

October 29, 2008

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

Dear Chairman Thorne and Members of the Task Force:

I submit these comments on behalf of 1000 Friends of Oregon, a statewide land use advocacy organization with over 5,000 members. We appreciate the time and effort that Task Force Members have devoted to a review of Oregon's pioneering land use system.

As you know, 1000 Friends has followed the Task Force since its inception. We have seen the nature of Task Force proposals and concepts shift over time. We have previously submitted extensive written comments to the Task Force in its June round of meetings with stakeholders. Copies of those are available.

The following comments are based on a legislative concept dated October 12, 2008, and a summary of that concept dated October 13, 2008, from the Department of Land Conservation and Development to the Task Force. Therefore, these are preliminary comments; should the Task Force proposal change, we will submit additional comments.

Summary

We are disappointed that the Task Force's proposal fails to establish a coherent framework for addressing the challenges facing Oregon in the future. In addition, the proposal does not appear to have a policy or factual basis for some of its most controversial recommendations. Finally, the proposal fails to address at least three major issues facing the state for the long term; each of which should be seen not just as a challenge – but also as an opportunity. Those are:

- Climate change
- Increasing fossil fuels costs and the changing nature of energy resources
- Increasing population and changing demographics

A study conducted for DLCD and the Task Force by the Institute for Natural Resources (INR) at Oregon State University evaluated how the land use program has met its goals

of citizen involvement, protecting farm and forest land, compact urbanization, and protecting estuarine resources over the last three decades. The INR study concluded:

“[B]ased on intensive, objective analysis, [the land use system] generally meets its goals. * * * Oregon’s current land use system is sound.”

In its preliminary conclusions, the Task Force agreed with this conclusion, stating: “Oregon’s Land Use Planning Program has protected agricultural and forest lands.”

We are ready to support recommendations that build on the fundamental soundness of the land use program to address, with a factual basis and policy objectives, the challenges Oregon faces in the future. Instead, we find the Task Force’s proposal does not do this; rather, lacks a coherent framework, an articulated policy objective, and an assessment of the impacts of its recommendations on Oregon’s resource economy.

We respectfully recommend that the Task Force’s recommendation to the legislature contain the following policies.

- (1) Review, revise, and adopt performance standards to evaluate the effectiveness of the land use program on an ongoing basis, as outlined in Sec. 22 of the legislative concept. This is consistent with the recommendations of the INR study. The Task Force should also support funding levels to make data gathering and analysis a reality.
- (2) Examine alternative means and sources of financing infrastructure inside urban growth boundaries, as described in Section 20(10)(c). This is the single largest challenge to providing shovel-ready sites for industries and residential land for homes.
- (3) Endorse integrated land use and transportation planning as a cost-effective and necessary measure to reduce greenhouse gas emissions, and support high priority in funding and planning resources to accomplish this. The transportation sector – primarily automobiles and light trucks – contribute 40% to the state’s greenhouse gas emissions. Numerous studies have shown that an essential component of reducing Oregon’s greenhouse gas emissions is compact, mixed-use urban areas with transportation alternatives. The Task Force should recommend that the state’s urban areas (not its rural areas) – its Metropolitan Planning Organizations or MPOs – take the lead in reducing greenhouse gas emissions through land use and transportation planning.
- (4) Some land use and transportation issues may be best addressed through a regional process. We support eliminating ambiguities in the existing regional problem solving process; however, the long-term success of a regional approach requires agreement among participants and adherence to the land use goals and statutes.

- (5) Recommend that LCDC and other appropriate state agencies develop an integrated state strategic plan that describes the state's desired future, addresses the future economy, environment, and quality of life of the state, and examines the policy and investment strategies necessary to achieve that vision. This is similar to Section 21 of the proposal.
- (6) Review all public comments received by the Task Force – written, oral, electronic- to assure that the Task Force's recommendations are consistent with what Oregonians told you matters most to them.

Discussion

Performance Review

We are pleased to see provisions for a performance review of the planning program. This is consistent with the recommendations made by OSU's Institute for Natural Resources in its assessment of select land use goals. While the INR concluded that the land use program was successful in meeting the goals that it studied, it recommended additional and ongoing evaluation of the entire program, so policy makers can understand what is working and what is not, and make adjustments as necessary to meet the shared goals of the program. The lack of data hampers the state's ability to assess how effective our planning tools have been and how best to make them more effective to meet future challenges.

Climate Change

HB 3543, passed by the 2007 Oregon Legislature, sets statewide greenhouse gas (GHG) emissions goals as follows: 10% reduction in GHG emissions below 1990 levels by 2020 and a 75% reduction by 2050. Reducing global warming pollution is not just a good idea – it's official state policy.

Land use planning provides the most cost-effective means of reducing the state's global warming emissions from transportation. The Climate Change Integration Group (CCIG) called upon the state's land use and transportation planning systems to take a large role in meeting the state's targets. The CCIG makes the case clearly and strongly:

“[R]educing VMT [vehicle miles traveled] is simply the single most effective way to reduce GHG emissions. * * * [I]nnovative land-use planning has a large potential to reduce carbon emissions. Even with pricing policies and transportation options in place, VMT per capita is unlikely to decrease unless sprawling suburban development patterns are addressed. * * * Large-lot, single-use residential developments located far away from destinations require residents to drive in order to access jobs, schools, and stores. Higher-density, mixed-use developments are much easier to serve with transit and reduce the distances between residences and destinations, making bicycle and pedestrian trips much more feasible. A meta-analysis of studies comparing mixed-use

neighborhoods with low-density sprawl found that doubling density, mix of uses, and street connectivity reduces per capita VMT by 33 percent. The State can reduce VMT through land-use planning by:

- supporting transit-oriented development (or TOD; development that is close to transit lines and has facilities allowing residents safe access to those lines) in proportion with the projected increase in transit trips created by the development
- facilitating best-practices sharing between land-use planners from communities around the state, nation, and other countries
- creating and implementing VMT- or GHG-reducing requirements for cities' comprehensive plans and development proposals."

That the same CCIG report urged that:

“[T]he ‘Big Look’ Task Force explicitly address climate change as a core issue in land-use planning.” [p.10]

We have consistently urged the Task Force to take up this call and we will continue to do so. It is our belief that any substantive changes to the current land use system must, at a minimum, answer the question:

Does this reduce greenhouse gas emissions and assist Oregon in meeting its GHG reduction targets, or does this increase GHG and hinder Oregon from meeting its target?

We ask the Task Force to recommend that the legislature direct and fund the state’s metropolitan areas to plan for GHG reduction through changes in local and regional transportation systems and land use patterns. Among the many challenges we face, global warming may be the most difficult. We cannot afford to wait or hesitate on this issue. Moreover, the benefits of addressing this issue early are many. Oregon can lead the nation in developing innovative ways to reduce greenhouse gas emissions. Focusing on compact, mixed-use cities, towns, and neighborhoods, and providing choice in transportation increases quality of life and saves money for everyone by reducing the need to drive.

Land use planning is also the most effective way to anticipate and minimize the impacts global warming will have on our natural areas, rivers and streams, coastal lands, and other land and wildlife resources.

Remapping Farm and Forest Lands

The draft legislative concept proposes a massive re-zoning of the state’s farm and forest lands, using new definitions yet to be created. This proposal will pull the rug out from under Oregon’s #2 industry - agriculture - and will be costly, confusing, and destabilizing.

Earlier Task Force reports recognized that Oregon has done a very good job of protecting farm and forest land through land use planning. The conclusions of OSU's INR report reinforce this. One conclusion is particularly relevant here:

It does, however, suggest that, while recommended changes deserve full consideration, they need to be made with careful deliberation regarding how changes might affect the state's ability to maintain a system that, based in intensive, objective analysis, generally meets its goals. (p. 139)

Inexplicably, the draft legislative concept undermines the effective measures applauded by the Task Force and the INR by proposing a wholesale remapping of the state's farm and forest land.

This proposal destabilizes Oregon's outstanding agriculture economy at exactly the wrong time. Agriculture is an ever-increasing economic engine, topping almost \$5 billion in gross farm income in 2007. Agriculture is responsible for over 10% of Oregon's jobs and is the second largest traded-sector part of the economy. And it has been amazingly stable and strong – growing almost every year for the past three decades, and in a variety of crops located in every part of the state: wheat, nurseries products, livestock production, fruits & vegetables, orchard fruits and nuts, and more.

Oregon agriculture, *unlike* other sectors of the economy, is strong and will not abandon the state by moving operations overseas. We should be thanking Oregon's farmers, not putting their family businesses at risk by sweeping the deck clean of past experience with the planning tools the Task Force earlier determined work well. Remapping is expensive, controversial, and will create years of unneeded turmoil and uncertainty in our rural communities. We urge you to drop this concept.

Past attempts to re-map Oregon's agricultural lands have failed, at great cost to the state in terms of wasted time and money. And why have they failed? Because Oregon's agriculture is growing, diverse, and adapts to changing economic conditions. It thrives in a variety of growing conditions, soils, and climate that make every part of this state valuable for farming and ranching. The current land use planning program – while we believe it could be stronger – recognizes this. Weakening this weakens the state – both economically and in terms of how we view ourselves and this place we call home.

It appears that the Task Force assumes that some lands in Oregon have been zoned incorrectly, but we have seen no data from the Task Force to support this supposition. And if any land is incorrectly zoned, there are existing tools available to correct errors in zoning designations. Local governments have the authority *today* to rezone land, consistent with state rule, to a non-resource zone. If a landowner seeks to use farm or forest land in ways not allowed in resources zones, the landowner can apply for an exception. Both rezonings and exceptions are in common use across Oregon. Based on state data we analyzed for our report *Too Many Homes on the Range*, about 6,314 acres of farmland was rezoned for rural development between 1994-2002.

The criteria in the legislative concept appear to be based intentionally on language in SB 1011, the bill authorizing Metro to develop rural and urban reserves. We support the Metro reserves process and the work the Oregon Department of Agriculture has done to designate tiers of farmland in the Metro area. However, we believe these criteria are misapplied in the Task Force draft.

The SB 1011 factors were designed to help identify priorities for protecting farmland in the Metro area from urban expansion. The legislative concept prepared for you takes this concept and applies it to all farm and forest land in Oregon. There are several problems with this approach:

1. Allowing regional goals and standards for protecting farm and forest land ignores the realities of these industries. Mills, processing plants, shippers, supplies, and farm and forest operations all cross regions and jurisdictional boundaries. For example, from an agricultural perspective, the northern portions of Wasco County have more in common with Hood River while the southern portion of Wasco County has more in common with the upland wheat farming of Central Oregon. Processors, equipment dealers, and other farm suppliers in one county depend upon farmers and crops from several counties to stay in operation. Farm and forest operations themselves cross county lines.
2. The proposal assumes a “one-size fits all” approach by applying Metro’s urban reserves criteria across the state. The criteria in SB 1011 were not intended to take into account orchards, lily bulbs on south coast, or ranching in eastern Oregon.
3. Metro has not designated lands under the criteria in SB 1011, so we do not yet know if the criteria and the process will work in the Metro region, much less across the state. It makes more sense to wait and see how the process works for Metro.
4. The proposal merges farm and forest land without considering that different criteria need to be applied to these two different industries and lands. For sound scientific and policy reasons, throughout the history of planning in Oregon and as recently as in Measure 49, definitions of classes of farm and forest land have been distinct.
5. The proposal uses a definition that protects only against urban expansion when 10 times as much farmland statewide is lost to rural residential development compared to urban expansion and rezonings combined. We need effective tools that protect not only against urban expansion, but also from the other threats to Oregon’s family farms. Under the proposed standard, it is likely that the Red Hills of Dundee and ranchland will be less protected than under current law. This will be a step backward for vintners and ranchers across Oregon.

6. The proposal seems to assume that there is some numeric level of development approved on resource lands. There is no such number. Dwellings on farm and forest lands, with a few exceptions, must be screened for their impact on resource activity. The draft is unclear whether other uses, in addition to dwellings, would be considered in resource zones, including destination resorts.
7. The proposal directs counties that desire to re-map their farm and forest lands to also determine which significant natural areas are the “highest priority” for protection from conflicting development, and to map those. However, the proposal does not appear to offer any higher level of protection for these “highest priority lands,” nor does there appear to be any state role in determining which lands counties designate as containing high priority significant natural areas.
8. The proposal lumps all lands that are not mapped for farming or forestry into a category called “rural,” and proposes an enormous task of rezoning these lands in a way that ensures that development will be “rural in character” (a very vague term) and will take into account a variety of factors, such as conflicts with nearby farming and impacts on water quality and fish and wildlife habitat. However, it is not clear what policy objective this is trying to achieve, and how this undertaking will result in a better outcome than what exists today.

The clearest result from this change will be a new round of litigation to define the terms and a new sense of uncertainty among Oregon farmers who have together generated \$5 billion in sales of over 225 commodities last year. This proposal makes no sense in the face of the real challenges to Oregon – adapting to climate change, fixing our deteriorating infrastructure, and maintaining our high quality of life while the population grows.

Regional Planning

Regional planning is a good idea, but this particular proposal has at least three flaws. First, there are no objective data or studies explaining why this tool – as proposed here- is needed and what problem it is solving. Second, it lacks a policy objective. Third, encouraging regional planning by providing an exemption to statewide planning rules and goals (in Section 14 of the proposal) is a step backwards Oregon cannot afford. Effective and successful regional planning requires the participation and agreement of *all* affected governmental entities for at least two very sound reasons. First, the nature of the issue to be addressed is supposed to be such that it requires a regional and collaborative solution. Second, without regional agreement and participation, individual cities, counties, or special service districts could make unilateral land use and transportation decisions that undermine the very objectives of the regional solutions.

Metro is a good example of a region that created a way to work together that other areas, including more rural areas, could assess for how to tailor the approach to their own region.

The incentives listed in Section 17 to encourage regional collaboration are either good ideas for every community in the entire state - such as including greater and more widely applied system development charges – or are already required by law or should be for the entire state – such as encouraging efficient use of existing land in UGBs and prioritizing infrastructure funding to support infill and alternative means of transportation. (Section 18)

There are questions about the current RPS process that do need to be addressed. Eliminating the requirement that all local governments agree is *not* a way to assure more planning; it is a way to assure that larger urban areas will drive any future regional planning process, perhaps at the expense of Oregon’s more rural communities. The existing ambiguity in the RPS statute should be fixed and RPS should be returned to a law-abiding process. Exemption from the rules cannot be a legitimate incentive for participation. The rules are merely tools for outcomes. Those policy outcomes should be urbanized areas that are compact, have cost-effective infrastructure, provide transportation choice, and are places where people want to live. Creating these kinds of urban areas means that our farm and forest land are also less subjected to conflicting development, which helps Oregon’s farm and forest economies. Exemption from the rules does not help Oregon to be more livable or farms and forests to be more productive.

Public Input and Participation

As to process, we remain very concerned that the process of public engagement was flawed and ultimately had little impact on your process. It is our understanding that over 1,000 comments and 700 emails were submitted, yet none of these comments was reviewed by the Task Force before the draft legislation was prepared. It is unclear how the legislative concept can reflect the values and priorities of Oregonians when their engagement has had little apparent role in this proposal.

Sincerely,

Mary Kyle McCurdy
Director of Policy