

EXHIBIT: 2 AGENDA ITEM: 3
LAND CONSERVATION & DEVELOPMENT
COMMISSION
DATE: 9.22 SORPP
SUBMITTED BY:

SOUTHERN OREGON
REGIONAL PILOT PROGRAM
(SORPP)
PROJECT SUMMARY REPORT
MINORITY REPORT

Pilot Project Counties:
Douglas County
Jackson County
Josephine County

Dissenting County: Douglas County

MINORITY REPORT TO SORPP PROJECT SUMMARY REPORT DATED JUNE 30, 2016

Overview

The last joint meeting of the counties (Jackson, Josephine, Douglas) on the Southern Oregon Regional Pilot Project (SORPP) was on April 11, 2016. At that meeting discussion centered around project deadline, final report, county positions on how to proceed, county differences in the project process/work direction, commonality in the region and in the project work, the ability of individual counties to staff the project, commonality in methodology and conclusions, and follow up assignments.

In this meeting there was substantial discussion about whether a regional outcome and criteria would fail, or if there could yet be a common regional concept put forward. The substance of the regional concept being discussed was: (a) a regional non- or low-value resource land use designation in which a dwelling would be permitted, (b) a minimum parcel size of 20 acres, and (c) potential parcels would be identified based on common identification criteria, mapping and common siting criteria.

Jackson County agreed to draft a final report including information on SORPP land identification criteria and responses to the state comments dated June 5, 2015.

Douglas County anticipated, which proved incorrect, a follow-up meeting on the draft with the opportunity to include specific recommendations for Statewide Planning Program (SWPP) revisions to implement the common regional concept described above.

Douglas County wishes to submit this minority report to be included with the SORPP report. We wish to offer additional clarification and specific recommendations to the LCDC with this submission.

Report Comments

Chapter 1: Douglas County believes the final report should provide reference to the extensive work conducted by each county by including references in the last paragraph to the county web sites documenting the SORPP products, report and concepts.

Chapter 2: Douglas County does not agree there were “insurmountable” barriers to a single nonresource land zoning definition. Each county shared a common interest and concern to improve and make provisions of their land use ordinance and comprehensive plan work for nonresource, low quality resource lands. Each county came to the project with a designation tailored to their jurisdiction, in their acknowledged plan and code, but significantly constrained by the SWPP.

Chapter 2 in the SORPP report criticizes the Task 5 methodology which was agreed upon as a regional approach. The report is more correct to say a regional approach was developed to identify nonresource lands. In its application, Jackson and Josephine counties found one component did not work well for them. The methodology could have been adjusted. The criticism provided a negative impression of the project work and fails to note elements of the methodology that were common, successful, and built a sound foundation to protect both urban and resource lands.

Chapter 3, #6 Forestland Productivity Standards: The SORPP report errs in its opening statement. The methodology adopted was to use the acknowledged comprehensive plan. The work done was consistent in methodology but not in the productivity number use. There was no mention of the accepted methodology, only an apparent criticism of specifics of Douglas County’s work.

The report then follows with what appears to be a critique of Douglas County’s commercial forest land threshold and concluded by recommending that Douglas County change its standard. The recommendation is misplaced and is not directed toward a regional concept. It falls short of providing guidance on how to move forward. (As an aside, Douglas County’s partners in this project should have coordinated with Douglas County, provided for discussion and focused on the project’s regional nonresource objective, not Douglas County’s implementation of the agreed upon methodology.)

This same section then references a Land Use Board of Appeals (LUBA) case on forest land. Douglas County reminds the region the SORPP is about revising the law, providing new opportunities, and should not be bound by a specific individual fact dependent case. Our assignment was to identify, consider and recommend revisions.

Chapter 3, #9 Community Buffers: Jackson County Task 6 is referenced, but the report does not note that neither Josephine nor Douglas counties conducted Task 6. In addition, the fact Jackson County abandoned part of

the Task 5 methodology does not invalidate the remaining criteria. Jackson County's action should be reflected in the final report recommendation that the forest land criteria be revised for nonresource land identification to assure a regional concept is submitted.

Chapter 4: There was no Chapter 4.

Chapter 5: The Josephine County chapter is confusing. It states, "As a result, the counties concluded that a common set of rules is not appropriate at this time." Douglas County does not agree with that conclusion. In fact, Josephine County goes on to say, ". . . the issues center on 1) finding an intermediate minimum parcel size between large-lot resource and rural residential zoning . . ." Douglas County fully agrees with this statement and it was clear agreement and consensus of the SORPP work.

Josephine County goes on in its text to support the non- or low-resource land designation, a regional concept and recommendation. They also discuss specific siting criteria and locational criteria which again are a regionally supported concept, and part of the Task 5 methodology and Task 7 analysis work.

Josephine County discussed forest productivity offering input on a potential regional standard for nonresource identification, but they did not note the regional consistency of the approved methodology for land identification.

Chapter 6: No comment.

Chapter 7: Douglas County agrees and supports the project focus on a nonresource land designation. Douglas County believes it is important that there was early and clear consensus that the SORPP should honor, respect and utilize the existing SWPP definition of farm and forest land, but to also develop a new classification of land to make the SWPP work better for rural southwestern Oregon. Joining together on this project, it quickly became clear there was a common theme that needed to be addressed for non- or low-resource lands, appropriately located with larger lots and a dwelling as a permitted use.

The SORPP report Chapter 7 conclusion is without a conclusion. It does not provide any recommendations. The common criteria for nonresource land found on page 26 "nonresource lands criteria agreed upon by both Douglas

and Jackson counties”, is a foundation. It is the result of substantial work and should serve as a springboard to consider amendments to the SWPP to enable a nonresource land use designation in Oregon.

Specific Recommendations that should be included in the SORPP Project Summary Report:

- a) It is Douglas County’s position that the SORPP did result in a regional consensus and agreement to a needed reform to the SWPP. There were not “insurmountable” barriers to a single nonresource lands definition.

- b) The SORPP found that the SWPP should be revised to provide for more certainty and a clear process to designate nonresource lands in southwestern Oregon. The process of identification and designation should be based on the criteria and standards found in SORPP Task 5 and 7 results. The nonresource category of land use should provide for a minimum parcel size of 20 acres, a permitted dwelling, and siting standards for a dwelling. The nonresource lands are not contemplated to be commercial farm or forest lands and, therefore, would not qualifying for tax deferrals. The lands would provide disbursed low density nonresource dwelling opportunity. The siting of these lands would be limited by identification and selection criteria. The parcel size and open space characteristics of the nonresource lands would not be rural residential.

- c) The nonresource lands identification and selection criteria include:
 - 1. Lands NOT high value or Class I-IV NRCS agricultural lands
 - 2. Lands outside urban, urbanizable, or rural community boundaries
 - 3. Privately owned
 - 4. Lands NOT capable of producing 50 cubic feet per acre, per year of Douglas fir, or a greater production level
 - 5. Lands NOT identified as sensitive big game habitat
 - 6. Lands NOT in coastal resources designations
 - 7. Sufficient acreage to qualify for a dwelling or division
 - 8. Land NOT identified as floodway
 - 9. Lands within one mile of a fire district boundary
 - 10. Lands within two miles of a paved road (excluding I-5)
 - 11. Lands within two miles of an urban growth boundary or rural community
 - 12. Lands outside of steep slope designations
 - 13. Lands that are NOT designated critical vernal pool habitat

14. Lands that are NRCS Class IV with irrigation with evidence that irrigation cannot be provided

- d) Douglas County recommends the regional consensus and regional identification and selection criteria be used to amend the SWPP OARs and make clear the designation of nonresource land is permissible in Oregon. Amendments should be considered to the following OARs:

Division 4, Exceptions, 660-004-0005: 660-004-0005 of our SWPP rules contains a definition of “nonresource land”. The rule provides in 660-004-0040 that rules related to Goal 14 do not apply to nonresource land. The rule provides no other guidance on nonresource lands. The OAR should be amended with the addition of a new section (suggested #) 660-004-0045 which should specify that the reasons necessary to justify the designation of nonresource lands.

The reasons to justify a nonresource designation shall be based on regional criteria for identification and designation of nonresource lands adopted in the County Comprehensive Plan. The criteria:

1. Shall be based on regionally developed (3 or more county areas) standards. The standards shall address both identification and designation of nonresource lands.
2. Shall provide for an identification and designation process which shall be the method in which OAR 660-004-0020 & 0022 shall be addressed.
3. Shall provide that dwellings on newly created or conforming sized lots or parcels are a permitted use with siting standard (siting standards at a minimum related to resource management on adjacent or nearby properties, fire protection, and Goal 5 resource compatibility shall apply).
4. Shall provide for nonresource lands designated after the date of the rule that any new lot or parcel have an area of at least 20 acres. Counties may establish a minimum lot or parcel size exceeding 20 acres for nonresource designated lands.
5. Note: Additional details could be added to the criteria to identify and designate nonresource lands based upon the SORPP task work and final project report.

- e) In addition, corresponding amendments are needed, including:

1. **OAR 660-006-0055:** Add "Divisions of nonresource land corresponding to the standards of the new OAR 660-004-0045 to that section of the forest rule.
2. **New OAR 660-033-0150** similar to 0145 that addresses nonresource lands and provides they may be allowed, divided and used as provided in the new addition to the exceptions rule.

Summary

Douglas County represents that the SORPP did find common ground. The SORPP did identify an area of the SWPP without adequate law. The project did have agreement and there were not insurmountable barriers to a single nonresource lands definition.

Douglas County strongly and respectfully requests that LCDC consider revisions to the SWPP OARs to enable local government to identify and designate nonresource lands as a refinement and improvement to the delivery and administration of our land use planning system.