



Oregon

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TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director
Katherine Daniels, Farm and Forest Lands Specialist

SUBJECT: **Agenda Item 7, November 5–6, 2009 LCDC Meeting**

UPDATE ON FOREST LAND CONVERSION AND INFORMATIONAL BRIEFING FROM THE OREGON DEPARTMENT OF FORESTRY

I. AGENDA ITEM SUMMARY

The department has been working closely with the Oregon Department of Forestry (ODF) to help reduce and accurately measure the conversion of forest land to other uses. Over the last 20 years, as Oregon's timber harvest has declined sharply, large commercial timber holdings are increasingly being marketed and sold to real estate interests. In its 2008 publication *The Future of Oregon's Working Forests*, the Oregon Forest Resources Institute reports that the state is about to enter an era of forest ownership change unprecedented in state history. With this change in ownership comes both a significant challenge and a narrow window of opportunity to influence the potential future uses of forest land.

The department has initiated a three-pronged effort to help reduce forest land conversion to other uses by: 1) promoting the use of transfer of development rights to direct development away from forest areas; 2) seeking professional assessments of forest land capabilities before rezonings are permitted; and 3) more accurately tracking forest land conversion trends.

For additional information, please contact Katherine Daniels, Farm and Forest Lands Specialist at (503) 373-0070 ext. 329 or katherine.daniels@state.or.us.

II. SUMMARY OF RECOMMENDED ACTION

The department recommends the commission direct department staff to incorporate relevant ODF forest and farmland conversion data from its *Land Use Change* database into the biennial Farm and Forest Reports, for added completeness and accuracy in tracking conversion trends.

III. BACKGROUND

A. Measuring Forest Land Conversion

The ODF and DLCD both track the loss of farm and forest land to development and other uses, but in different ways. There is an opportunity to expand the biennial Farm and Forest Reports to include useful information on farm and forest land conversion from the ODF's periodic report: *Forests, Farms & People: Land Use Change on Non-Federal Land in Oregon*; the most recent report is for 1974–2005. The data provide a valuable and more detailed perspective on changes in farm and forest land use that is not currently captured in the Farm and Forest Reports. ODF data together with DLCD data would yield a more complete and meaningful picture of farm and forest land conversion in Oregon over time.

The chief difference between the two types of data is that DLCD tracks changes to zoning, while ODF data reflect changes in actual land use. The department's Farm and Forest Reports provide data on the acreage of land zoned out of exclusive farm use (EFU) and forestry to a variety of other resource, rural and urban uses. Data on mixed farm-forest areas are currently included in forest land figures, although these data could be separated out in the future, if desired. Zone changes often precede, though occasionally follow, actual changes in land use. Sometimes, zone changes are not followed by changes in land use, such as when the zone change is initiated by local government and not a landowner. Thus, a change in zoning is not an absolute indicator of an eventual change in land use.

ODF uses five categories of resource land use: wildland forest, wildland range, mixed forest/agriculture, mixed range/agriculture and intensive agriculture. These are more refined use categories than are used by DLCD. Wildland forest and wildland range are defined as having fewer than five structures per 640 acres.¹ Intensive agriculture, mixed forest/agriculture and mixed range/agriculture all have fewer than nine non-farm structures per 640 acres.² There are several other categories of non-resource rural and urban land uses. Thus, a reported change in land use category reflects an actual change on the ground in land use, and is therefore a more accurate indicator of land conversion than is zoning.

ODF data are on actual changes in land use, determined by changes in density of development. They are based on 37,003 sample points using aerial photography, and while they do not represent an absolute accounting of all changes, they are statistically representative of land use change. For purposes of this report, only data on forestland will be presented. ODF data on land use change captures not only converted forest land acreage that may have followed rezonings, but also the more limited acreage that is allowed to be converted within forest zones. DLCD's data do not capture acreage converted within forest zones, though it does report the number of

¹ This definition reflects a standard that is similar to the department's minimum lot size for large tract forest dwellings, which is one dwelling per 160 acres in western Oregon (or 4:640), and one per 240 acres in eastern Oregon (or 2.7:640).

² This definition reflects a density that is typical for farm areas, when combining permitted farm and non-farm dwelling allowances (there are more opportunities to site dwellings in EFU zones than in forest zones).

dwellings, other uses, and land divisions that are approved throughout the state, as well as rezonings. The department's information includes all reported land use changes in the state, not just sample data.

ODF's five categories of resource land use and two levels of dwelling density offer greater specificity in defining the location and degree of farm and forest land conversion than do the two categories of zoning used by the department. In practice, there are many levels of zoning densities in use across the state. Using just two categories of land to measure land use change means that when lands are rezoned within a resource category, most often to be less protective, department data do not capture the additional potential for development generated by the rezoning. ODF data come closer to doing this, by using five categories of resource land use.

Finally, ODF data are provided on a county-by-county basis. Department data on zone changes are not currently provided on a county-by-county basis, but rather on a statewide basis; however, we could provide this data on a county-by-county basis.

While it would be desirable to combine elements of both the ODF and department land conversion data, one challenging aspect is the respective reporting periods do not match. The department reporting period is two years, while the ODF reporting period is five years (formerly 10 years). Also, ODF began its data-collection in 1974, while the department began its data collection in 1989.

A comparison of department and ODF data using *approximately* similar time frames is made below. Department data on forest land loss are from 1989 to 1996 and from 1997 to 2007:

1989–1996: 9,677 net acres rezoned from forest use/7 years = 1,378 net acres rezoned annually

1997–2007: 646 net acres rezoned from forest use/10 years = 65 net acres rezoned annually

The annual net acreage rezoned out of forest use between 1997 and 2007 was reduced in part because 4,058 acres of EFU land were rezoned *into* forest use between 1997 and 2007. Reduced pressure for forest land rezoning or improved zoning enforcement may account for the rest of the drop in forest land rezoning in this time period.

To compare this forest rezoning data with ODF data on change in land use in similar time periods, following is data from 1984 to 1994 and 1994 to 2005:

1984–1994:

29,000 net acres converted from wildland forest

8,000 net acres converted from mixed forest/agriculture

37,000 total net acres converted from forest use/10 years = 3,700 net acres converted annually

Almost four times as much acreage was converted from forest use in this earlier time period as was rezoned out of forest use. The large differential is probably due to the factors described in the foregoing discussion (i.e., ODF data account for a wider range of conversion circumstances).

Similar to the trend for rezoning, there was a dramatic drop in forest land acreage converted in the most recent time period, as shown below:

1994–2005:

12,000 net acres converted from wildland forest

 0 net acres converted from mixed forest/agriculture

12,000 total net acres converted from forest use/11 years = 1,091 net acres converted annually

The net acreage converted from forest to other uses was less than one-third in the 1994–2005 time period than it was in the 1984–1994 time period. It is likely that this dramatic drop reflects the rigorous forest dwelling and land division standards that were adopted by the legislature in 1993. Even so, 12,000 acres is a significant amount of land to lose from the wildland forest land base. Comparing the 12,000-acre conversion figure to the 646-acre rezoning figure indicates that the level of conversion occurring *within* forest zones is considerably more significant than the acreage being rezoned *out* of forest zones.

The incorporation of relevant ODF data on farm and forest land conversion into the commission’s biennial Farm and Forest Reports would provide added clarity and accuracy in tracking forest conversion issues.

B. Transfer of Development Rights

Transfer of development rights (TDR) is a market-based planning tool that could be used to help reduce development pressure within forest areas. TDR allows communities to designate high-priority areas of protection, within which landowners may choose to transfer their right to develop to other more appropriate locations chosen by the community. TDR provides both monetary compensation for the landowner and the permanent preservation of the land from which the development rights are transferred, through the recording of a conservation easement. A conservation easement can allow a variety of forest uses, including timber harvesting, but would prohibit development uses.

In the 2009 legislative session, two TDR-related bills were passed. Senate Bill 763 is enabling legislation that would allow any Oregon community to develop a TDR program, and that specifically permits the creation of inter-municipal TDR programs. House Bill 2228 authorizes the creation of three pilot project TDR programs for the protection of forest land, to be guided in their creation by LCDC and staff. It is the department’s view that successful pilot projects will motivate other communities to develop TDR programs as well. HB 2228 calls on LCDC to select the pilot projects from among applicants. Applicants must submit concept plans and indicate how their comprehensive plans and land uses regulations would be amended.

The department has received a formal letter of interest from Klamath County in being a TDR pilot project, as well as a communication of potential interest from Union County. Staff are recommending that the commission initiate rulemaking to develop a pilot project selection process as required by HB 2228, with a public hearing at the January 2010 commission meeting.

C. Professional Assessments to Justify Rezonings

When landowners submit applications to counties to rezone forest land to other uses, they often do so claiming that the property is not productive forest land, providing statements to this effect from consultants who may or may not be trained as certified professionals. County planning staff and decision-makers often lack the expertise to evaluate these statements and therefore usually accept them. OAR 660-006-005 states that, where traditional soils data is not available or is inaccurate, an alternative method for determining forest land productivity may be used as described in the ODF's *Land Use Planning Notes Number 3* (1998). However, this guide as written is advisory only.

The department and ODF staff have just completed a rewrite of ODF's *Land Use Planning Notes* to 1) require the use of professional soils classifiers or foresters when challenging traditional soils data and 2) provide more specific guidance to planning staff in interpreting productivity assessments. When the commission initiates rulemaking for division 6, staff will be recommending that the updated *Land Use Planning Notes* be referenced.

IV. RECOMMENDATION

The department recommends that the commission direct department staff to incorporate relevant ODF forest and farmland conversion data from the ODF *Land Use Change* database into the biennial Farm and Forest Reports, for added completeness and accuracy in tracking conversion trends. Specifically, the following new tables with accompanying text are recommended to be added to the Farm and Forest Reports, beginning with that for 2008 - 2009:

- 1 – Four tables that break down annual DLCD rezoned acreage by county (from/to forest, mixed farm-forest, EFU and rural/urban development)
- 2 – One table that compares annual DLCD rezoned development acreage to average annual ODF conversion development acreage, including the ratio between the two
- 3 – One table that compares cumulative DLCD rezoned development acreage to ODF conversion development acreage, including the ratio between the two