



# Oregon

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May 24, 2010

TO: Land Conservation and Development Commission

FROM: Bob Rindy and Michael Morrissey, Policy Analysts

SUBJECT: **Agenda Item 9, June 3-4, 2010, LCDC Meeting**

## **LCDC'S 2009-2011 POLICY AGENDA: PROGRESS REPORT AND UPDATE**

This item is a status report on and update of the commission's 2009-11 Policy and Rulemaking Agenda. Under this item, the commission will determine whether additional policy projects should be undertaken this biennium and, if so, which ones. This item is intended as an opportunity for stakeholders and other interested persons to comment on the policy and rulemaking agenda, including progress so far with regard to the current agenda, or to propose additional policy initiatives for the commission's consideration this biennium.

The commission's policy agenda is a list of policy projects to improve and update statewide land use policy and/or rules, including changes necessary to respond to recent legislation, executive orders, and litigation. State law (ORS 197.040) requires the commission to adopt, amend and revise statewide planning goals, land use policies and administrative rules as "necessary to carry out Oregon's statewide land use planning program." The commission approved its 2009-11 Policy Agenda at a public hearing at the July 2009 meeting, after consideration at the April and June 2009 meetings. The commission's current policy agenda is Attachment A to this report, and is also available at the following link to DLCD's website: <http://www.lcd.state.or.us/LCD/>.

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### **I. Overview of Commission's Policy and Rulemaking Agenda**

As part of its overall statutory authority (see ORS 197.040), the Land Conservation and Development Commission (commission) is required to "adopt rules and ... any statewide land use policies that it considers necessary to carry out" land use statutes. The commission is also required to "review decisions of the ... [courts] to determine if goal or rule amendments are necessary." The commission is also required to "adopt, amend, or revise goals consistent with regional, county and city concerns."

The commission's practice is to adopt a Policy Agenda for each biennium, which includes a list and schedule of rulemaking projects and other "non-regulatory" policy initiatives. In determining its policy agenda, the commission considered a range of recommended policy projects to improve the state land use program and selected its list of 2009-2011 projects from that larger list of proposals. The commission also bases its consideration on the availability of staff resources to pursue policy work during the biennium. The list of approved policy projects to be pursued this biennium was organized in three categories: (1) Required Projects (such as by legislation, executive order or the courts), (2) Recommended High Priority Projects, and (3) Other Recommended Projects to be Pursued if Resources/Staff are available.

## **II. Progress to Date on 2009-2011 Commission Policy Agenda**

Since the approval of the Policy Agenda last July, the department has pursued the "required" and the "recommended high-priority projects" described in the agenda. Many of these projects are complete, as described below. Other projects are underway, and some are expected to be concluded at this meeting. The third category of projects on the policy list, "Other Recommended Projects to be pursued if Resources/Staff are Available," consists of projects not yet underway but "in the cue" as staff resources are available. As such, this report makes recommendations regarding those projects. This report also describes a new category of projects, described under Part III of this report: Recommended New Policy Projects Not on the Current Policy Agenda. These are projects to address issues that were not placed on the agenda last July but that, in the view of the department, have become more pressing. Finally, this report, under Part IV, addresses requests for additional policy work suggested by other interests. (See Attachment B).

### **A. Required Policy Projects**

The following projects were required by state legislation, Governor executive order or the courts, and were given the highest priority on the commission's Policy Agenda for the 2009-2011 biennium:

1. Rulemaking in response to LUBA decisions regarding RLUIPA: In response to recent LUBA and related court decisions applying the federal Religious Land Use and Institutionalized Persons Act (RLUIPA), the commission directed the department to work with an appointed workgroup to consider amendments to the subject farmland administrative rules (OAR 660, division 33) regarding uses allowed on EFU zoned lands within 3 miles of an Urban Growth Boundary.

Status: The workgroup, chaired by Greg Macpherson, concluded its deliberations in April, 2010, and has proposed rule revisions for consideration at the June 2-4 LCDC meeting in John Day (see Item 7, June 2010 LCDC hearing). The proposed rule revisions would limit the design capacity of structures for uses involving assemblies of people. The design capacity for such structures would be limited to 100 people. The rules would apply to "assembly" uses identified in the LUBA decision including schools, churches, parks facilities that are not master-planned,

golf courses, certain community centers and living history museums. Other related new provisions are included in the proposed rules.

2. Alternative Energy Resources in the Territorial Sea: Revise the Oregon Territorial Sea Plan to include an element concerning alternative energy resources in the territorial sea, as ordered by a Governor's Executive Order (Text amendments scheduled for October 2009; map amendments will be scheduled in 2010).

Status: The commission adopted text amendments to the Territorial Sea Plan at its November 2009 meeting. Staff is currently working with other agencies, legislators, non-governmental organizations, fishermen, and university specialists on two elements: one is to acquire, via contracts, needed spatial information (areas important to fisheries, recreational use areas, areas of important ecological and habitat value, etc), which is expected to be completed by late 2010 or early 2011; the other is to develop needed technological capacity to acquire, synthesize, analyze, and display this information (i.e. marine spatial planning). The Coastal Program staff currently anticipates the opportunity in late 2010 to re-convene the Territorial Sea Plan Advisory Committee approved by the commission in 2008 to advise in developing the 2009 text amendments to begin work on advising on the development of the spatial component of the Territorial Sea Plan amendments. Plan maps from this exercise are not expected until second quarter of 2011.

3. Greenhouse Gas Emissions Task Force Legislative Recommendations: The department was directed to staff the Metropolitan Planning Organization (MPO) Greenhouse Gas Emissions Task Force, along with the Oregon Department of Transportation, to prepare legislative recommendations as required by House Bill 2186. The Task Force report was completed and presented to the Legislature in January 2010.

Status: See Agenda Item 6b. In February, the 2010 Legislature adopted SB 1059 which implements recommendations of the MPO Greenhouse Gas Emissions Task Force. The bill directs the commission to adopt rules setting targets for GHG emission reductions from light vehicles from the state's five smaller metropolitan areas. Portions of SB 1059 which require target rulemaking largely mirror provisions of HB 2001 – discussed below. In addition, SB 1059 requires that ODOT and DLCD coordinate and collaborate with metropolitan area local governments and others to develop detailed guidance for scenario planning, a toolkit, and a public outreach program.

In Item 6b, the department recommends that the commission authorize and direct the department to establish a rulemaking advisory committee to assist with target rulemaking under both SB 1059 and HB 2001. The department has also been working with ODOT to complete an interagency agreement to hire staff and a consultant to help complete the work required by SB 1059.

4. HB 2001 - Greenhouse Gas Emissions Goals and Planning: Directs the commission to adopt rules setting targets for reducing greenhouse gas emissions from light vehicle travel in the

Portland Metro area. The bill also charges Metro, in cooperation with local governments, to conduct scenario planning to cooperatively select a preferred scenario for meeting the target established by the commission. The scenario planning under HB 2001 would describe land use patterns to meet the reduction goals (work under this item is scheduled for 2011-2014).

Status: HB 2001 directed the commission to adopt rules to guide work by Metro to develop and implement land use and transportation scenario plans aimed at meeting state greenhouse gas (GHG) reduction goals by June 1, 2011. As noted in item 3, SB 1059 has essentially expanded the scope of target rulemaking required by HB 2001 to the state's other five metropolitan areas. The rulemaking advisory committee recommended in agenda item 6b will address rulemaking required by HB 2001 as well as SB 1059.

Department staff have been working with ODOT and Metro staff to develop a detailed work program for Metro's work to prepare and select a scenario plan over the next two to three years.

5. Metolius River ACSC: Adopt the Metolius Area of Critical State Concern Management Plan by administrative rule, including minor amendments, as required by House Bill 3286.

Status: A public hearing was conducted December 3, 2009, in Camp Sherman regarding proposed rules to adopt the Metolius Area of Critical State Concern (ACSC) management plan, as directed by the Oregon legislature in House Bill 3298. LCDC considered adoption of this rule in public hearings conducted in the January and April meetings, and adopted the management plan by rule at its April meeting. Department staff is continuing to work with Jefferson County to clarify implementation of certain aspects of the rule. This rulemaking project is now complete.

6. Measure 49 Rulemaking Required by 2009 Legislation: Adopt procedural amendments to LCDC's Measure 49 implementing rules to carry out adjustments to the claims process enacted by 2009 House Bill 3225.

Status: (See Agenda Item 14). The commission adopted permanent amendments to Measure 49 rules (OAR 660, division 41) in January 2010 to implement House Bill 3225 (2009), and the department filed the rules with the Secretary of State's office on February 9, 2010. The commission also adopted temporary rules and rule amendments to Measure 49 rules during its regular meeting on April 22, 2010 to implement Senate Bill 1049 (2010), which were filed with Secretary of State on May, 7, 2010.

7. "Housekeeping" amendments to LCDC's farmland rules to make the rules consistent with recently amended statutory provisions in House Bill 3099 regarding farm uses.

Status: This rulemaking is complete. In January 2010 the commission adopted conforming amendments to farmland rules in response to statutory changes enacted by House Bill 3099.

8. Coastal Zone Management Act Federal Consistency: Update LCDC rules (OAR 660, division 35) that implement the "consistency requirements" of the Federal Coastal Zone Management Act

to address changes to NOAA's federal consistency rules and other changes since the last update (1988) of OAR 660, division 35.

Status: The commission formally initiated the process to revise the commission's Federal Consistency rules (OAR 660-Division 35) at its meeting on January 21, 2010. Since that time, DLCD staff met with the state Citizen Involvement Advisory Committee (CIAC) to discuss the content of the rules and rule adoption process. The staff has developed draft language for legal review. DLCD continues to work with legal counsel at Oregon DOJ and with staff at the NOAA Office of Ocean and Coastal Resource Management (OCRM) to refine the language to ensure the proposed rules are consistent with state and federal law. The department intends to begin the formal rulemaking process during the summer of 2010 and schedule a commission hearing to consider rule amendments in September 2010.

9. TDR Pilot Program Rules: Adopt procedural rules for DLCD's Transfer of Development Rights Pilot Project authorized under House Bill 2228.

Status: (See Agenda Item 13b). The commission and the department have completed the rulemaking scheduled under this Policy Agenda task. LCDC adopted TDR Pilot Program rules at its January 2010 meeting. However, the department is requesting an extension of the June 1 deadline in the rule for submitting pilot projects to the department.

## **B. High Priority Policy Projects to be Pursued this Biennium**

The commission directed the department to undertake several policy projects that, while not "required" (such as by legislation), are nevertheless considered by LCDC to be high priority in the current biennium. In addition to the three projects initially included on the Policy Agenda under this category, subsequent to adopting the Policy Agenda the commission has directed the department to work on two additional policy projects, concerning Metro urban and reserve rules and 2010 greenhouse gas emission legislation (described below under # 4 and 5).

1. Climate Change Adaptation: Begin to assist communities in preparing for the effects of climate change, in coordination with other state agencies and other stakeholders. This includes work on a state-level climate change adaptation plan, in coordination with state agencies through a state agency workgroup. It also includes statewide climate change mitigation planning, as described above; HB 2001 and HB 2186.

Status: (See Agenda Item 6a). The department has continued to work with agency directors and university programs to develop a statewide Climate Change Adaptation Framework. Following Governor Kulongoski's kick-off meeting in October 2009, a group of agencies and university programs have met to design the scope and broad objectives of the adaptation framework; and the mechanism to be established for agency coordination and collaboration. On January 11, February 17, and again on March 30, a large group of agency and university program directors attended a meeting coordinated by the department in order to review recommendations for this effort. The directors have agreed on a set of next steps. The directors also suggested continued

meetings by a group of agency and university staff who have been working on the detailed aspects of the framework and proposing options for the directors.

2. Urban Policy Forum: Conduct a public “policy forum” (or a series), including local governments and other stakeholders, to consider the following topics and determine consensus and future direction:

- Coordinated population forecasts;
- Public facilities finance and planning issues;
- Urban growth management process and policy issues, especially concerning UGBs and urban reserves.

Status: The department continues to meet internally and with external stakeholders to outline the issues for the forum and establish the process and timelines. The department is considering contracting for at least one “white paper” to scope issues and ideas for resolution regarding the public facility finance issues. The department is also working on “white papers” regarding population forecasting issues and urban growth management issues. It is anticipated that population forecast issues should be taken up first, possibly beginning late summer of 2010.

3. TPR work with ODOT: Work with ODOT and the OTC to review implementation of the Transportation Planning Rule (TPR), including OTC work on alternative mobility standards, STIP criteria, and the requirements of House Bill 3379.

Status: ODOT has convened a HB 3379 Advisory Committee to assist with developing an administrative rule and to make related recommendations to the Oregon Transportation Commission. Rob Hallyburton is the department’s representative on the ODOT advisory committee. ODOT is now in the process of developing a draft administrative rule to carry out the provisions for HB 3379. The department expects that the proposed rule will establish a process and considerations guiding OTC decisions to authorize waivers or extensions to meeting funding requirements in the TPR for economic development projects that would otherwise require that funding for improvements to state highways be reasonably likely during the planning period.

The department expects that the work of the advisory committee may result in additional recommendations for changes to either ODOT plans and policies or the Transportation Planning Rule. The department anticipates additional discussion of this issue in conjunction with or following ODOT’s preparation of a draft rule. (See also, Part IV of this report regarding suggestions from the City of Bend and COCO for TPR rulemaking).

4. Metro Urban and Rural Reserve Rule Adjustments: This minor rulemaking project was not on the Policy Agenda approved by LCDC in July 2009. However, in January 2010, LCDC directed staff to begin this project in response to concerns brought to the department’s attention by Metro and Metro area counties regarding certain restrictions on future amendments to plans and land use regulations in urban and rural reserve areas.

Status: The commission adopted minor rule amendments to the Metro urban and rural reserve rules at the April 22, 2010 meeting. These rule amendments were filed with the Secretary of State and became effective on April 30, 2010. In adopting these amendments, the commission directed the department to convene the previous (2007) workgroup to consider whether additional amendments should be considered. The department has scheduled an initial meeting of this group May 27, and anticipates that additional meetings will be scheduled. The department expects to report to the commission at its July 2010 meeting, with a possible rule adoption in early September.

5. Greenhouse Gas Emission Targets under SB 1059: This bill was adopted during the 2010 special legislative session. It directs the commission to adopt rules setting targets for metropolitan areas to reduce greenhouse gas (GHG) emissions from light vehicles. The bill also charges the department and ODOT with developing a series of related products to support target rulemaking and metropolitan scenario planning. These products include: developing a statewide strategy for reducing GHG emissions from the transportation sector, developing guidelines for metropolitan scenario planning, preparing a toolkit of measures and actions to reduce transportation GHG emissions, developing a public outreach program, and preparing a report and recommendation on funding scenario planning to the 2011 legislature. The bill includes additional positions for DLCD to conduct this work and directs ODOT to provide funding for these positions, as well as consultants to assist with preparing the required products.

Status: During March, the department worked with ODOT to develop an interagency agreement for how DLCD will use the funds for the new positions. The department and ODOT have also begun work on scoping requests for proposals for consultant services to help complete the various SB 1059 products that support scenario planning for greenhouse gas emission reductions. In June, the department will present recommendations to the commission for appointment of a rulemaking advisory committee to assist with preparing recommendations for the metropolitan area target rulemaking. SB 1059 and HB 2001 (from the 2009 session) require that the commission adopt rules setting targets for GHG emission reductions for the state's metropolitan areas by June 1, 2011.

### **C. Other Recommended Projects to be Pursued Depending on Staff Resources**

The Policy Agenda included a list of additional policy projects that the department and the commission may consider later in the biennium if higher priority projects are completed and staff resources are available. These projects are described below. None of these projects is currently underway. This review of the policy agenda was intended as the opportunity for LCDC to review progress on the higher priority policy items, described above, and decide whether to pursue additional policy projects on this list. However, in addition to the projects identified for possible work this biennium, additional projects identified below in Section III of this report may in fact be more pressing and may take fewer staff resources than those described here. The July 2009 recommended list of projects is described below.

1. Affordable Housing: Continue consideration of potential policy actions suggested by LCDC's 2008 Affordable Housing Work Group, including possible rulemaking and/or legislation.

Recommendation: As part of its legislative proposal, the department provided the commission with a list of the main recommendations being considered by the 2008 workgroup. At its March meeting, LCDC recommended that all of these items would take a considerable amount of additional work in order to reach consensus on legislation or rulemaking, and as such, the department should not pursue them this biennium. However, one of the workgroup recommendations was approved by the commission as a possible 2011 legislative concept, concerning a policy-neutral redraft/recodification of statutes for "needed housing." The department has scheduled additional discussion with interest groups on this concept, and will report back to the commission in July.

2. HB 2229 Rulemaking: Consider and, if necessary, adopt rules regarding "nonresource land," especially as may be necessary to guide implementation of farm and forest resource land rezoning authorized for individual counties under House Bill 2229. In connection with this same effort, the department recommends that the commission study and, if necessary, clarify the "forest lands" definition in Goal 4, and address possible rule inconsistencies (in OAR 660, division 6) related to that definition.

Recommendation: The department recommends that the commission initiate the rulemaking described above, but not until March or April of 2011 (with a rule adoption in the summer or fall of next year) in order to allow time for completion of several other large projects already scheduled over the next six to nine months. Several counties have indicated an interest or intention to move forward with work allowed under HB 2229 (see Attachment C). The department had communicated to the legislature during the 2009 session that DLCD will probably have resources to work with only one county per biennium. The department suggests that some work as described above is needed to clarify process and substance issues prior to work by counties re-analyzing resource lands and nonresource lands.

3. State Agency Coordination: As authorized by House Bill 2230, amend rules under OAR 660, divisions 30 and 31, and take other actions necessary to update and streamline state agency coordination.

Recommendation: The department is recommending that work on this project be postponed until the 2011 biennium. The department does not have resources to pursue rulemaking or other work on this project in the current biennium.

4. Farm Stands: Reconvene a "farm stands work group" to consider concerns about farm stand sales of wine products.

Recommendation: The Association of Oregon Counties (AOC) has initiated a workgroup to consider the ancillary uses on agricultural land presenting challenges around the state, due to increased frequency and intensity. The workgroup is focusing on "events" on farm land, such as

musical, athletic, and wedding related events. DLCD is represented on this workgroup at the policy and technical committee levels. No additional action is suggested at this time.

5. Criteria for Zoning of Farmland: There is a need to clarify whether and under what circumstances farm profitability may be used to help define agricultural land.

Recommendation: No action on this item is recommended at this time (see HB 2229 discussion above).

6. Environmental Justice Task Force: Revise agency procedures as necessary, to implement Environmental Justice Task Force requirements in (2007) Senate Bill 420.

Recommendation: The Governor's Environmental Justice Task Force (EJTF) is in the process of working with agencies to begin identifying agency actions that implicate environmental justice, as well as assess training needs. The EJTF will continue to work with all agencies on broad issues, as well as individual agencies to evaluate specific programmatic operations and ensure compliance with this Act. The EJTF has met with about 2/3 of all state agencies, but has not yet met with DLCD for this purpose.

DLCD has accepted a Willamette University law student for an externship to fulfill his practicum requirement. This summer, Tapiwa Kapurura will research and report on environmental justice as it relates to DLCD. The report will address environmental justice issues in land use planning generally, and identify some issues specific to the Oregon program. The objective is to provide a framework for the department to evaluate where its actions intersect with environmental justice, and provide guidance for later policy and procedure review.

### **III. Items Not on the Current Adopted Policy Agenda that Should be Considered**

Subsequent to the commission's adoption of its policy agenda in July 2009, several issues have arisen that should be considered for possible action this biennium. While the commission did not initially plan to address these issues during the 2009 – 2011 biennium, the department is recommending that the policy agenda be amended to include them.

1. Division 33 Rulemaking with Regard to Energy Worker Housing: Several counties in central and eastern Oregon are reporting an influx of workers associated with wind energy projects, and are also reporting a shortage of housing accommodations for such workers. The department has proposed that the commission consider temporary rules to address this situation, followed by permanent rulemaking in September of this year. The rules would allow temporary recreational vehicle (RV) campgrounds in exclusive farm use (EFU) zones under OAR 660-033-0130, in order to accommodate workers on wind energy projects during the coming construction season.

Recommendation: The department recommends the commission consider a temporary rule, as described above (See Agenda Item 8), and undertake permanent rulemaking for consideration of a permanent rule in September.

2. OAR Division 6, Forest Lands Template Dwellings Provisions: Some counties are reporting that property owners who were intended by LCDC to be allowed only one dwelling on a tract of land under “template dwelling” provisions at ORS 215.750 and OAR 660-006-0027(1), are able to site more dwellings by selling or otherwise transferring ownership of parcels within the tract to others. A “tract” is a parcel or group of parcels in single ownership. Because the statutory reference to “tract” is not tied to a date, tracts may legally be broken up into constituent parcels and sold, thereby qualifying each parcel for a template dwelling as part of a new “tract.” This is a loophole that needs to be corrected. LCDC faced a similar situation after the Craven vs. Jackson County Court of Appeals case in 1995 determined that the lack of a date tied to “tract” as used for lots of record meant that multiple lot of record dwellings could be approved for a single tract where lots were transferred into separate ownership. Thereafter, LCDC amended OAR 660-033-0130(3)(a) to add a new provision tying the tract reference to a fixed date. A Clackamas County planner recently submitted a petition to the department requesting that LCDC amend applicable rules to close the template dwelling loophole. Wasco County does not permit template dwellings at all and Lane County does not permit them in its primary forest zone.

Recommendation: The department recommends that the commission authorize the department to discuss this issue further with planning directors and other interests, followed by initiation of formal rulemaking regarding provisions under OAR 660-006-0027(1).

3. General “Housekeeping” Rulemaking, Including Farm and Forest Rules: LCDC typically conducts at least one “housekeeping rulemaking” per biennium to clean up or clarify various rules. For example, housekeeping clarification, streamlining and updating are needed for Division 6, Forest Lands and Division 33 Agricultural Lands. For uses authorized in forest zones, proposed housekeeping changes would be necessary for clarification and consistency of the Definitions and Inventory sections with Oregon Department of Forestry standards for identifying forest land, clarification on some uses allowed in forest zones (outdoor gatherings, commercial power generating facilities, youth camps), minor clarification of some land division and dwelling standards, and minor technical corrections to spelling, grammar and statutory or rule references. For division 33 Agricultural Lands proposed changes include moving parts of the Definitions section to the Identifying Agricultural Land section and amending the latter to incorporate new language for compliance with HB 3647 (soils bill). Other proposed changes include clarification on uses authorized on agricultural land (outdoor gatherings, commercial power generating facilities), updating for consistency with new Oregon Department of Environmental Quality standards for composting, minor clarification on some standards for permitted and conditional uses and dwellings in conjunction with farm use, a requirement for consistency with the *Brentmar* ruling, and minor technical corrections to spelling, grammar and statutory or rule references.

Recommendation: The department recommends that the commission undertake “housekeeping rulemaking” to address the issues above and possibly other “housekeeping” issues in other DLCD rules, to be identified by the department.

4. Division 33 Agricultural Land Requirements and Solar Energy: Modify energy facility rules for solar energy as was done two years ago for wind energy. Issues may include footprint, water usage, and land disturbance. Eastern Oregon counties are reporting greater interest in large solar arrays than in new wind energy projects, and several large, commercial solar arrays have already been approved. The current 12- and 20-acre thresholds that apply to commercial energy generating facilities on farmland, require an exception to be taken for virtually all such facilities. This is an impractical approach to siting a use that is coming more into use and that has a legitimate role to play in rural areas.

Recommendation: Initiate rulemaking on this topic. This rulemaking could be combined with rulemaking for the project described in # 2 above or # 5, below.

5. Rules for Wind Energy on Forestlands: Consider amendments to division 6, Forest Land, as was done for wind energy facilities on agricultural land. There is growing interest in siting wind energy facilities on forest land, particularly along the coast. The current 10-acre threshold that applies to commercial energy generating facilities on forest land requires an exception to be taken for most such facilities. This may or may not be the best approach to siting wind generating facilities. Issues that come into play in siting such facilities on forest land include: commercial timber harvesting, scenic and other natural resource values.

Recommendation: Initiate rulemaking for this topic. This rulemaking could be combined with rulemaking recommended under # 2 or #4, above.

#### **IV. Recommendations for Additional Policy Work Suggested by Other Interests**

Irrigation Reservoirs on Farm Land: The department expects to receive a request from the Oregon Board of Agriculture for consideration of a rule clarifying when reservoirs are allowed on lands zoned for exclusive farm use. Reservoirs are allowed as a farm use when located on property that is being irrigated, but are not clearly allowed on EFU lands that are not irrigated from the reservoir. The department recommends that the commission include this item on its policy agenda, in conjunction with the rulemaking on temporary housing for construction workers in campgrounds.

Transportation Planning Rule Revisions: The department has received a recommendation for rulemaking to revise the Transportation Planning Rule (TPR). The City of Bend, City of Ashland, League of Oregon Cities (LOC), and the Central Oregon Cities Organization (COCO) have submitted letters (Attachment B) that recommend the commission consider amendments to the Transportation Planning Rule. The cities and COCO are concerned that provisions of the TPR that apply to certain plan amendments and zone changes may be creating barriers to economic development and desired efficient urban development patterns. Problems occur when improvements to state highways are needed to meet ODOT's highway mobility standards. Typically, there is a mismatch between the 20-year planning period used in land use planning and the 6-year development STIP. As a result, local governments are forced to work with state and local partners to identify how needed improvements will be funded before a plan amendment

may be approved. ODOT is addressing this issue through HB 3379 rulemaking – discussed in Item B.3 above. The department is participating in the HB 3379 rulemaking and is using that process to assess whether consideration of amendments to the TPR may be warranted.

Given concerns expressed by COCO, LOC, the City of Bend, and the City of Ashland, the department recommends that the commission schedule a briefing on the HB 3379 rulemaking to better understand and monitor this issue to determine whether rulemaking is warranted. The department recommends that the briefing occur in September of this year.

#### **V. Overall Recommendation**

The department recommends the commission amend its Policy Agenda for the 2009-2011 Biennium to include the additional projects described in this report.

#### **VI. Attachments**

- A. 2009-2011 LCDC Policy Agenda Summary
- B. Comments and Proposals for Additional Projects
- C. County Letters of Interest Regarding HB 2229



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## LCDC Policy Agenda for 2009-11



In August 2009, the Land Conservation and Development Commission (LCDC) approved a list of policy projects it intends to pursue in the 2009-11 biennium. LCDC also indicated its intent to revisit its policy agenda in the spring of 2010. LCDC's policy agenda is a list of projects to improve and update statewide land use policies and rules, including changes necessary to respond to recent legislation, executive orders, and litigation. State law (ORS 197.040) requires LCDC to adopt, amend and revise statewide planning goals, land use policies and administrative rules as "necessary to carry out Oregon's statewide land use planning program." The commission's 2009-11 policy agenda includes:

### A. Projects Required by the Legislature, the Governor or the Courts

1. In response to recent court decisions applying the federal Religious Land Use and Institutionalized Persons Act (RLUIPA), work with an appointed workgroup to consider amendments to LCDC's farmland rules (OAR 660, division 33) regarding uses that involve the assembly of people. (Scheduled for fall/winter of 2009).
2. Revise the Oregon Territorial Sea Plan to include an element concerning alternative energy resources in the territorial sea, as ordered by a Governor's Executive Order (Text amendments scheduled for October 2009; map amendments will be scheduled in 2010).
3. With the Oregon Department of Transportation, staff the Metropolitan Planning Organization (MPO) Greenhouse Gas Emissions Task Force to prepare legislative recommendations as required by House Bill 2186. (Task Force report due Jan. 2010; may continue through 2010).
4. Adopt state greenhouse gas emissions reduction "goals" for purposes of the Portland Metro Area "scenario planning" land use patterns to meet the reduction goals, as required by House Bill 2001 (administrative rules by June 2011; other work 2011-14).
5. Adopt the Metolius Area of Critical State Concern Management Plan by administrative rule, including minor amendments, as required by House Bill 3286 (hearings Dec. 2009).
6. Adopt procedural amendments to LCDC's Measure 49 implementing rules to carry out adjustments to the claims process enacted by House Bill 3225 (temp. rules done, permanent rules in late 2009 or early 2010).
7. Adopt "housekeeping" amendments to LCDC's farmland rules to make the rules consistent with recently amended statutory provisions in House Bill 3099 regarding farm uses (scheduled for Nov. 2009).
8. Update LCDC rules (OAR 660, division 35) that implement the "consistency requirements" of the Federal Coastal Zone Management Act to address changes to NOAA's federal consistency rules and other changes since the last update (1988) of division 35 (expected mid 2010)
9. Adopt procedural rules for DLCD's Transfer of Development Rights Pilot Project authorized under House Bill 2228 (early to mid 2010)

**B. High Priority Policy and Rulemaking Projects (scheduling is dependent on resources; expectation is that some, but not all, of these will be done in 2009-11 biennium)**

1. Begin to assist communities in preparing for the effects of climate change, in coordination with other state agencies and other stakeholders. This will include work on a state-level climate change *adaptation* plan, in coordination with state agencies through a state agency workgroup. It also includes statewide climate change *mitigation* planning, as described above; HB 2001 and HB 2186. (initial coordination meeting held Oct. 2009).
2. Conduct a public “policy forum” (or a series), including stakeholders and legislators, to consider the following topics and determine consensus and future direction:
  - Consider public facility finance and planning issues facing local governments, including those raised by the Big Look Task Force and the Revenue Restructuring Task Force, as well as by local governments, and consider land use strategies and policy amendments to address these concerns.
  - Explore changes to streamline and update statewide policy regarding urban growth management, including the priority of lands statutes, urban reserve requirements, population forecasting, Goals 9 and 10, governance and related topics (biennium).
3. Work with ODOT and the OTC to review implementation of the Transportation Planning Rule (TPR), including OTC work on alternative mobility standards, STIP criteria and the requirements of House Bill 3379. (beginning Oct. 2009)

**C. Projects to be Pursued only if DLCD Resources are Available (expectation is that few, if any, of these items will be undertaken in the 2009-11 biennium)**

1. Continue consideration of potential policy actions suggested by LCDC’s 2008 Affordable Housing Work Group, including possible rulemaking and/or legislation.
2. Consider and, if necessary, adopt rules regarding “nonresource land,” especially as may be necessary to guide implementation of farm and forest resource land rezoning authorized for individual counties under House Bill 2229. Study and, if necessary, clarify the “forest lands” definition in Goal 4, and address possible rule inconsistencies (in OAR 660, division 6) related to that definition.
3. As authorized by House Bill 2230, amend rules under OAR 660, divisions 30 and 31, and take other actions necessary to update and streamline state agency coordination.
4. Reconvene a “farm stands work group” to consider concerns about farm stand sales of wine products.
5. Analyze criteria for zoning of farmland.
6. Revise agency procedures as necessary, to implement Environmental Justice Task Force requirements in 2007 (Senate Bill 420).

For questions or additional information about LCDC’s 2007-09 Policy Agenda, contact Bob Rindy at 503-373-0050, Ext. 229, or e-mail at: [bob.rindy@state.or.us](mailto:bob.rindy@state.or.us), or Michael Morrissey at 503-373-0050 Ext. 320 or e-mail [michael.morrissey@state.or.us](mailto:michael.morrissey@state.or.us).



## CENTRAL OREGON CITIES ORGANIZATION

BEND, CULVER, LA PINE, MADRAS, MAUPIN  
METOLIUS, PRINEVILLE, REDMOND, SISTERS

**May 20, 2010**

John VanLandingham, Chairman and Commission Members  
Land Conservation and Development Commission

Richard Whitman, Director  
Department of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

### **RE: Request for TPR amendments**

Chair VanLandingham, Director Whitman, and Commission Members,

It has come to our attention that the Land Conservation and Development Commission is considering policy agenda items for the remainder of the biennium. The Central Oregon Cities Organization respectfully requests that the Commission investigate and explore amendments to the DLCDC's Transportation Planning Rule.

It has been five years since the LCDC implemented rule changes to the Transportation Planning Rule (TPR) resulting from the Jaqua v. City of Springfield decision issued by the Oregon Court of Appeals. In this five year period, many cities within the Central Oregon Cities Organization have encountered difficulty in satisfying TPR requirements in contemplation of reasonable development proposals.

The TPR changes implemented in 2005 have raised the bar to an unachievable level and have resulted in a variety of unintended consequences, most significantly missed economic development opportunities. The 2005 changes, primarily those relating to "reasonably likely" funding of planned projects and concurrency (timing) of projects to coincide with perceived system need, seemed appropriate in the greater context of traditional public facilities planning.

However, when coupled with the reality of ...

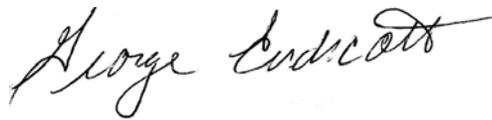
- Lack of state transportation funding to improve state highway facilities, which in many cases are functionally obsolete.
- Lack of legislatively approved funding mechanisms to generate additional funds to construct needed "big-ticket" infrastructure improvements.

- Additional state land use rules which mandate urban related transportation solutions within urban areas, yet require urbanization of non-resource lands irrespective of transportation system capacities or deficiencies.
- Unattainable state mobility standards based on archaic traffic engineering principles which lack system or corridor perspective.
- State access management and design standards which produce unwieldy and unreasonable solutions within urban areas.
- Highway and Rail proximity issues adding significant cost to projects and limiting local grid connectivity.

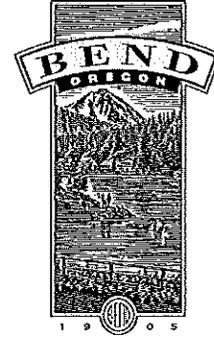
... the TPR has become an obstacle to economic development rather than a planning tool as intended.

The Central Oregon Cities Organization is a proponent of good transportation planning and we recognize the nexus of land use and transportation system impact. While we do not suggest eliminating the TPR, we do strongly feel that the rule needs to be amended in reflection of the many other rules and realities that local governments encounter when balancing the needs of land use (economic development), congestion and financial resources.

Respectfully,



George Endicott, Chair  
Central Oregon Cities Organization



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May 19, 2010

John VanLandingham, Chairman and Commission  
Members  
Land Conservation and Development Commission

KATHIE ECKMAN  
Mayor

Richard Whitman, Director  
Department of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

MARK CAPELL  
Mayor Pro Tem

JODIE BARRAM  
City Councilor

**RE: Request for TPR amendments**

JIM CLINTON  
City Councilor

Chair VanLandingham, Director Whitman, and Commission Members,

JEFF EAGER  
City Councilor

The City of Bend is providing input regarding the Transportation Planning Rule (TPR) in anticipation of your rule making discussion at your June 2010 meeting in John Day.

TOM GREENE  
City Councilor

ORAN TEATER  
City Councilor

The City of Bend understands and supports the intent of the TPR, however finds that its implementation is an obstacle to providing local economic development opportunities for existing and new businesses in Oregon. The challenge can be traced to the amendment to the TPR (OAR 660-12) in 2005 mandating that all projects necessitated by zone change applications be fully funded by the end of the 20-year planning period. As a result, any economic development project which causes an 'impact' on a state highway system must demonstrate how it will 'reasonably' pay or mitigate for large and expensive improvements which, typically on a state highway, are beyond the financial capabilities of most communities.

ERIC KING  
City Manager

It is important that municipalities mitigate their impacts to the state highway system, but we need flexibility in when and how we fund those mitigations, and it is critical that the State partner with local entities in funding as well as finding alternative solutions. Bend has been working through the Central Oregon Cities Organization (COCO) to develop alternative concepts for addressing long term multi-modal transportation needs. We believe ODOT should seek alternative mobility standards that focus on a number of performance measures that are flexible, cost efficient, and still create safe highways. In addition we have discussed alternative mobility standards, a corridor approach to transportation planning, as well as creating additional sources of revenue through income tax sequestration.

The challenges that the City of Bend faces with the TPR as a barrier to economic development are particularly difficult for us because of our isolation from west coast markets and larger metropolitan areas. Consequently, we need to be very responsive to economic opportunities. Finding a solution is going to require a new approach to transportation planning and funding, and we are motivated to participate in innovative solution-oriented discussions with the State. The City's focus is on ensuring that adequate multi-modal transportation infrastructure can be developed to support economic development.

It is important in these difficult times that government remain flexible and make every effort to encourage industrial and commercial growth to help improve State and local prospects for job creation and long term economic stability, while also balancing the long term needs of our infrastructure.

Sincerely,

A handwritten signature in cursive script that reads "Kathie Eckman".

Kathie Eckman  
Mayor  
City of Bend



P.O. Box 928 • Salem, Oregon 97308  
(503) 588-6550 • (800) 452-0338 • Fax: (503) 399-4863  
[www.orcities.org](http://www.orcities.org)

May 21, 2010

John VanLandingham, Chairman  
Members of the Land Conservation and Development Commission

Richard Whitman, Director  
Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301

RE: DLCD/LCDC Policy Agenda – TPR

The League has heard from cities during the course of the last year about their problems with transportation planning rule (TPR) implementation. Those problems seem to be growing – coupled with existing restricted revenue streams and the growing need for communities to provide economic/job based incentives.

During the last Local Officials Advisory Committee (to LCDC) meeting, this issue again rose during the course of the discussions about LCDC's policy agenda, and the concerns echoed broadly enough to warrant a request to the Commission to add this item to this biennium's policy agenda, for review and possible rulemaking.

ODOT has initiated work required by the passage of HB 3379; but it seems reasonably likely that the work will be narrowly focused to implement the requirements of the bill (performance measures, alternative mobility standards, adjustment in the planning period for a limited number of jurisdictions) , and not undertake a broader review of specific conflicts that local governments are experiencing with the implementation of the TPR with other statewide planning goals, including Goal 10 (Housing) and Goal 9 (Economic Development) – which lie within the purview of DLCD/LCDC. Having said this, I would also like to note that the majority of the HB 3379 work group members that attended the first (and to-date only) meeting also articulated the need and desire for a broader TPR look.

By illustration, I will mention below just a couple of concerns that we are hearing about. This is not an all-inclusive list, nor is it prioritized or necessarily the most significant; it is the tip of the iceberg. And whether these or other concerns with implementation were or were not intended outcomes of the TPR, the point today is that local governments, particularly cities, are struggling with how to integrate planning and TPR requirements – the outcomes of which have long term impacts on their ability to manage where and how growth occurs; their ability to serve that growth efficiently; and their ability to capitalize on near term economic opportunities that benefit both their citizens (jobs) and the state (income).

-Because of the timing of zone changes/comp plan amendments to traffic analysis and mitigation requirements, in order to avoid cost prohibitive mitigation, we have heard of cases where applicants are limiting back their requests, resulting in low or lower density development – contrary to density guidelines/requirements, potentially eventually

*"Getting it done for Oregon's cities!"*

resulting in a greater UGB land need, and leading to development scenarios that are primarily based on less-impacted transportation systems, whether they make good planning sense or not. Some cases include opportunities for high density mixed-use development.

-Extensive mitigation requirements have also been necessary for requests that include zone changes for vacant residential annexations, when actual development on the property to be annexed may not occur for several years after annexation is approved.

-Most city TSP's (approved by DLCD) are based on average traffic impacts within the UGB, not on the most intensive use scenarios. ODOT's guidance has required a worst case development assumption (from a traffic impact standpoint) to avoid a "significant effect", even when a city's comprehensive plan designations have been adopted and subsequently acknowledged by DLCD in the comprehensive plan, and a PAPA is consistent with the city's comprehensive plan is adopted. This situation has forced many cities to question what they can depend on (comp. plan) when reviewing a development application; or is the reality that all cities now face an expensive and time consuming process to amend their TSP's to assume worst case development from a traffic impact standpoint before they can move forward with new development opportunities?

Several strategies have been employed by cities to find a way to make the current requirements work, but this has resulted in additional spent resources, with some cities still being left stymied. Strategies such as:

-Utilizing a process to "condition" a zone change decision to require that the TPR be met with subsequent development, however, some city codes do not allow a zone change to be conditioned; or

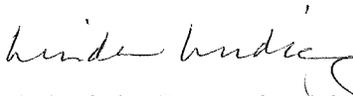
-Attaching a condition of approval to address the TPR through the PUD process, however, many cities have been instructed by DLCD to remove obstacles to needed housing that include removing planned development overlays at the request of the owner- which may undermine the city's ability to ensure that the TPR would be subsequently addressed; or

-Creating "holding" zones for annexed parcels, which effectively slows down the urbanization process and "value enhancement" of annexed properties.

Seemingly, these strategies are a stop-gap solution, which require extensive staff work and coordination as part of a process that is already extremely complex and time sensitive.

Thank you in advance for your consideration of this matter. I understand that representatives from the city of Lincoln City brought up their concerns with the transportation planning rule when LCDC was meeting there last month, and that several other cities or city organizations have shared their concerns and made a similar review request of the Commission.

Most Sincerely,



Linda Ludwig, Deputy Legislative Director

May 19, 2010

John VanLandingham, Chair  
Land Conservation and Development Commission  
635 Capitol St. NE, Suite 150  
Salem 97301-2540

**SUBJECT: Transportation Planning Rule**

Dear Chair VanLandingham and Members of the Commission:

The City of Ashland requests that LCDC consider including a broad look at the Transportation Planning Rule (TPR) as part of its 2009-2011 Policy Agenda. We would encourage LCDC to view this as a cooperative effort with the Oregon Transportation Commission (OTC)

We know that the Legislature passed HB 3379 in 2009 and that the Oregon Department of Transportation (ODOT) has begun work on the rulemaking required by this bill. While we appreciate efforts to look at delaying projects and other ways to measure vehicle congestion, neither HB 3379 nor the rulemaking will address some of the fundamental conflicts that exist between the Transportation Planning Rule and both other Statewide Planning Goals and HB 1059 that requires local governments to reduce the greenhouse gasses produced by passenger vehicles.

The City of Ashland has a longstanding commitment to Oregon's land use planning system and to equity in planning for all transportation modes. The City's comprehensive plan, land use regulations, and transportation plans focus on a transportation network that allows people to travel by transit, bicycle, or foot as easily as by car. This policy was originally adopted because the City Council felt that meaningful alternatives to the automobile are essential to the community's livability. Over time, we have come to believe that modal equity is also more financially and environmentally responsible than designing our community for the motor vehicle.

The City of Ashland recognizes that the TPR was originally drafted to ensure coordination between transportation and land use planning. In application, however, it actively works against good land use by focusing too much on motor vehicle travel. Jurisdictions end up planning to expand roads to accommodate an assumed ever-increasing number of motor vehicle trips rather than planning for land use that reduces dependence on the automobile. The existing TPR does not allow local jurisdictions to consciously decide to accept congestion, to assume reductions in trips made by cars and trucks, or to shift trips to transit, rail, walking, or bicycling. As such, the TPR discourages redevelopment and efforts to increase density because the infrastructure required is so auto-oriented that it works against walkable neighborhoods, employment areas, and commercial districts. Additionally, the required road projects are often expensive, which becomes itself an impediment to desired redevelopment and infill.

Ashland has run into the problems with the TPR recently. As the Commission knows from your recent visit to Ashland, we have been working on a Master Plan for redevelopment of the old Croman Mill site. This former mill site is over 60 acres in size and is critical to ensuring that we



have sufficient employment lands both for our economic health and to comply with Goal 9. To comply with the TPR, we conducted a transportation impact analysis and identified the impacts on City streets and highways owned and managed by the Oregon Department of Transportation. We found that several facilities will require capital improvements to increase the capacity to move passenger vehicles and trucks. Under the current TPR, not only do we need to identify these projects before we rezone the Croman Mill Site, but we also have to have a project financing plan in place prior to adopting the Master Plan. In addition to being prohibitively expensive, some of the projects that would be required conflict directly with some of the City's other land-use goals, including creating a pedestrian-friendly and transit oriented hub at one intersection and increasing the viability of another employment area at another. These projects all assume that we have to accommodate additional vehicle trips, rather than to use rail, transit, and other modes to move workers, residents, and goods. We believe that the expansion of the roads and streets – not increasing density of employment – will actually create the trips. Not only does the car focused approach limit our efforts to comply with Goal 14 and with Goal 9 but it also ultimately creates sprawl and decreases the livability of our community, which limits our success in complying with Goals 3, 4, and 5. Last but not least, planning for more capacity seems directly contrary to direction from the Oregon Legislature that we reduce VMT of passenger vehicles as a way to reduce greenhouse gas emissions.

The City of Ashland believes that DLCDC has a large stake in reconciling the conflicts that the TPR creates with other land use planning goals, and we hope that you include a much broader look at the TPR as part of your policy agenda.

Sincerely,



Martha J. Bennett  
City Administrator

- c. Mayor and City Council  
Bill Molnar, Community Development Department  
Linda Ludwig, League of Oregon Cities



**Campbell M. Gilmour**  
Director

**DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

**DEVELOPMENT SERVICES BUILDING**  
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

April 6, 2010

Richard Whitman, Director  
Department of Land Conservation & Development  
635 Capitol St. NE, Suite 150  
Salem, Oregon 97301-2540

**DEPT OF**

**APR 07 2010**

**LAND CONSERVATION  
AND DEVELOPMENT**

Re: Forest Template – ORS 215.750(1) & OAR 660-006-0027(1)(f)

For some time now we have noted a 'loophole' within the OAR and ORS that allows an owner of multiple adjacent properties in the forest zones to develop dwellings on each parcel by simply switching names on the deed titles, rendering the contiguously owned property no longer a 'tract' by definition. For example, a person owning four contiguous properties can place the first property under a husband's name, the second under the wife, the third under both names and the last under the husband or wife's name. By performing this simple task through quit claim deeds the owners have now opened up each property for the template test provisions, potentially establishing a dwelling on each lot. Additionally, much of the time these separations basically void OAR 660-006-0027(1)(h)(i) because there is no longer a tract that includes an existing dwelling although much of the time there is a dwelling on the original tract.

The juggling of ownership, in order not to be considered a tract is not consistent with other such applications as provided within OAR 660-006. The comparable language within the lot of record language, OAR 660-006-0027(1)(a)(C) *"The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract."* The template test does not have this language. Because of this a property owner is not limited to the tract having a dwelling on November 4, 1993 and can take the tract out of common ownership, simply by changing the names on the current deeds. This allows contiguously owned property not to be defined as a tract as found in ORS 215.010(2), *"Tract" means one or more contiguous lots or parcels under the same ownership.* because there is no date in time such as found in OAR 660-006-0027(1)(a)(C).

We find that since other portions of the OAR specifically limit development to a tract without a dwelling on November 4, 1993, the template test should have the same language as well. By including the tract language the property owner will be limited in developing multiple contiguous properties, holding the tract to one dwelling and consolidating those contiguous properties as part of the process, the same as OAR 660-006-0027(d)(B) *"When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the*

*dwelling is allowed.*” This would be stronger if the language also required a deed restriction stating the consolidation cannot be repealed if the consolidation is 160 acres for instance. This change will limit residential development within our forest zones the same as for the lot of record.

We have had numerous applications where three, four and five parcels have been taken out of a tract and each parcel later receiving approval for a template dwelling as provided for in OAR 660-006-0027(1)(f) and ORS 215.750(1). The potential build out of our forest zones appears to be in conflict with the intent of limiting development as the lot of record language does. Additionally, the increased time limits for such development as provided in ORS 215.417 to not require immediate build out appear to limit the immediacy of such development. Ultimately, if the OAR and ORS continue to allow more dwellings on land within the forest zones through the template provisions it also allows more dwellings on less land within closer proximity which in turn increases fire issues and overcrowding of our forest lands.

We request these proposed changes within the OAR be applied consistently to fairly allow development within each provision, not providing an advantage to one process over the other.

Sincerely,



Gary Hewitt - Sr. Planner  
Farm & Forest Specialist  
Clackamas County Planning Division  
Department of Transportation & Development

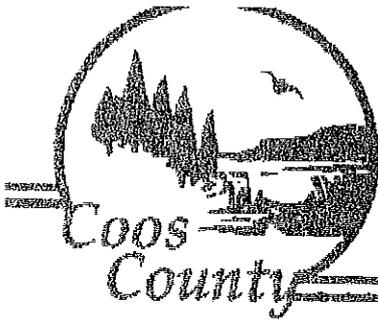
# BOARD OF COMMISSIONERS

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**NIKKI WHITTY KEVIN STUFFLEBEAN ROBERT E. "BOB" MAIN**

May 6, 2010

Richard Whitman, Director  
Oregon Department of Land Conservation  
And Development  
635 Capitol Street NE  
Salem, OR 97301

In re: HB 2229

Dear Mr. Whitman:

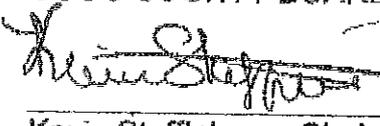
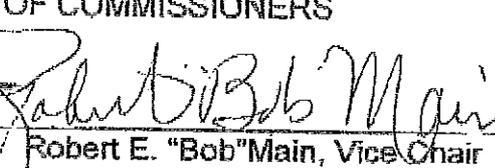
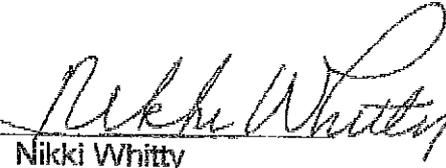
Coos County would like to put forth our name to be considered as a pilot project for the implementation of HB 2229.

We are especially interested in Sections 5, 6 and 7 but with a slightly different twist in that we would like to incorporate that effort into a Regional Problem Solving Process. We have one city (North Bend) that is running out of room and we are beginning to identify with the City of Bandon some properties that should be county but are inside city limits and some properties that should be inside the city limits but are not. As we begin a review of our previous mapping, our cities and citizens must be involved in the process.

Please let us know if we can provide you with any additional details at this time.

Sincerely,

COOS COUNTY BOARD OF COMMISSIONERS

Kevin Stufflebean, Chair / Robert E. "Bob" Main, Vice Chair / Nikki Whitty



# JACKSON COUNTY

Oregon

Dave Gilmour, M.D. (541) 774-6117  
Dennis C.W. Smith (541) 774-6119  
Jack Walker (541) 774-6118

10 South Oakdale, Room 214  
Medford, Oregon 97501

May 6, 2010

Mr. Richard Whitman, Director  
Department of Land Conservation & Development  
635 Capitol Street NE, Ste. 150  
Salem, OR 97301-2540

Re: House Bill 2229

Dear Mr. Whitman:

The Jackson County Board of Commissioners would like to express the County's interest in pursuing provisions of House Bill 2229 related to correcting zoning and mapping errors in areas designated farm and forest lands. The Board of Commissioners understands that the Land Conservation and Development Commission (LCDC) must make rules in order to clarify the particulars of how counties will utilize the remapping provisions of HB 2229. As the LCDC will be considering its rulemaking agenda in early June 2010, the County requests that the LCDC include rulemaking for HB 2229 on their Spring 2010 rulemaking agenda.

In addition, if the LCDC appoints a work group to assist them with rulemaking for HB 2229, the Board of Commissioners requests that a representative from the County be afforded an opportunity to participate in the work group.

Sincerely,

JACKSON COUNTY BOARD OF COMMISSIONERS

Jack Walker, Chair

Dennis C.W. Smith, Commissioner

Dave Gilmour, Commissioner

**DEPT OF**

**MAY 10 2010**

**LAND CONSERVATION  
AND DEVELOPMENT**