions and strategies for development

(3) incorporation of citizen needs and desires and development of broad citizen support

(4) identification and resolution of possible conflicts with plans of affected governmental units.

B. REGIONAL, STATE AND FEDERAL PLAN CONFORMANCE

It is expected that regional, state and federal agency plans will conform to the comprehensive plans of cities and counties. Cities and counties are expected to take into account the regional, state and national needs. Regional, state and federal agencies are expected to make their needs known during the preparation and revision of city and county comprehensive plans. During the preparation of their plans, federal, state and regional agencies are expected to create opportunities for review and comment by cities and counties. In the event existing plans are in conflict or an agreement cannot be reached during the plan preparation process, then the Land Conservation and Development Commission expects the affected government units to take steps to resolve the issues. If an agreement cannot be reached, the appeals procedures in ORS Chapter 197 may be used.

C. PLAN CONTENT

1. Factual Basis for the Plan

Inventories and other forms of data are needed as the basis for the policies and other decisions set forth in the plan. This factual base should include data on the following as they relate to the goals and other provisions of the plan:

(a) Natural resources, their capabilities and limitations

(b) Man-made structures and utilities, their location and condition

(c) Population and economic characteristics of the area

(d) Roles and responsibilities of governmental units.

2. Elements of the Plan

The following elements should be included in the plan:

(a) Applicable statewide planning goals

(b) Any critical geographic area designated by the Legislature

(c) Elements that address any special needs or desires of the people in the area

(d) Time periods of the plan, reflecting the anticipated situation at appropriate future intervals.

All of the elements should fit together and relate to one another to form a consistent whole at all times.

D. FILING OF PLANS

City and county plans should be filed, but not recorded, in the Office of the County Recorder. Copies of all plans should be available to the public and to affected governmental units.

E. MAJOR REVISIONS AND MINOR CHANGES IN THE PLAN AND IMPLEMENTATION MEASURES

The citizens in the area and any affected governmental unit should be given an opportunity to review and comment prior to any changes in the plan and implementation ordinances. There should be at least 30 days notice of the public hearing on the proposed change.

1. Major Revisions

Major revisions include land use changes that have widespread and significant impact beyond the immediate area, such as quantitative changes producing large volumes of traffic; a qualitative change in the character of the land use itself, such as conversion of residential to industrial use; or a spatial change that affects large areas or many different ownerships.

The plan and implementation measures should be revised when public needs and desires change and when development occurs at a different rate than contemplated by the plan. Areas experiencing rapid growth and development should provide for a frequent review so needed revisions can be made to keep the plan up to date; however, major revisions should not be made more frequently than every two years, if at all possible.

2. Minor Changes

Minor changes, i.e., those which do not have significant effect beyond the immediate area of the change, should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established. Minor changes should not be made more frequently than once a year, if at all possible.

F. IMPLEMENTATION MEASURES

The following types of measure should be considered for carrying out plans:

1. Management Implementation Measures

(a) Ordinances controlling the use and construction on the land, such as building codes, sign ordinances, subdivision and zoning ordinances. ORS Chapter 197 requires that the provisions of the zoning and subdivision ordinances conform to the comprehensive plan.

(b) Plans for public facilities that are more specific than those included in the comprehensive plan. They show the size, location, and capacity serving each property but are not as detailed as construction drawings.

(c) Capital improvement budgets which set out the projects to be constructed during the budget period.

(d) State and federal regulations affecting land use.

(e) Annexations, consolidations, mergers and other reorganization measures.

2. Site and Area Specific implementation Measures

(a) Building permits, septic tank permits, driveway permits, etc; the review of subdivisions and land partitioning applications; the changing of zones and granting of conditional uses, etc.

(b) The construction of public facilities (schools, roads, water lines, etc.).

(c) The provision of land-related public services such as fire and police.

(d) The awarding of state and federal grants to local governments to provide these facilities and services.

(e) Leasing of public lands.

G. USE OF GUIDELINES FOR THE STATEWIDE PLANNING GOALS

Guidelines for most statewide planning goals are found in two sections-planning and implementation. Planning guidelines relate primarily to the process of developing plans that incorporate the provisions of the goals. Implementation guidelines should relate primarily to the process of carrying out the goals once they have been incorporated into the plans. Techniques to carry out the goals and plans should be considered during the preparation of the plan.