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Date: August 12, 2005

From: Rob Zako, Transportation Advocate

To: DLCD and ODOT staff and consultants

Cc: TPR Work Group
Joint LCDC/OTC Transportation Subcommittee

Re: Recommendations for changes to the TPR purpose statement

Dear DLCD and ODOT staff and consultants,

Please consider the following recommendations for changes to the draft TPR purpose statement, as amended on August 4, 2005.

These comments incorporate and supersede our comments dated August 2, 2005.

We provide a table of contents for ease of reference, and also to serve as an executive summary.

At the TPR Work Group on August 2, 2005, we listed potential issues with the TPR purpose statement:

1. Legal framework;
2. Transportation/land use connection;
3. Multiple modes, reduced reliance, transportation disadvantaged;
4. Transportation needs;
5. Safety;
6. Cost of transportation system;
7. Strong economy;
8. Air, water and noise pollution;
9. Energy conservation;
10. Natural and cultural resources
11. Social costs;
12. Rural lands, goal exceptions, UGBs and compact urban development;
13. Variations for different parts of the state; and
14. Procedures, types of plans, coordination between governments.

In section headings, we identify the issue in *[italicized square brackets]*.

Sincerely,

A handwritten signature in cursive script that reads "Rob Zako".

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1. Wrap up the current effort to review and revise the TPR in favor of the “Big Look.”

On Tuesday, Governor Ted Kulongoski signed Senate Bill 82 into law, initiating a 4-year “Big Look” at Oregon’s land use planning system. He said, “Our ideals about land use are the same, but our ideas on how to retain those ideals are ever-changing.” Speaking about looking at Measure 37 he said, “What I don’t want to have happen is to lose sight of the bigger picture.”¹

At this point in Oregon’s history, we must look at the bigger picture of Oregon’s land use planning system: How do we plan and develop the transportation system? How do we use our land? How do we maintain a strong economy? How do we protect our natural resources? And how do we do so consistent with our values for freedom, democracy and responsibility?

But we won’t be able to focus on the Big Look if we have a bunch of different work groups looking at a bunch of different technical aspects of this or that part of the planning program.

For the most part, concerns arising out of *Jaqua* have been addressed, although important questions about implementation of the “1/2-Mile Rule” remain. Other issues aren’t critical and should be put off. The effort to clarify the purpose of the TPR, while useful, isn’t critical.

With much larger issues at stake, LCDC and OTC, their staff, members of the TPR Work Group, and other interested persons could much better devote their limited time and resources to looking at the bigger picture, as Governor Kulongoski urges.

The current effort to review and revise the TPR, which grew out of concerns over the *Jaqua* decision, should be wrapped up in favor of the “Big Look.”

But if the Joint LCDC/OTC Transportation Committee is committed to revising the TPR purpose statement, we offer the following specific recommendations.

2. Assess the draft TPR purpose statement not on whether a policy shift has occurred but on whether it expresses the right policy clearly.

We appreciate that the Joint LCDC/OTC Transportation Subcommittee is interested in whether and how the revised draft TPR purpose statement shifts policy.

The purpose statement is being revised, in part, because the existing statement is unclear. Different people can read the existing purpose statement and come away with different ideas about the intent of the TPR. But because the existing statement is unclear and open to some interpretation, one person may see that no policy shift has occurred and another will say that a shift has occurred. People with different points of view could waste valuable time arguing over whether or not a policy shift has occurred.

Instead, we suggest it would be better to assess the revised draft TPR purpose statement on whether it expresses the right policy clearly.²

¹ [“Gov. Kulongoski signs land-use bill while in Bend,” The \(Bend\) Bulletin, 8/10/2005](#)

² In a 1946 essay titled [“Politics and the English Language”](#) George Orwell wrote: “The great enemy of clear language is insincerity. When there is a gap between one’s real and one’s declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish squirting out ink.” Of course, Orwell was writing about, among other things, England immediately after World War II and socialist propaganda. Here in Oregon we have a tradition of public involvement (Goal 1) and accountability (public meeting laws). We expect our officials to be open and to speak plainly.

3. Emphasize the legal basis of the TPR in statewide planning goals, especially the fundamental goal of coordinating transportation and land use planning. *[Legal framework; Transportation/land use connection]*

By failing to quote Goal 12 and important provisions of other goals as they relate to transportation planning in the opening paragraph, the draft language leaves the legal basis for and fundamental purposes of the TPR unstated and/or disconnected from the statewide planning goals.

By highlighting purposes related primarily to transportation, the draft language shifts away from the existing intent of coordinating transportation and land use. The primary purpose of LCDC's statewide planning goals is to guide land use planning and development. Thus a primary purpose of the TPR is to detail how local governments and transportation service providers are to coordinate transportation and land use planning. In particular, it is critical that the TPR purpose statement highlight the goal of planning transportation and land use together so that the transportation system can serve as a *framework* that both *supports* and *guides* development.

These two related issues are critical to 1000 Friends of Oregon.

We recommend amending subsection (1) along the following lines:

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|---|
| (1) This division implements Statewide Planning Goal 12 (Transportation) <u>to provide and encourage a safe, convenient and economic transportation system.</u> and This division also implements provisions of other statewide planning goals as they related to transportation planning <u>and development, especially Statewide Planning Goal 11 (Public Facilities and Services) to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.</u> The purposes of this division are to coordinate and direct land use and transportation planning to: |
|---|

The proposed language:

- Makes explicit that the legal function of the TPR is to implement Goal 12 and provisions of other statewide planning goals as they relate to transportation planning and development.
- Quotes Goal 12 to make it explicit that the primary purpose of the TPR is “to provide and encourage a safe, convenient and economic transportation system.”
- Quotes Goal 11 (Public Facilities and Services) to make it explicit that a fundamental purpose of the TPR is to plan and develop transportation in coordination with land uses and highlights that the transportation system not only *supports* development but is also a *framework* that *guides* development.

Note that the draft language includes many references to coordinating transportation and land use:

“(1) *** The purposes of this division are to coordinate and direct land use and transportation planning to: *** (d) Ensure that the planned transportation system supports a pattern of travel and land use in urban areas *** (j) Ensure that changes to comprehensive plans are supported by adequate planned transportation facilities. (2) *** Changing land use and travel patterns will also *** (a) *** by

promoting changes in the transportation system and land use patterns. *** To accomplish this outcome, this division promotes *** changing land use patterns ***”

But none of these scattered phrases really emphasis the goal of coordinating transportation and land use nor make plain the reason for doing so, as Goal 11 so clearly does.

Note that the existing language also includes many references to coordinating transportation and land use:

“* * * this division is also intended to assure that the planned transportation system supports a pattern of travel and land use in urban areas * * * by promoting changes in land use patterns and the transportation system * * * Changing land use and travel patterns will also * * *”

While none of these phrases are as explicit as Goal 11, the existing language highlights the goal of coordinating transportation and land use better than the draft language because the existing language is more succinct and explicitly refers to Goal 11 early on.

4. Clarify the organization of the purpose statement for the benefit of the intended audience(s).

We believe that the overall organization of the revised draft purpose statement is a vast improvement over the existing statement. It is much clearer to itemize different aims than to have a single long paragraph.

But the revised draft is fuzzy and in some ways resembles a kitchen sink of statements from policy wonks. As such, the revised draft does not yet clarify the purpose of the TPR adequately. Phrases such as “mobility,” “transportation disadvantaged” and “access and circulation” may mean something to transportation planners, but mean less to decision makers and even less to the people they are elected to represent. Moreover, some aims are expressed repeatedly in different parts of the purpose in different ways, leaving one to wonder what the real aims are. In particular, much of the new subsection (2) appears to echo elements of subsection (1), but using different words. Again, the reader is left wondering what the real aims are.

In general, as we recommended in our previous comments, we believe that the purpose statement would benefit greatly from a much clearer structure and a sense of the intended audience for each section.

In particular, refining on our prior recommendation, we recommend the following structure for the whole purpose statement:

- (1) Legal basis and substantial purposes for all parts of the state, expressed in plain English.
- (2) Procedural purposes and variations for different parts of the state, expressed in planning language.

The intended audience for the first part of subsection (1) is the lawyers who care about the legal basis of administrative rules.

The intended audience for the second part of subsection (1) is citizens who are interested in what the TPR means in their daily lives.

The intended audience for subsection (2) should be local decision makers and their planning staff, who are responsible for the various plans and procedures for implementing the TPR and interested in how the TPR may affect them differently from other parts of the state.

5. Clarify the substantial aims in subsection (1).

The various substantial aims articulated in the revised draft are in places unclear, are somewhat at odds with each other, and are expressed in language that is too policy wonkish. Here we critique the substantial elements of subsection (1) point by point.

In reviewing each element, we recommend:

- Being clear on the specific desired on-the-ground outcome and not mixing together different types of outcomes.
- Using language that is meaningful to the average citizen and avoids language that obscures intent.

5.1. Revise subsection (1)(a) to clarify what is meant by “transportation needs.” *[Transportation needs]*

Subsection (1)(a) is about “transportation needs” and suggests a distinction between ordinary needs and the special needs of the “transportation disadvantaged,” as if they are different types of needs. But what is a “need” and what is a “want”? Do I “need” to be able to commute to work in a car without encountering traffic congestion or paying high gas prices or tolls, or do I merely “want” that? By talking about “needs,” hence suggesting some absolute standard, the language obscures the very real trade offs that must be made between different interests and between what the public wants and what they are willing to pay for. So what actually is “needed”? Moreover, the phrases “transportation needs,” “mobility” and “transportation disadvantaged” are all too policy wonkish.

We recommend replacing subsection (1)(a) with language along the following lines:

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| (a) Promote the development of transportation systems adequate to serve statewide, regional and local transportation needs and the mobility needs of the transportation disadvantaged; <u>Provide convenient and affordable transportation choices that are adequate to allow everyone in Oregon, including those without access to automobiles, to live, work, shop, go to school, recreate, travel and generally get from place to place as part of their daily lives;</u> |
|---|

5.2. Revise subsection (1)(d) to clarify the importance of supporting the flow of goods and services. *[Strong economy]*

If subsection (1)(a) is changed to emphasize the requirements of average people to travel as part of their daily lives, then (1)(d) should emphasize the requirements to move goods and services as part of a strong economy. Moreover, the phrase “mobility” is both too policy wonkish and too specific to truck freight—one doesn’t generally talk about air, marine, rail or pipeline mobility. The revised language should apply to all freight modes.

We recommend replacing subsection (1)(d) with language along the following lines, and renumbering it as (1)(b) to form a pair with (1)(a):

(db) ~~Facilitate freight mobility and the economic flow of goods and services within regions and throughout the state;~~ Provide convenient and affordable transportation choices that are adequate for the flow of goods and services essential to a strong economy;

5.3. Revise subsection (1)(b) to clarify the social good that results from providing multiple modes of transportation. [Multiple modes]

Concerns around the “principle reliance” language in Goal 12 and the “reduced reliance” language in the TPR are the stated primary reasons for wanting to revise the TPR purpose statement. But if the aim of this effort is not to shift policy but to clarify existing intent, then there should be a greater effort to explain the reason for the existing intent and less effort to change the words to appease those who may or may not support that intent.

Rather than shy away from the “principle reliance” or “reduced reliance” language, the revised purpose statement should better explain why supporting multiple modes of transportation and providing choices is a good thing. The emphasis should be on what the TPR means in people’s daily lives, and in what larger social aims the TPR is promoting.

We recommend replacing subsection (1)(d) with language along the following lines, and renumbering it as (1)(c) to follow the subsection about the flow of goods and services:

(bc) ~~Encourage and support the availability of a variety of transportation choices that balances vehicular use with other critical transportation needs, including air, rail, and marine transportation;~~ Support multiple modes of transportation for both people and freight, including pedestrian, bicycle, transit, car, truck, rail, marine, air and pipeline, in order to provide choices, meet differing needs including the needs of the transportation disadvantaged, strengthen the economy by supporting healthy competition amongst modes, enhance security by avoiding undue reliance on any one mode, and promoting other livability, social, economic and environmental aims;

5.4. Revise subsection (1)(c) to focus on the aim of safety. [Safety]

Goal 12 and ISTEA both talk about a “safe, convenient and economic” transportation system. Insofar as safety is the first listed aim, it deserves its own element in subsection (1) elaborating the concerns for safety. We believe that subsection (1)(c) is trying to do this, but it mixes the important and understandable concept of safety with the policy wonkish concepts of “access” and “circulation.” To the extent that the latter are but means to the former, they need not be explicitly mentioned. Rather subsection (1)(c) should elaborate on what is meant by a “safe” transportation system, especially in the post-9/11 world.

We recommend replacing subsection (1)(c) with language along the following lines, and renumbering it as (1)(d) to follow the subsection about multiple modes:

(ed) ~~Provide for safe and convenient vehicular, transit, pedestrian, and bicycle access and circulation;~~ Provide for the safety of people, goods and services traveling, as well as for residences and businesses near transportation

facilities, by minimizing the risk of death, injury, property damage, theft and terrorism;

6. Add explicit elements to subsection (1) for aims of Goal 12 that are implied by the existing purpose statement.

The existing purpose statement refers to “a pattern of travel and land use in urban areas which will avoid the air pollution, traffic and livability problems faced by other areas of the country.” It also refers to complementing “state and local efforts to meet other objectives, including containing urban development, reducing the costs of public services, protecting farm and forest land, reducing air, water and noise pollution, conserving energy and reducing greenhouse gases that contribute to global climate change.”

While much of this language has been carried over to subsections (2) and (3) of the draft, these aims are not listed as explicit aims in subsection (1) and in some cases come with caveats. Thus it is not clear that these aims are as much aims as those listed in subsection (1). As the original purpose statement did not make a distinction between the two types of aims, we see that the draft purpose statement shifts policy away from these aims.

Insofar as these aims are part of Goal 12 and other statewide planning goals that the TPR is intended to represent, we believe that these aims deserve equal status and should be added to the explicit aims in subsection (1).

6.1. Add an explicit aim to reduce the cost of the transportation system. [*Cost of transportation system*]

Goal 12 and ISTEA both refer to a “safe, convenient and economic” transportation system. The term “economic” refers both to a system that supports a strong economy and a system that is economical, i.e., that doesn’t cost too much. Goal 12(5) is to “minimize adverse social, economic and environmental impacts and costs.” The existing purpose statement refers to “reducing the cost of public services.”

In order to make explicit concerns about the cost of the transportation system, we recommend adding a new element to subsection (1) with language along the following lines, numbered as (1)(e) to follow the subsection about safety:

(e) Promote a cost-effective transportation system;

6.2. Add an explicit aim to reduce air, water and noise pollution. [*Air, water and noise pollution*]

Goal 12(5) is to “minimize adverse social, economic and environmental impacts and costs.” Goal 6 is “to maintain and improve the quality of the air, water and land resources of the state.” The existing purpose statement refers to “reducing air, water and noise pollution.”

In order to make explicit concerns about the air, water and noise pollution, we recommend adding a new element to subsection (1) with language along the following lines, numbered as (1)(f) to follow the subsection about the cost of the transportation system:

(f) Reduce air, water and noise pollution;

6.3. Add an explicit aim to conserve energy. [Energy conservation]

Goal 12(6) is to “conserve energy.” Goal 13 is “to conserve energy.” The existing purpose statement refers to “conserving energy and reducing greenhouse gases that contribute to global climate change.”

Governor Kulongoski recently announced new steps to curb global warming in Oregon.³ A report prepared by the Governor’s Advisory Group on Global Warming states:⁴

Issue: One-third of Oregon's total greenhouse gas (GHG) emissions are from vehicle exhaust. Cost-effective opportunities to reduce these emissions are available, particularly in urban areas.

Solutions: Two categorical solutions are: 1) to reduce GHG emissions from consumption of fossil fuels by displacing conventional combustion engines with hybrid, electric and other technological/fuel options, and 2) to guide land use choices, especially in Oregon's urban areas, toward more efficient choices including higher densities, transit options, mixed-use neighborhoods, and common wall dwelling designs.

(Transportation Actions to Reduce Greenhouse Gases, p. 75)

In order to make explicit concerns about energy conservation and global warming, we recommend adding a new element to subsection (1) with language along the following lines, numbered as (1)(g) to follow the subsection about air, water and noise pollution:

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| (g) Conserve energy and reduce greenhouse gases that contribute to global climate change; |
|---|

6.4. Add an explicit aim to protect natural resources, and conserve scenic and historic areas and open spaces. [Natural and cultural resources]

Goal 12(5) is to “minimize adverse social, economic and environmental impacts and costs.” Goal 5 is “to protect natural resources and conserve scenic and historic areas and open spaces.”

In order to make explicit concerns about energy conservation and global warming, we recommend adding a new element to subsection (1) with language along the following lines, numbered as (1)(h) to follow the subsection about energy conservation:

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|--|
| (h) Protect natural resources, and conserve scenic and historic areas and open spaces; |
|--|

6.5. Add an explicit aim to minimize adverse social costs and promote environmental justice. [Social costs]

Goal 12(3) is to “consider the differences in social consequences that would result from utilizing differing combinations of transportation modes.” Goal 12(5) is to “minimize adverse social, economic and environmental impacts and costs.” Goal 12(7) is to “meet the needs of the

³ On April 13, 2005, Governor Ted Kulongoski announced five new initiatives to curb global warming in Oregon: http://governor.oregon.gov/Gov/press_041305a.shtml

⁴ Part of a regional strategy to reduce greenhouse gas emissions in the Northwest, the initiatives are based on the recommendations of The Governor's Advisory Group on Global Warming, which developed a report called the *Oregon Strategy for Greenhouse Gas Reduction*: <http://egov.oregon.gov/ENERGY/GBLWRM/Strategy.shtml>

transportation disadvantaged by improving transportation services.” The existing purpose statement refers to improving “the livability of urban areas.”

There are numerous federal requirements for environmental justice, collectively referred to as “Title VI” (of the Civil Rights Act of 1964).⁵

According to EPA, “Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.”⁶

According to FHWA, “Safety and mobility are two of the U.S. Department of Transportation’s top priorities. Achieving environmental justice is another undeniable mission of the agency.”⁷

In order to make explicit concerns about social costs and environmental justice, we recommend adding a new element to subsection (1) with language along the following lines, numbered as (1)(i) to follow the subsection about natural and cultural resources:

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|---|
| (i) <u>Minimize adverse social costs and promote environmental justice, and meet the needs of the transportation disadvantaged by improving transportation choices;</u> |
|---|

6.6. Add an explicit aim to promote compact urban development and protect rural lands. [*Rural lands*]

Goal 3 is “to preserve and maintain agricultural lands.” Goal 4 is “to conserve forest lands...” Goal 11 is “to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.” Goal 14 is “To provide for an orderly and efficient transition from rural to urban land use.” The existing purpose statement refers to “containing urban development, reducing the costs of public services [and] protecting farm and forest land.”

In order to make explicit concerns about rural lands, we recommend adding a new element to subsection (1) with language along the following lines, numbered as (1)(j) to follow the subsection about social costs:

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| (j) <u>Promote compact urban development in order to protect farm and forest lands and reduce the costs of public services;</u> |
|---|

7. Eliminate subsection (2), as its elements should be explicit in subsection (1).

Subsection (2) is part of the “kitchen sink,” in which language from various sources has been seemingly thrown together, creating a purpose that is redundant and at times confusing.

⁵ FHWA, “Title VI & Environmental Justice”: <http://environment.fhwa.dot.gov/guidebook/chapters/v2ch16.htm>

⁶ EPA, “Environmental Justice”: <http://www.epa.gov/compliance/environmentaljustice/>

⁷ FHWA, “An Overview of Transportation and Environmental Justice”: <http://www.fhwa.dot.gov/environment/ej2000.htm>

By making the elements of subsection (2) explicit in subsection (1), there is no longer a reason to carry over this language from the existing purpose statement to the new purpose statement.

We recommend deleting subsection (2) in favor of additional explicit elements in subsection (1):

~~(2) In meeting the purposes described in section (1), coordinated land use and transportation plans will ensure that the planned transportation system supports a pattern of travel and land use in urban areas that will avoid the air pollution, traffic and livability problems faced by other large urban areas of the country through measures designed to increase transportation options and make more efficient use of the existing transportation system.~~

8. Distinguishing substantive and procedural purposes. [Procedures]

The TPR is ultimately about achieving various outcomes (meeting transportation needs, reducing reliance on the automobile, maintaining air quality, conserving energy, etc.). But as a practical matter, the TPR is about requirements for planning and coordination for local governments and transportation service providers. The purpose of the TPR would be clearer if the substantive and procedural purposes were separated.

We recommend moving the portions of subsection (1) related to procedural purposes to subsection (4), and renumbering it subsection (2):

(1) * * *

- ~~(e) Protect existing and planned transportation facilities, corridors and sites for their identified functions;~~
- ~~(f) Provide for the construction and implementation of transportation facilities, improvements and services necessary to support acknowledged comprehensive plans;~~
- ~~(g) Identify how transportation facilities are provided on rural lands consistent with the goals;~~
- ~~(h) Ensure coordination among affected local governments and transportation service providers and consistency between state, regional and local transportation plans; and~~
- ~~(i) Ensure that changes to comprehensive plans are supported by adequate planned transportation facilities.~~

* * *

~~(42) This division sets requirements for coordination among affected levels of government and transportation service providers for preparation, adoption, refinement, implementation and amendment of consistent state, regional and local transportation system plans. Transportation system plans shall provide for the construction and implementation of transportation facilities, improvements and services necessary to support acknowledged comprehensive plans. Transportation system plans adopted pursuant to this division fulfill the requirements for public facilities required under ORS 197.712(2)(e), Goal 11 and OAR Chapter 660, Division 011, as they relate to transportation facilities. This division explains how local governments and state agencies responsible for transportation planning~~

demonstrate that changes to comprehensive plans are supported by adequate planned transportation facilities and protect existing and planned transportation facilities, corridors and sites for their identified functions. This division also explains how local governments and state agencies responsible for transportation planning demonstrate compliance with other statewide planning goals and identifies how transportation facilities are provided on rural lands consistent with the goals. * * *

9. Shorten subsection (3), include its aims as elements in subsection (1), and eliminate language that weakens the aims of the TPR. [Variations]

Subsection (3) is intended to clarify variations in subsections (1) and (2) for different parts of the state.

But subsection (3) is another part of the “kitchen sink,” in which language from various sources has been seemingly thrown together, creating a purpose that is redundant and at times confusing.

In particular, the language in subsection (3) referring to “changing land use and travel patterns will also complement efforts to meet other state and local objectives...” should be made an explicit part of subsection (1), as we suggest above. Having this language in subsection (3) confuses the role of subsection (3) to clarify variations. It also implies that the aims articulated in subsection (3) are less important than the aims in subsection (1). But there is nothing in Oregon’s land use planning program to suggest that some statewide planning goals are less important than others.

Making a distinction between metropolitan areas and other areas suggests that the aims articulated in subsection (1) are to be achieved more so in metropolitan areas but less so in other areas. If that were the case, then the aims in subsection (1) should be rewritten to apply to all parts of the state, thereby eliminating the need to make the distinction. In fact, the aims in subsection (1) do or should apply to all parts of the state. Isn’t it just as important for people to be able to walk along the main street in one of Oregon’s small towns, where just about everyone lives within walking distance of each other, as in the big cities? Isn’t it critical to provide intercity travel options to people in small towns as in metropolitan areas (even as Greyhound is cutting service to Oregon’s small towns, leaving small-town residents without access to cars stranded)? Don’t farm workers in rural areas who bicycle everywhere deserve to be able to do so safely just as much as people in urban areas?

That said, clearly there will be variations in how the aims of the TPR are realized and balanced in different parts of the state. But so long as the aims listed in subsection (1) aren’t interpreted as rigid and absolute, then local governments should be able to realize these aims in a manner appropriate to the local situation. This should almost go without saying, certainly without as many words as are in the proposed subsection (3)!

We also object to the language in subsection (3)(a) that distinguishes core areas from other areas within metropolitan parts of the state. We see such language as an important policy shift away from providing transportation choices (car, transit, bicycle and pedestrian) throughout metropolitan areas. Indeed, it wouldn’t make sense to provide, say, a transit system that served *only* downtowns, transit-oriented developments and mixed-use, pedestrian-friendly centers.

For these reasons, we recommend deleting all but the first two sentences of subsection (3), moving these two sentences to subsection (4), and renumber this subsection to subsection (2):

~~(3) — The extent of planning required by this division and the outcome of individual transportation plans will vary depending on the size of the community and upon community needs and circumstances. Generally, larger and faster growing communities will need to prepare more comprehensive and detailed plans, while smaller cities and rural areas will have more general plans. * * *~~

(4) * * * The extent of planning required by this division and the outcome of individual transportation plans will vary depending on the size of the community and upon community needs and circumstances. Generally, larger and faster growing communities will need to prepare more comprehensive and detailed plans, while smaller cities and rural areas will have more general plans. The rules in this division are not intended to make local government determinations “land use decisions” under ORS 197.015(10). The rules recognize, however, that under existing statutory and case law, many determinations relating to the adoption and implementation of transportation plans will be land use decisions.