

STAFF REPORT

To: Curry County Board of Commissioners (Board)
Brookings City Council (Council)

From: David Pratt, AICP Dianne Morris
Planning Director Planning Director

Date: May 28, 2010

Subject: City of Brookings/Curry County Urban Growth Area Joint Management
Agreement (JMA)

I. Purpose of the *Urban Growth Area Joint Management Agreement*

The purpose of the *City of Brookings and Curry County Urban Growth Area Joint Management Agreement* (JMA) is to assign jurisdictional responsibilities between the City and County to achieve the orderly transition from rural to urban land uses within the Urban Growth Area (UGA). The current JMA, dated January 22, 2001, included the creation of a *Public Facilities Plan* (PFP) to ensure adequate and efficient extension of public facilities as development occurs. The JMA was undertaken pursuant to the provisions of ORS Chapters 190, 195 and 197 and the Oregon Statewide Planning Goals.

Since January 2001, the City and County have adopted the *Public Facilities Plan (PFP) for Urban Growth Expansion: Brookings and Harbor Study Areas* (August 2002); the *Storm and Surface Water Facilities Plan for Brookings-Harbor Area* (December 2008/January 2009); the *City of Brookings Transportation System Plan*; and the *Curry County Transportation Plan* (May 2005). The adoption of these documents necessitates the review and, if appropriate, revision of the JMA.

II Background

- A. The initial Curry County Planning Commission public hearing on proposed amendments/revisions to the 2001 JMA was held on Thursday, December 3, 2009. The public hearing was continued to Thursday, January 7, 2010, and subsequently continued to January 28, 2010 and concluded on March 25, 2010. The purpose of this public hearing was to review proposed revisions to the 2001

JMA; receive comments from the general public; and formulate recommendations for consideration by the Curry County Board of Commissioners.

The City of Brookings Planning Commission conducted public hearings on Dec. 1, 2009 and Jan. 5, 2010 and prepared recommendations for the revisions to the JMA.

- B. Three versions of the JMA are attached for reference, comparison, and tracking of the proposed changes to the JMA during the hearing proceedings. The draft JMA dated April 27, 2010 (**Attachment A**) is a “clean” copy of the January 20, 2010 draft and contains recommendations made by the Curry County and City of Brookings Planning Commissions after that date. The draft JMA dated January 20, 2010, contains the proposed changes since 2007 and up to January 20th (**Attachment B**). The JMA dated January 22, 2001, (**Attachment C**) is the current agreement.
- C. Some of the major revisions in the draft JMA dated January 20, 2010 (**Attachment B**) include, but are not limited to, the following:
- **Pages 1-3:** Additions and amendments to the definitions section
 - **Pages 4-5:** Revisions to clarify and/or refine the coordination of quasi judicial land use decisions
 - **Pages 5-6:** Revisions to clarify and/or refine the coordination of legislative land use decisions
 - **Pages 6-7:** Revisions to the JMA to reflect the adoption of the *Public Facilities Plan (PFP) for Urban Growth Expansion: Brookings and Harbor Study Areas* (August 2002); the *Storm and Surface Water Facilities Plan for Brookings-Harbor Area* (December 2008/January 2009); the *City of Brookings Transportation System Plan*; and *Curry County Transportation Plan* (May 2005).
 - **Pages 9-11:** Proposed changes to the policies related to conversion of urbanizable land to urban land.

Some of these changes would require amendments to the Curry County and City of Brookings Comprehensive Plan policies for Goal 3: Agricultural Lands and Goal 14: Urbanization, specifically requirements for water and sewer hook ups.

- D. On November 2, 2009, the City of Brookings presented the following comments and findings at a joint meeting of the City Council and Planning Commission on the JMA:

In 2007 the City and County Staff worked on revisions to the JMA. Progress on this was tabled until recently. Staff met again and fine tuned some of the proposed language in light of progress made on the Urban Service Provider (U.S.P.) Agreements.

- *Many of the changes are housekeeping in nature to reflect current conditions.*
- *Some revisions clarify the coordinated review process of the City and County such as in Article V.*
- *Current language in Article X (D) states both the City and County must adopt an approved Master Plan even though the property is to remain in the County's jurisdiction. A Master Plan is a development plan with conditions of approval. It is inappropriate for the City to adopt a development plan over which they have no authority to enforce its implementation. The appropriate City role is to participate in the hearing process and if the problems are significant enough, appeal of the decision is even an option. If the approved Master Plan area were annexed in the future, the Plan would still be in force and the City would then have the authority to oversee implementation of the development. Proposed language in Article X (D) clarifies this.*
- *Similarly, Article VI (A) states the City and County shall co-adopt revisions to the County's Ordinances. The Department of Land Conservation and Development (DLCD) has confirmed the inappropriateness of the City adopting zoning regulations that they have no authority to enforce. Proposed language will correct this.*

III Planning Commissioners Review

The revisions summarized above were reviewed at individual workshops with the Board and Council in 2009. Those revisions have been incorporated in this draft.

Both the Curry County and City of Brookings Planning Commissions focused on the revisions proposed by Staff as stated above and were in agreement with the proposed changes. Staff also recommended revisions to language in Article X concerning the use of interim on-site sewer and water systems. The Commissions did not agree on these provisions as stated in X (A), (B), and (C). Staff has included the recommendations of both Commissions for consideration in this joint hearing. There are a few additional clerical corrections made and highlighted in the document. The revised JMA resulting from hearings to date is provided as **Attachment A**.

The Board and Council will need to review the provisions in X (A), (B), and (C) and reach consensus on the language to be adopted.

A copy of the current 2001 version of the JMA is attached for your comparison to the revised version under review (**Attachment C**).

IV. Public Comments Received During the Planning Commissions Hearings.

Materials submitted at previous hearings

A large amount of material was submitted into the record during the City and County Planning Commission hearings by interested parties. These materials are available for the Board and Council to review and are found in **Attachments D and E**. Both the City and County have made these materials available on our websites.

Several comments expressed concerns about allowing the use of on-site utilities (septic systems and wells) to serve urban levels of development. That is not being proposed. The draft language limits development to rural levels when using on-site utilities as found in Article X of the JMA. There is a provision in the current version of the Public Facility Plan that allows Master Plan areas to request use of an interim urban-level treatment system if approved in the land use hearing process. This is not a change. All other properties in the UGA are restricted to rural development levels when using on-site utilities.

Another specific concern stated a map should identify the “Area of Special Environmental Concern”. This Area is discussed in Article X (D) (2) of the JMA. The Area requires an approved comprehensive surface water management plan prior to approval of a Master Plan. The Area is described as the lands on the Harbor Hills that drain toward and effect the Harbor Bench. In the County’s Comprehensive Plan, Goal 3, Agriculture, Section 3.8.1, Policy 9 it further describes this area as being located in the land north and east of US 101 within Sections 9,10,14, and 15. To delineate the boundary of the “Area of Special Environmental Concern”, the City and County would need the services of professional hydrologists, soils experts, surveyors etc. It is possible to put a general label indicating “Area of Special Environmental Concern” within the Master Plan area on the map showing the UGA, but to accurately draw a line indicating what land is involved is the work done by professionals as they prepare the needed comprehensive surface water management plan.

Most concerns expressed were critical of documents referenced in the JMA. Reconsideration of other documents is beyond the scope of work undertaken in the revising of the JMA.

Holding Zone

The Department of Land Conservation and Development (DLCD) submitted written comments suggesting that a “holding zone” should be created that would apply to the entire Urban Growth Area (UGA) and limit creation of lots to no less than 10-40 acres unless urban services are available. Staff proposed the highlighted language in X (A) in place of that limitation. However, it should be noted that a policy exists in the Curry County Comprehensive Plan under *Section 14, 8- Plan Policies Regarding Urbanization* (Policy 8) that addresses this issue. This policy reads as follows:

“...the county may zone lands within an urban growth boundary with rural zoning designations on an interim basis until public facilities are available.”

Recently, property owners, under staff recommendation, with large parcels have created Planned Community-type developments with clustered dwellings thereby preserving a large remainder vacant parcel for development to urban densities when community services become available. This accomplishes the reserving of large parcels for future urban development while allowing some development to occur now. Two development proposals in the UGA have recently been approved utilizing this technique. Staff is supportive of creating a policy statement to be included in Goal 14, Urbanization, describing the Planned Community approach for development of large parcels in the UGA when urban services are not available.

Materials submitted after the Brookings Planning Commission hearing record was closed.

Two additional written comments were received after the Brookings Planning Commission record was closed. They are found in **Attachment F**.

V. Findings

A. The County and City determined revisions were needed to the Urban Growth Area Joint Management Agreement (JMA). The revisions are required due to changes in circumstances due to adoption of new documents, completion of upgrades to public facilities, and needed clarification regarding appropriate adoption of Code provisions and Master Plans.

B. Workshops and hearings have been conducted with opportunity for public comments. Written comments that have been submitted to the record are available for review by the Board and Council.

C. Revisions to the City and County Comprehensive Plans and Public Facility Plans will be required to reflect some of these changes to the JMA. Staff will submit the required 45 day legal notice and conduct hearings following the signing of the JMA to accomplish this.

VI. Recommendation

After the Board and Council consider these proposed revisions and any input from interested parties, Staff recommends approval of the “City of Brookings and Curry County Urban Growth Area Joint management Agreement” (**Attachment A**).

Attachments: A. Draft JMA dated April 27, 2010
B. Draft JMA dated January 20, 2010
C. Current version of JMA dated Jan.22, 2001
D. City Planning Commission Hearing Record
E. County Planning Commission Hearing Record
F. Two Additional Written Comments