Predictability in Planning

Planning is a process to enhance both predictability and citizen involvement. The desire is to make decisions, which provide landowners with clear expectations as to what they can do with their land, while assuring that citizens have opportunities to participate in those decisions.

In Oregon, we have used our statewide planning program to greatly enhance citizen involvement in planning, but at the same time we have taken strong measures to maintain predictability. Our efforts toward predictability have involved many elements.

1. **Clear Policy Direction** - We require land-use planning. Oregon requires every city and county to have a comprehensive plan and the implementing measures necessary to make that plan work. In addition, we require that those plans and implementing measures meet statewide standards -- and they have.

Landowners, developers and permit applicants get predictability from all of that because it puts the rules for decision making on paper, and it establishes those rules before the permit application process begins.

2. **Protection from Conflicts** - One of the main reasons for land-use planning is to reduce the number and extent of conflicts between land uses. In Oregon, every square inch of privately owned land in the state has been zoned, and the main purpose of that zoning is to segregate incompatible land uses. For example, in the Exclusive Farm Use zones that have been applied to more than 16 million acres of private farmland, intensive development and urban uses are prohibited.

3. **Coordination** - "Coordination," as the word is used in Oregon's planning program, has two meanings. It means keeping one community's plan consistent with another's and it also means keeping local, state and federal agencies pulling together, in a direction consistent with the state-approved local plan. This coordination enhances predictability by assuring that one local government's land use decision will not be thwarted by the actions of another local government or state agency.

4. **One Level of Review** - One of the most important features of Oregon's planning program is its single tier of planning and permit administration, all at the local level. The state-approved local land-use plan is the controlling document for land-use decisions, and land-use permits are administered by city and county officials.
5. **Clear and Objective Approval Standards** - The program has required that clear and objective review standards be used in reviewing permit applications for controversial land uses such as multifamily housing, manufactured homes and quarries. Under Oregon law, development officials cannot use vague standards such as "compatibility with the neighborhood" to deny an application for a needed housing type in an appropriate zone. Insistence on having clear standards protects developers and permit applicants from arbitrary and inconsistent decisions and thereby enhances predictability.

6. **Centralized Appeals** - In 1979 the Oregon Legislature created a special land use court, the Land Use Board of Appeals (LUBA). The result has been a dramatic decrease in the time needed to resolve appeals and an increase in the consistency of decisions.

7. **The "Raise It Or Waive It" Standard** - After LUBA had been in operation for a few years, some people became concerned that appellants were ambushing developers by raising a host of new issues in the appeal before LUBA. Legislation in 1989 says that to have standing in an appeal before LUBA, petitioners must first participate at the local level and must raise all pertinent issues there. Petitioners may not raise issues at LUBA that were not raised during the local review.

8. **Statutory Deadlines** - Oregon law specifies that local governments must render decisions on land use permits within 120 days for cities, and 150 days for counties, of receiving a complete application for such a permit. Any local appeals -- for planning commission to city council, for example -- are included in that time limit. There are similar time limits on LUBA's decisions.

In total, the state's land-use planning program serves to increase the predictability of land use decisions for everyone.