

June 25, 2008

Oregon Task Force on Land Use Planning
Mike Thorne, Chair
c/o Department of Land Conservation and Development
635 Capitol Street, NE
Salem, Oregon 97301

Dear Task Force Members:

Thank you for the opportunity to provide stakeholder comments on the draft “Big Look Choices for Oregon’s Future” dated May 30, 2008.

We appreciate your efforts to review Oregon’s Land Use Planning system and make recommendations for improvement to help the next generation of Oregonians face new challenges in the coming decades. More than 20 years have elapsed since Oregon cities and counties completed their comprehensive plans implementing Oregon’s statewide planning goals and more than thirty years since the people of Oregon participated by the thousands in developing these goals. This is far too long to go without a robust, well-informed, and widely participatory dialog about what Oregonians want for the future of our state, and what kind of land use program will best get us there. The task you have undertaken is a vital one. You have labored with far fewer public resources and significantly less time than that task merits. Your individual commitments of time have been generous, and the thought-provoking report you have issued will advance this critical dialog.

1000 Friends of Oregon has been an active participant in Oregon’s long-range planning efforts for over 30 years. With the Bus Project and over 50 other organizations, we hosted a series of town hall forums in 16 locations across the state in 2006 and 2007. Called “Envision Oregon,” these forums offered more than 2,200 participants from over 140 towns and places in Oregon opportunities to describe their vision for Oregon’s future, and to help create strategies for making that vision a reality. We used the advice we received from these Oregonians to fashion our own proposals for reforming and revitalizing Oregon’s land use planning system, reported in our *Blueprint for Oregon’s Future*. A copy of the *Blueprint* is attached. We hope you will consider those proposals, as well as our comments on your report, in your remaining work. We offer the following comments in response to your draft document and its attached survey sheets.

GENERAL COMMENTS

As noted in your draft document’s introduction, 35 years ago “*Oregon was concerned with issues such as loss of farms, sprawl, coastal development, water pollution and litter.*” While it is

true that “*today’s challenges are more complex and varied,*” it is important to remember that these older challenges not only remain, but in many ways they have intensified as our population and corresponding development pressure have increased.

As you conclude in the draft, our statewide planning program, while imperfect, has been remarkably effective in achieving its goals over the last 30 years. We have protected farm and forestland, contained sprawl, and managed growth far better than most other states. To turn future population growth and the challenges of climate change and globalization into opportunities, we must strengthen our land use planning program, not weaken it.

We believe a comprehensive review of this nature should be based on the best available information, not on anecdote, speculation, or preconceptions. We have included in these comments responses to some misconceptions contained in the draft.

One common misconception is that our current system is an inflexible “*one size fits all*” program that doesn’t recognize differences between the varied regions and communities within the state. While this charge is frequently made by critics of the program, it is inaccurate. The attached memorandum from DLCD lists four pages of ways in which the statewide program accounts for differences between regions, and between communities of differing size, while providing every community the flexibility to develop and maintain its own unique comprehensive plan within the overarching framework of the statewide planning goals.

OVERARCHING PRINCIPLES

We believe all Oregonians can support the four “*overarching principles*” proposed in your draft. In and of themselves, however, they are too vague to be effective or even useful.

The task force concluded that the statewide planning goals contain “*important policy objectives.*” We agree. To ensure that these “important policy objectives” are not lost it is critical that, consistent with the overarching principles, we retain the statewide planning goals to help us achieve those principles.

The titles of the 19 goals sometimes seem in conflict with one another. For example, how can communities both preserve farm land and provide land for urbanization? In fact, the goals acknowledge the potentially conflicting objectives we hold as individuals and as communities, recognize that there is a balance to be achieved among them, and describe procedures for striking that balance. This is a strength of the Oregon system, not a disadvantage to be artificially eliminated.

PRELIMINARY TASK FORCE CONCLUSIONS

According to the draft, the Task Force has reached the following conclusions:

- “*Oregon’s Land Use Planning Program has protected agricultural and forest lands.*”

We agree that the Oregon program has generally protected resource lands, especially when

compared to other states or to the decades that preceded its inception. The loss of agricultural and forest land has been greatly reduced. However, those protections have not been strong enough, due to inadequate enforcement and implementation.

Between 1974 and 2002 Oregon lost 1,228,772 acres of farmland, much of it prime or high-value farmland in the Willamette Valley, although the rate of loss slowed dramatically after 1982.¹ In addition, every year approximately 15,000 acres of farm and ranch lands across Oregon are affected by new houses in farm zones that are unrelated to agricultural uses (non-farm dwellings). This is ten times the number of acres rezoned for urban or rural development, combined.²

Moreover, special interests have succeeded in inserting a statutory laundry list of non-agricultural uses that are now permitted in what are supposed to be "exclusive" farm zones. In 1973, six uses were allowed on farmland. Today, that number has increased to *over 50*, only a handful of which relate to farming.

Finally, the thousands of new houses allowed on resource land under Measure 49 will convert thousands of acres of farm and forest land to non-farm and non-forest uses in the years to come.

While we have done a relatively good job of protecting resource land, we can and must do even better given the heightened importance of local foodsheds and a strong sustainable economy in the coming decades. Our suggestions for improvement of farm and forest land protection are described in the *Blueprint for Oregon's Future* and are discussed further below.

- *“Oregon’s Land Use Planning Program has contained sprawl and managed growth better than most other states.”*

We agree, although Oregon can and must do even better, given the new threats and challenges we face, including global warming.

- *“Oregonians generally support land use planning, but they also believe strongly in private property rights.”*

Oregonians have indeed demonstrated their support for both land use planning and regulation, and the reasonable exercise of land owners’ rights. However, we question the use of the qualifiers “generally” and “strongly” in your finding. Given the lopsided passage of Measure 49 one could as easily argue that Oregonians “believe generally in private property rights but they also strongly support land use planning.”

- *“Oregon’s Land Use Planning Program is often viewed as being too rigid and not outcome-oriented.*
- *“Many people feel that the land use planning program is too complex and does not have the flexibility for a changing Oregon.”*

¹ Source: Oregon Department of Agriculture

² See 1000 Friends of Oregon, *“Too Many Homes on the Range,”* July 2005, pp. 6-7, and sources cited there.

While the preceding two bullets do reflect often-repeated views, many Oregonians know from first hand experience that state and local administration of land use laws has been too flexible in accommodating bad development or overdevelopment.

Moreover, the perceived “complexity” in parts of the land use program is often the result of attempts to be more “flexible,” i.e., to provide a number of possible routes to approval of development, none of which may necessarily result in approval in some cases. Clear and objective standards are often criticized for not offering flexibility, but they do offer simplicity, clarity and certainty. In other words, “flexibility” and “complexity” are not opposites, but rather two consequences of decision-making processes governed by broadly defined desired outcomes rather than specific standards that correlate closely with the desired policy outcome.

- *“The state is facing infrastructure, water, and environmental challenges, partly (but not exclusively) as a result of population growth.”*

We agree. But regardless of population growth, we face infrastructure challenges just to maintain and improve the systems for current residents. The underlying problem is insufficient funding for infrastructure, including the “green infrastructure” of publicly-owned open space.

- *“Other states’ growth management programs provide lessons for Oregon.”*

We agree. It is always instructive to view both the failures and successes that other states have experienced. We believe that few states can match Oregon’s success in achieving its goals, but there are many approaches and techniques in use across the country that could improve our effectiveness when added to the Oregon program. Purchase of development rights, or land conservation easements, are one example that could complement Oregon’s regulatory program of farm and forest land protections.

- *“Future growth will challenge Oregon’s ability to preserve prime agriculture and forestry lands in seven or eight fast-growing metropolitan regions -- but not in every county.”*

The task force does not identify the seven or eight fast-growing metropolitan regions it has in mind. It is clear that future growth will challenge our ability to preserve prime agriculture and forestry lands in many areas not generally considered metropolitan, including at a minimum the entire Willamette Valley, the Hood River Valley, the Treasure Valley, coastal forests along the central and northern coasts, and southern Curry County.

Redirection of future growth presents both an opportunity, if it occurs within urban growth boundaries of existing communities, or a threat, if it occurs on rural land outside those boundaries—in every area of the state. For example, the ranch lands east of Prineville are presently not facing pressure from large scale development such as the destination resort explosion in Powell Butte. However, very low density development can have devastating effects on cattle operations on Oregon rangelands. (We have attached a copy of our 2004 report on the scale of this problem, *Too Many Homes on the Range*) Identifying areas of the state where

scattered development “just isn’t a big problem” will, if undertaken carefully and responsibly, be a difficult job.

- *“Many of the state’s 19 existing land use planning goals don’t fit the definition of “goals” – instead, they are strategies, tactics or tools.”*

We disagree. Starting with Goal 1, “To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process,” and ending with Goal 19, “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations,” all 19 goals clearly fit the definition of goals. Moreover, they are goals we believe all Oregonians support.

The task force should identify which of the 19 land use goals don’t fit its definition of “goals.” As we noted, above, the “overarching principles” suggested by the Task Force are too general to be effective or to have practical application.

RESOURCE LANDS AND RURAL LANDS

Agriculture is Oregon’s 2nd largest industry and accounts for about 10% of our employment, 25% of our exports, and 12-15% of our gross state product.³ It is a perennially growing industry with total sales that have increased in all but two of the last 22 years. Timber products remain an important component of our economy, while forestland also provides environmental benefits of incalculable economic value.

Current Problems: Any discussion of current problems must include the exponential growth in non-farm uses that are allowed in supposed “exclusive” farm zones. It must also include the lack of adequate enforcement in recent years, in large part due to budgetary constraints facing LCDC and DLCDC. These problems should be added to the discussion that appears in the draft.

“The clear connection between many regulations and desirable policy outcomes has become lost.”

We concur that this is a problem. The proliferation of allowed non-farm uses in farm zones is a good example. In this and other cases, the causal connection between regulation and desirable policy outcomes remains strong, but is not always understood because state agencies and political leaders inadequately explain it. And, in some cases the connection between policy and regulation is clear, but a local government does not accept the policy (for example, the policy that farm land protection must be a priority when expanding UGBs).

Part of the charge in Senate Bill 82 is for the task force to conduct public meetings, survey citizens, and provide information regarding the current land use planning program to inform the public's discussion.⁴ We believe it is inherent in the task force’s responsibilities to use its public engagement process to make clear the connection between existing regulation and policy

³ Source: Oregon Department of Agriculture

⁴ Enrolled Senate Bill 82 (SB 82-B) <http://www.leg.state.or.us/05reg/measures/sb0001.dir/sb0082.en.html>

outcomes, and then seek guidance from the public about whether Oregonians continue to support the policy outcomes.

- *“Some lands that have little economic utility for farming or forestry are classified for those uses, creating significant frustration.”*

We don't doubt that these frustrations exist. However, it is important to remember that there is an oft-used, existing process to rezone improperly classified resource land. In our experience, the number of circumstances in which land meeting the definitions of agricultural or forest land does not have actual farm or forest value is very limited.

The greater risk may be that we have too little farmland for future use, and that we recognize the shortfall too late. The years ahead will make farmland more valuable to Oregonians, especially as our population doubles in the coming decades. Rising energy costs and consumer preferences will increase the value of locally grown food. We may need to grow more of our own fuel. Once farmland is converted to other uses, it cannot be “reconverted” back to farmland.

- *“Rural zoning has very little nuance or variation.”*

This is a factual error that should be corrected in later editions. There are scores of different rural zones with both nuance and tremendous variety in allowed uses. At a minimum, these include:

- Exclusive farm use zones with 20, 23, 35, 36, 37, 40, 80, 130, 160, and 320 acre minimum lot sizes.
- Mixed farm-forest zones with 20, 40, and 80 acre minimum lot sizes
- Forest zones with 40, 76, 80, and 160 acre minimum lot sizes
- Rangeland zones
- Rural residential zones with 2, 2.5, 5, 10, and 20 acre minimum lot sizes
- Rural commercial zones
- Highway/Tourist and Interchange commercial zones
- Rural industrial zones
- Mineral extraction, aggregate, and quarry zones
- Rural recreation zones
- Parks zones
- Public Facility zones

- *“There is little or no protection for significant natural areas such as important wildlife habitat and watersheds.”*

We agree that protection for significant natural areas has been inadequate and should be strengthened. 1000 Friends of Oregon supports the Oregon Conservation Strategy, the state's science-based framework for long-term conservation of priority habitat for native plants and animals. We urge you to use the Oregon Conservation Strategy as your starting point as you consider how and where to strengthen protections for Oregon's significant natural areas

"Land use change" is the greatest single threat to wildlife habitat of the six key issues identified in the Oregon Conservation Strategy. As Oregon's population continues to grow, changes from agriculture and forest to residential use will dramatically affect the quality of fish and wildlife habitat areas and the connectivity between them.

We believe the priority habitats identified in the Strategy should be set aside for special protection and that future development patterns should be designed to ensure aquatic connectivity and terrestrial corridors in priority areas. Strengthening the land use tools for managing Oregon's priority habitats as identified in the Oregon Conservation Strategy will help safeguard Oregon's high quality of life and diverse natural resources for future generations.

Resource Lands Preliminary Recommendation: Although presented as a single recommendation, your preliminary recommendation is really two separate ones. To these, we add three more recommendations.

- 1) *"Identify farm, forest, and environmental resource lands of statewide importance, and apply market-based tools to complement regulation as a means of preventing development on those identified lands most at risk of being converted to other uses."*

We support this recommendation. Oregon is blessed with some of the world's best farmland. This farmland is the base of more than 150,000 jobs in Oregon (including production, input industries, processing, transportation, storage, and marketing)⁵, as well as being a source of healthy food, a resource for our energy needs, and an alternative to fuel-intensive shipping of food from thousands of miles away.

Oregon is also known for our productive forests and woodlands that are the basis of approximately 85,000 jobs across the state contributing \$12.6 billion annually to the state's economy⁶. Wood products help us build our homes and businesses and meet everyday needs such as paper.

Natural landscapes and access to fish and wildlife habitats contribute significantly to our state's economy as well through tourism, quality of life benefits, and ecosystem services like protecting water quality and clean air.

Yet development pressures -- from expanding cities, vacation-home destination resorts, or the growing number of nonresource dwellings -- threaten these industries and places that define Oregon.

We must strengthen our state land use laws to better protect our best farm, forest, and environmental resource lands through both new market-base incentives *and* more effective regulation. We have proposed the creation of a land stewardship program to fund the purchase of farm protection easements from willing farmland owners (see *Blueprint*, page 7) as an incentive, and limits on destination resorts and nonfarm uses as needed regulatory improvements.

⁵ Oregon Department of Agriculture, http://www.oregon.gov/ODA/do_speech_031031.shtml

⁶ Oregon Forest Resources Institute, *Forest Facts*

To make the designation of important resource lands useful and effective, it is essential that the process be led by technical experts in the agencies identified by the task force: the Oregon Departments of Agriculture, Forestry, and Fish & Wildlife. Any “*expert statewide peer review group*,” must similarly be composed of professionals with technical expertise, not advocates. Interest groups and advocates such as the Association of Oregon Counties, League of Oregon Cities, 1000 Friends, or Oregon Home Builders Association should have no role in establishing the criteria.

We emphasize that, if properly defined, there are very few lands in Oregon that are not of statewide importance. Our wheat, cattle, hay and tourism industries are of statewide importance. Rangeland in eastern Oregon not only supports our cattle industry; it also provides critical habitat for a wide range of species.⁷ Greenhouse gas reduction is a matter of statewide importance.

Agriculture depends on rangeland and generally less-than-prime farmland to produce our 2nd and 3rd largest commodities: cattle and hay. Our 8th largest commodity, wheat, is also generally grown on less-than-prime farmland. Together, these crops generate over one billion dollars in direct annual sales. Tourism in Oregon depends on an unspoiled scenic landscape.

Elsewhere in the draft, the task force recognizes the tremendous contribution of our burgeoning vineyards and wine industry. Forty years ago Yamhill County considered these vineyard lands worthless hill ground and were slated for 5-acre homesites. If the policies suggested in the draft were followed 40 years ago, Oregon might not have its multi-million dollar wine industry today.

- 2) *“Local and regional governments should determine the appropriate uses of lands that are not of statewide importance, consistent with the long-term carrying capacity of the lands and considering impacts to neighboring uses.”*

We do not support this recommendation. In practice, it would undercut Oregon’s efforts to control greenhouse gases by greatly increasing rural residential and commercial sprawl; increase costs to serve scattered rural development with infrastructure, increase fire safety risks in the residential/forest interface; and significantly damage our economy by undercutting our 2nd largest and 3rd largest industries: agriculture and tourism.

Those effects of local administration of land use are in evidence in many parts of Oregon even with the presence of state planning standards and (very modest) state enforcement of those standards. Before the adoption of Senate Bill 100 in 1973, it was the performance of planning and zoning responsibilities by local governments, and the results of that performance, that led Governor McCall to seek statewide planning legislation. At least three factors work against effective land use policy-making at the city or county level: the close personal and political relationships between elected officials and constituents seeking to develop land; intergovernmental competition for desired land uses within a market area; and the weak relationship between local decision-making authority and financial responsibility for the cumulative consequences of its exercise (the state bears the cost of maintaining key highways, local school support including school bus costs, and many other services directly supporting

⁷ Source: *Too Many Homes on the Range*, July 2005

development). When these factors are not balanced or constrained by regional or state policy, they can dominate local decision-making.

Therefore, it is highly likely that eliminating state oversight of development on “less important” rural lands will have the significant negative consequences mentioned above. Such results would be inconsistent with the overarching principles of providing a healthy environment, sustaining a prosperous economy, and ensuring a desirable quality of life.

Additional recommendations for resource and rural land:

- 1) Invest in farming and forestry. The Oregon Economic and Community Development Department and other state agencies should target investments in the critical infrastructure and programs necessary to support the agricultural and woodlands industries from farm and forest to market.**

Oregon’s efforts to support economic development and job growth often focus on high-visibility large companies. Yet agriculture is thriving in Oregon. Its record growth continued in 2007, with sales increasing 6.5% to \$4.9 billion, building on the 8.9% surge in 2006. Agriculture remains one of our leading employers, and family farms have been increasing in number. Forestry remains a large employer as well.

Unfortunately, we’re not taking advantage of all the potential economic benefits of these markets when local producers are forced to ship their products out of state for value-added processing. Local producers also could use help meeting the new challenges of changing markets, finding economic opportunities such as mixing wind power generation with farming, and expanding value-added processing opportunities.

- 2) Protect Oregon’s best farmland from developers of the long list of non-farm uses currently allowed in Exclusive Farm Use zones.**

Over the years, special interests have succeeded in inserting a laundry list of non-agricultural uses that are now permitted in what are supposed to be an "exclusive" farm zones. In 1973, *six* uses were allowed on farmland. Today, that number has increased to over 50, most of which have nothing to do with farming, cause conflicts with neighbors who farm; many of these 50 uses need not be located on farmland.

- 3) Adequately fund DLCD so that laws and regulations can be enforced.**

In recent years, the ability of DLCD and LCDC to enforce laws and regulations has been hampered by insufficient budgets. In some cases, this has led to conversion of valuable farm and forestland to other uses in contravention of the law. It has led to the conversion of valuable industrial land in UGBs to non-industrial uses, such as commercial and residential. It has also led to uneven application of Oregon’s land use planning program in an unfair and inequitable manner that has harmed many neighbors.

Consistent with the overarching principles of providing a healthy environment, sustaining a prosperous economy, ensuring a desirable quality of life, and maintaining a program that is fair and equitable, DLCDC must have sufficient resources to enforce laws and regulations.

GROWTH MANAGEMENT

- *“The Oregon Land Use Planning Program should focus on creating quality urban places in small and large cities, in the same way that it has succeeded in protecting land for farms and forestry operations.”*

We agree.

- *“Focusing population and job growth in urban areas, with efficient transportation, is crucial to maintaining and creating healthy cities and towns.”*

We agree. Allowing counties to rezone rural land for development, as the task force has recommended elsewhere in the draft, is antithetical to this goal.

Preliminary Recommendations: The draft includes a preliminary recommendation to:

- *“Use planning to improve the quality of life in Oregon’s urban places, while also making room for significantly more people to live and work in those areas.*

“Oregon’s land use planning program should focus on making all of Oregon’s cities -- large and small -- great places to live by providing economic opportunity, affordable housing, efficient transportation, and access to quality open spaces and natural areas for the people who live there.”

We support this recommendation.

The draft further recommends the following strategies:

- *“Prioritize and increase funding for infrastructure to support infill development and new urban areas, making it possible for the private sector to create housing and employment options within cities.”*

We support the infill development strategy. As currently worded, however, the language in the draft suggests that it presently is not possible for the private sector to create housing and employment options within cities. We do not think this is your intention.

- *“Target redevelopment of brownfield sites.”*

We support this recommendation.

- *“There are underutilized sites throughout the metropolitan areas, with existing infrastructure, that should be considered as an important part of land that can be redeveloped.”*

Underutilized sites also exist throughout smaller cities that are not part of metropolitan areas. These smaller cities often tend to have fewer resources than metropolitan areas and should also be included in this strategy.

- *Expand the use of urban/rural reserves.*

We support this recommendation. As noted in the draft, a pilot project is currently underway in the Metro region. After it is completed, we should carefully evaluate its results to determine how best to proceed.

- *Allow contingency planning for new circumstances or unforeseen events.*

We support this strategy as we understand it. If, for example, a city had a plausible range of population projections, they would base their UGB size on the smallest projection, with contingency plans for a larger UGB that would be triggered if actual growth is higher.

- *Provide for “safe harbors” that allow for simpler plan review processes, but that still maintain high state standards.*

We support this strategy.

GOVERNANCE

As you conclude in the draft, our statewide planning program, while imperfect, has been remarkably effective in achieving its goals over the last 30 years. This program is based on a system of governance that has allowed it to be effective. This system has evolved over the years in response to changing circumstances and competing interests. Our system of governance can and should be improved, but because it is generally effective, our efforts at improvement should be focused and incremental.

Current Problems:

“Instead of a system that allows LCDC to adapt the land use planning program to different areas of the state, or to changing conditions over time, the fixing of requirements in statutes now prevents regional variation or easy adaptation over time. The result has been both an increase in complexity and a lack of flexibility for local governments, property owners and the public.”

While it is true that statutes can be more difficult than rules to adapt over time, it is not true that these statutes prevent regional variation. This charge is frequently made by critics of the program, but it is inaccurate. The memorandum from DLCD lists over 30 examples and 4 pages of ways in which our statewide program accounts for differences between regions, and between

communities of differing size, while providing every local jurisdiction the flexibility to develop and maintain its own unique comprehensive plan within the framework of our statewide planning goals.

We are unsure what sort of “*flexibility... for property owners,*” the task force wants to see. We do not believe that property owners should have the flexibility to establish uses that are not allowed in the underlying zone. Property owners shouldn’t have the flexibility to change their zoning or allowed uses absent an application, thoughtful application of the adopted criteria for such proposals, and a meaningful opportunity for public participation in the decision.

Preliminary Recommendations: The draft includes the following recommendations; we make an additional suggestion (in **bold** below).

“Review state statutes and rules for performance – to reduce complexity and restore flexibility. The Big Look Task Force recommends conducting a comprehensive review of state land use statutes and administrative rules, based on three criteria: (1) how effectively they promote or achieve outcomes consistent with the four overarching principles (a healthy environment, a prosperous economy, quality of life, and a fair and equitable program); (2) to eliminate unnecessary complexity, and any internal conflicts; and (3) to structure statutes to allow flexibility and adaptability of the program, where appropriate. The Task Force recommends considering moving many of the provisions now in statute back to LCDC administrative rules, guided by key statutory directives, the four overarching principles for the land use program, and the statewide planning goals. This review should be carried out by a small team of state, local and private sector experts, with guidance from a select group of legislators.”

We generally support this recommendation. We especially support a review of the many non-farm uses now allowed in farm zones. We are concerned, however, that “flexible” laws may prove meaningless or unenforceable. Without care, increased flexibility can undermine our ability to achieve our goals. In the past, “flexibility” has been code for making bad development applications easier to approve and harder for the public to challenge. We do not support those outcomes.

We are also skeptical that “a small team of state, local and private sector experts, with guidance from a select group of legislators” is the best body to determine how to reform and simplify the land use statutes. It was, after all, such “small teams,” more commonly called “work groups” or simply “lobbyists,” who created the many statutory amendments that the Task Force now hopes to untangle. Reliance on the usual suspects to deal with land use planning is precisely the problem the Task Force was appointed to solve.

More fundamentally, the task force also recommends that “LCDC’s first major initiative should be to develop a long-range vision and a 10-year strategic land use and infrastructure plan.”

We support this latter recommendation, and note that it is essential that the long-range vision and strategic plan be developed concurrently with, and inform, the review of state land use statutes

and administrative laws. No big changes in state law or rules should be enacted before the long-range vision and strategic plan are in place.

“Results of this review should serve as the foundation for a legislative proposal that restores the day-to-day administration of the program to LCDC, reserving only fundamental program elements in state statutes.”

We agree that LCDC and DLCD, not the legislature, should be responsible for day-to-day administration of the program.

“Realign LCDC to coordinate strategic land use planning for the state...”

“The Task Force recommends that LCDC return to the role of long-range planner for the state’s land use planning program. Its principal responsibility should be to ensure that the program can produce solutions and processes that are consistent with the four overarching principles, as refined and modified by the legislature over time. LCDC should shift away from regulatory, adjudicative and appellate functions -- and toward developing a long-term vision for the state, along with a shorter-range strategic plan for meeting future challenges... LCDC and DLCD also should shift from a regulatory body to being more of a partner that works with communities to create solutions that meet both state and local needs.”

It is vitally important that LCDC receive the resources necessary to inform and assist state and local planning, a responsibility that is fully consistent with its original mission under 1973 Senate Bill 100. However, we cannot support this recommendation as written, because it presents long range planning and regulatory oversight as alternative missions, rather than complementary responsibilities. LCDC and DLCD can and must continue to be responsible for day-to-day administration of the program, as the task force has elsewhere recommended, including regulatory, adjudicative and appellate functions, as well as engage in long-range planning for the state. It is imperative that the agency be fully funded, so that it can meet all of its responsibilities—not select one over the other.

We know from thirty years of experience that some local jurisdictions will ignore laws and regulations if DLCD and LCDC are not there to administer the program on a day-to-day basis. If the state foregoes enforcement of its laws and regulations it will be antithetical to every one of the overarching principles. We propose the Task Force reframe its recommendation along these lines:

Provide LCDC and DLCD with adequate funds to meet all of its responsibilities in the face of future challenges: long-range planning, assistance to local governments, and day-to-day administration of the program, including oversight, regulation enforcement, and adjudication.

“Build state resources to support local and regional planning, including a GIS library.”

We support building state resources to support local and regional planning, including a GIS library.

”Encourage collaborative regional planning that allows cities and counties collectively to meet statewide goals. Through funding incentives and technical support, DLCD should help local governments plan cooperatively to address common challenges such as transportation, open space and natural resource protection, adequate housing, and economic development. The current state Regional Problem Solving process (RPS) has shown some promise, but has limited success because it requires unanimous agreement among local governments. A more realistic decision-making structure should be used to make regional planning more effective.”

We support the first part of this recommendation and note that no change in law or regulation is necessary to enable collaborative regional planning to occur throughout the state. Funding and technical support for such work is important. However, we cannot support the specific RPS recommendation in this paragraph. RPS was intended to allow non-compliance with land use regulations in extraordinary circumstances when the purposes of the planning goals could be better achieved by alternative means and agreement is reached among all participants.

Unfortunately, many local participants now see it as a loophole allowing an end run around both the goals and their implementing rules. This problem has been compounded by the institutional momentum that builds when significant state dollars are spent. State agencies who have made the expenditures feel they need a product regardless of how flawed it may be and regrettably see a bad plan as less of a failure than no plan.

Clearly, successful regional problem solving requires agreement among all affected local governments. A regional plan cannot be successful – nor really be “regional” - if a necessary local government does not agree to it.

ECONOMIC PROSPERITY

Oregon’s three leading industries are manufacturing, agriculture, and tourism. All three industries play an important role in our economy and all three sectors are related. The state's agricultural and forest industries provide a solid base of manufacturing jobs. While total manufacturing jobs in Oregon increased by ½ percent in 2007, manufacturing jobs in the food products sector jumped 6.6%. The lumber and wood sector accounts for the most manufacturing jobs in Oregon, representing 16.8% of the state's industrial employment and remained steady.⁸

Our agricultural and forest industries not only provide the critical base for our manufacturing industry, they also support our tourism industry by maintaining the scenic farms and forests that keep Oregon attractive to visitors.

⁸ “Oregon manufacturing employment increased by a half percent over the past twelve months” Reuters, December 17, 2007. <http://www.reuters.com/article/pressRelease/idUS153089+17-Dec-2007+PRN20071217>

Oregon's mountains, high deserts, streams, and beach areas are more than just pretty. They draw tourists who spend almost \$8 billion per year. Tourism spending produced \$100 million in local tax receipts and over \$200 million in state tax revenue.⁹

Current Problems: The draft stresses the importance of “*ensuring that permitting is predictable and quick,*” in response to rapidly evolving industrial needs.

It is a misconception to state, as the draft does, that, “Oregon’s land use planning program is neither nimble nor balanced enough to deal with today’s economy, the need to update facilities quickly, and respond to changes in work forces and other resources.”

Oregon’s permitting system is among the fastest in the nation, with strict time limits on both local permitting and on appeals. Cities and counties run on a 120-day deadline once the application is complete. In contrast, permitting in California and Washington is far less predictable and far more time-consuming.

Oregon’s system is not only fast and predictable, it is balanced. The statutes and goals ensure that every city maintains an inventory of industrial land. The land use system protects the farm and forest land that our #2 industry, agriculture, and our forest product industry depend on. The land use system protects the scenic coastal vistas and access, and the scenic landscapes that are vital to our #3 industry, tourism.

The draft correctly identifies as a problem the conversion of industrial lands. “A related issue is converting lands that are planned for industrial use to other uses. Market forces often push industrial land owners to seek zone changes to convert their lands to retail or residential uses that can be marketed quickly. This, in turn, decreases the availability of the larger parcels for future businesses that require more land.”

Conversion of industrial land is indeed a problem. It is disheartening to see the same jurisdictions that allow conversion of industrial land for big-box stores or other non-industrial uses turn around and demand large flat parcels of prime farmland in case an industrial user wants to locate there in the future. DLCD should track how much industrial land is converted to other uses from the notices it already receives, for a better understanding of the magnitude of the problem.

We are puzzled by the statement that, “The way planning is done for communities’ future economic growth simply is not adaptable enough. Economic development efforts often don’t consider Oregon’s many land use standards, and the frequent results are delays and frustration.”

Under our planning system, communities are free to plan for and target any industry or employer they wish. We hope the task force is not suggesting we encourage economic development that does not meet our land use standards. If this is the case, the task force should identify which standards it recommends need not be met.

⁹ *Oregon Travel Impacts: 1991-2006*, Dean Runyon Associates. <http://www.deanrunyan.com/impactsORstate.html>

Preliminary Recommendations: The draft includes the following recommendations. To these, we add two additional recommendations (in **bold** below).

- 1) *Identify the land needs of areas of the economy that are likely to grow or that should be encouraged, and plan for those land needs using both the tools already available and a new “rapid response” process to quickly adapt to new economic opportunities.*

Under Oregon’s current system, cities already use an Economic Opportunity Analysis to identify the land needs of economic sectors that are likely to grow or that should be encouraged. Our 2nd largest industry, agriculture, is also growing, can continue to grow, and should be encouraged. The state should identify the additional lands that agriculture will need to maximize growth and plan for those land needs as well.

We are, however, leery of an ill-defined “*rapid response*” process. Hasty decisions are often bad decisions and they often are made without the benefit of valuable public input.

- 2) The draft recommends that we establish “*inventories of employment lands for a range of possible employers, while also working to prevent incompatible land uses.*”

The current system already does this through the adoption of Comprehensive Plans, Economic Opportunity Analyses, and commercial, industrial, and mixed-use zones.

- 3) The draft recommends that, “*Cities, counties and state agencies also should be able to develop contingency plans, based on a range of potential future outcomes, and shift priorities and land uses quickly when opportunities arise so long as key planning objectives are met.*”

We support the development of contingency plans, as we understand them. We fear, however, that encouraging rapid shifts in priorities and land uses will lead to even more conversion of industrial sites to other uses, compounding the problem the task force has identified. Such rapid shifts in priorities and land uses could also surprise, anger, and harm neighbors and the public, and result in a patchwork of land uses.

Additional recommendations for economic prosperity: The task force recognizes that agriculture and forestry are extremely important contributors to a more diversified economy. We therefore repeat a recommendation we made under Resource and Rural Lands:

Invest in farming and forestry. The Oregon Economic and Community Development Department and other state agencies should target investments in the critical infrastructure and programs necessary to support the agricultural and woodlands industries from farm and forest to market.

We also recommend that:

DLCD or other state agencies should track and report the conversion of industrial land to other uses.

CLIMATE CHANGE

1000 Friends of Oregon is in full agreement with the task force regarding the serious threat we face from global warming, the critical need for prompt effective action, and the crucial role that land use planning must play in reducing vehicle miles traveled and greenhouse gas emissions.

We refer you to the attached letter we sent to the Global Warming Commission, the Land Conservation and Development Commission, and the Oregon Transportation Commission for a full discussion of our position and recommendations on this issue.

We also offer the following comments on specific portions of the draft:

- *“Oregon’s competitiveness as a state depends on continuing to make its communities more efficient. That can only be done by locally-led changes that make communities more efficient, having shopping and work closer to home, making cities more walkable and bikeable, and making travel by transit practical, affordable, and comfortable.”*

We do not agree that only *locally-led* changes can make Oregon’s communities more efficient. State leadership and guidance can and must also play an important role.

- *“Rural residents are not likely to reduce their long-distance transportation needs.”*

We agree. Rural residential development locks residents into automobile dependence. This argues strongly against the task force’s previous recommendation to allow counties to rezone some resource lands for rural development.

Preliminary Recommendation: In addition to the task force’s recommendations discussed below, we offer several other specific recommendations in the letter.

- The draft recommends that tools be developed, *“for cities to calculate a ‘climate impact’ for proposed land use actions including sustainable building practices.”*

These tools should also be applied to county proposed land use actions to rezone resource land and other rural land.

- The draft recommends, *“After demonstrations and trials of climate change policies have been developed, the state could decide what, if any, mandatory standards could become part of the state planning program.”*

As the task force has noted, we already know that rural residents travel longer distances and travel higher vehicle miles per capita. We already know enough to prohibit the creation of new rural residential zones, to consider the imposition of climate impact fees on new exurban development, and to scrutinize the climate change impact of already-permitted rural development such as destination resorts.

Additional recommendation for climate change:

Prohibit the creation of new rural residential areas. Limit the proliferation of “destination resorts” that are primarily residential developments rather than tourism accommodations.

PUBLIC ENGAGEMENT AND STATE AND LOCAL LAND USE PLANNING

The task force does not explicitly identify problems or make explicit recommendations in this new section that have not appeared in previous drafts. Nonetheless, we are troubled by the misconceptions and erroneous conclusions that are apparent in the draft.

Current problems: Any discussion of current problems must include the prohibitive appeal fees that some local governments charge that exceed the average or actual costs of the appeal.

For example, when Crook County residents believe planning commission decisions are illegal, they cannot afford to challenge those decisions under the current fee schedule. The fees are set with a complex mathematical algorithm, with resulting fees of, for example, \$3610 to appeal the subdivision of 135 acres into 5 acre lots in an exclusive farm use zone.

Excessive appeal fees are an unacceptable barrier to citizen involvement and review of local planning decisions.

- As the task force observes in the draft, *“It is only through the effective involvement of the public that the right balance between competing values and goals can be ascertained. It is only through the support of the citizenry that the program will be sustained.”*
- The task force asks, *“What constitutes adequate and effective involvement versus abuse of the program? Has the program established too many opportunities for too many individuals to appeal a decision?”*

It is abundantly clear that the program has not been abused by citizen involvement or by appeals. In the past DLCDC has estimated that there are at least 15,000 local land use decisions every year. Only one or two percent are appealed. In the 18 years from 1990 through 2007, there have been on average 219 appeals filed annually with the Land Use Board of Appeals. Based on the evidence it is apparent that our system has not resulted in unwarranted appeals.

- The task force concludes that at the stage of comprehensive plan development, *“the broadest public outreach is essential,”* but when those plans are amended, *“the appropriate citizen involvement is much narrower than at the plan development stage.”*

We disagree. If, for example, it is decided in a broad public process that a particular area should be designated for residential use, why should a decision to redesignate that area for big-box commercial uses have much narrower public involvement?

Public Engagement recommendations: We have the following recommendations to increase effective public engagement in our land use planning program:

1. Neither citizens nor applicants should be effectively barred from appealing land use decisions by excessive local appeal fees. Local appeal fees should not exceed actual costs nor should an appeal fee exceed the application fee. Local governments should provide notice and an opportunity to comment on proposed appeal fee changes. Alternatively, under existing law local governments can allow appeals directly to LUBA from a hearings officer or planning commission.

2. When engaged in long-range planning efforts broad public outreach and opportunities for public engagement should be provided at every stage of the process. Opportunities for meaningful public input must be provided *before* draft documents are prepared, a preferred alternative is selected, or a draft solution is proposed.

APPENDIX MATRIX

The appendix contains a matrix in which the task force describes the relationship of each of its recommendations to each of the overarching principles as either “direct” or “secondary.”

- The task force believes the protection of “*critically important resource lands*” and natural areas of statewide importance has only a secondary relationship to sustaining a prosperous economy and ensuring a desirable quality of life.

We disagree. These lands support our 2nd largest industry, agriculture, and our forest industry, which accounts for the largest sector of our manufacturing industry. Our natural areas support our 3rd largest industry, tourism. The relationship between protecting these lands and a prosperous economy is not secondary, it is direct.

Likewise, these natural areas, our iconic forests, and access to locally-grown food from local farms all have a direct relationship to ensuring a desirable quality of life.

On the other hand, allowing local governments to rezone resource land for rural development will undermine a healthy environment by increasing greenhouse gas emissions from increased vehicle miles traveled.

CONCLUSION

The Task Force members have volunteered to expend considerable effort assessing what kind of planning program we need to meet tomorrow’s challenges. This effort is sustained by your donated time out of your busy lives and we are grateful.

There are three things we hope the Task Force will undertake during their remaining tenure:

- 1) Check the facts. The worst outcome would be to recommend changes to the land use planning program based on misconceptions and anecdote and rather than objective data.

- 2) Look to the future. We cannot afford to wait until new Oregonians arrive or we will have squandered our irreplaceable quality of life. It is necessary to plan now for where future Oregonians will live; how they will get to work, school, shopping, and recreation; and how to keep their neighborhoods safe and healthy places in which to live. Oregon has successfully bucked the national trend of sprawling land consumption. If we allow development to sprawl across Oregon in the coming decades, we will lose much of what makes Oregon a special place to live.
- 3) Invite the public as a full partner. Hold public sessions where Oregonians are invited to comment not only on the Task Force recommendations, but offer their own recommendations as well. Give those publicly-generated recommendations your full consideration.

Thank you for your service and for the opportunity to provide these comments.

Very truly yours,

Bob Stacey

cc: Richard Whitman, Director, Department of Land Conservation and Development

Attachments:

1. 1000 Friends of Oregon, *A Blueprint for Oregon's Future*, January 2008.
2. Department of Land Conservation and Development memorandum, *Oregon's Land Use Planning Program: Providing regional solutions for a diverse state*, revised edition, May 14, 2008.
3. 1000 Friends of Oregon, *Too Many Homes on the Range: The Impact of Rural Sprawl on Ranching and Habitat*, July 2005.
4. Letter from 1000 Friends of Oregon, et. al. to Oregon Transportation Commission, Oregon Global Warming Commission, Oregon Land Conservation and Development Commission, March 14, 2008.