

**Testimony Before the Oregon  
Land Conservation and Development Commission  
January 26, 2024**

**Agenda Item 13:  
Farm and Forest Technical Working Group Report**

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Commissioners:

For the record My Name is Peter Kenagy. A life long farmer from benton co. Thank you for the opportunity to share my perspective on:

- the critical and fundamental importance of maintaining and strengthening Oregon's farm and forest land protections; and
- how Oregon's land use planning program has helped our family's farm be successful and sustainable over the last 50 years.

**Background:**

By way of background, I am a 64-year-old lifelong Oregonian, a third-generation farmer and land manager with a 4<sup>th</sup> generation—my grown children—involved in our family farm which . My grandparents made the first land purchase of 52 acres outside Albany in 1931. Since then, first my parents and then my wife and I have added 4 additional parcels to our farm.

We have put together a 450-acre contiguous farm that includes 325 acres of tillable land, 125 acres of timber, riparian areas,( a mile of frontage on the west bank of the willamette) off-channel habitat and the farmstead. We border the city limits of Albany and farm

up against multiple back yards. My parents were actively involved with the land use system since the passage of SB 100 fifty years ago, and I grew up understanding its value. I spent 13 years on the Benton County planning commission and continue to engage at the state and local level in an effort to maintain the integrity of our land use system and strengthen it where possible.

### **TWG Report**

The farm and forest technical working group report put together by your Farm/Forest specialist Hilary Foote is excellent. I was really impressed, It is the best piece of work I've seen come out of DLCD in decades. The report does an excellent job of identifying the ever-increasing threats to our limited supply of farmland from nonfarm housing and other types of nonfarm development. The working group's recommendations for restoring the integrity of our exclusive farm use zones are long overdue and should be implemented as quickly as possible—including rulemaking by the Commission to provide the proper interpretation and application of your own rules.

#### **There are two main issues identified in the report I'd like to address:**

First, is the **ongoing approval of nonfarm dwellings** under the guise of farm dwellings, replacement dwellings, accessory dwellings, etc. There is no persuasive or good policy argument for allowing nonfarm dwellings in EFU zones. As the report points out on page 26, the authorization for nonfarm dwellings was intended as an "escape valve" in 1973, when it was not clear exactly how EFU zoning would play out and the state's sparsely-developed ag areas could possibly tolerate a few more houses.

We're well past that point now. Over 50 years in—post lot-of-record ballot measures and with tens of thousands of new dwellings having been approved in the state's exclusive farm use

zones since 1973—it's time to close the valve. I strongly encourage you to implement the TWG recommendation on page 29 of the report to remove nonfarm dwellings as an allowed use in exclusive farm use zones.

The most recent Farm/Forest report shows that **replacement dwellings** are the favored avenue for approving nonfarm residential development in our exclusive farm use zones. This provision was designed to allow homeowners who lost their homes to fire or other natural disaster to replace their home without the normal review process. Now counties use this provision to allow would-be rural residents to replace old, rundown buildings or perfectly adequate farm dwellings, with large expensive dwellings. The farm/forest report shows that in the last 30 years, over 7,100 replacement dwellings have been approved in Oregon's EFU zones without any thought or consideration to their longterm ramifications. The TWG recommendation to limit the size and footprint of the replacement dwelling is long overdue and would go a long way to reduce the most blatant abuses that currently happen with replacement dwellings.

The **\$80,000 gross income standard** for primary farm dwellings is another standard that is widely abused. In a Marion County case, the applicants had planted 2.5-acre Christmas tree seedlings less than a year before seeking a dwelling permit. Yet the county found they had grossed \$80,000 in each of the last two years from the sale of Christmas trees and authorized the new home.

The \$80,000 gross income standard was unrealistically low when it was first adopted in 1994. The policy was to identify a clear and objective standard to authorize farm dwellings for people who farmed for a living, but the Commission was timid about setting a realistic

amount—which would have been closer to \$240,000 gross at that time. The idea being the farm income should be able to pay for and justify the dwelling.

Oregon land use law recognizes it is a privilege, not a necessity, for farmers to live on their farms. My parents lived in the city limits of Albany in the early years they were building their farm into a going concern. The privilege to construct a dwelling on the farm is earned by producing farm income. I strongly support the TWG recommendations to tie the gross income standard to inflation, as the Commission did originally, and to ensure the income is earned from actual sales of farm products—not proposed sales.

The second issue I'd like to address is the **speculative pricing effects** of allowing nonfarm commercial and recreational uses in exclusive farm use zones. Farmers who need to accumulate hundreds of acres or buy even 20 acres to create a commercial farm are outbid by buyers who are willing to pay a higher per-acre land price to develop vacation, or trophy , homes on small or large acreages. Inflated farmland prices particularly disadvantage new and would-be farmers looking for parcels to lease or purchase to get a viable farm started. My kids would be hard-pressed to compete with none farmers for farmland that could be developed for rural housing or commercial use.

My family and I much appreciate the work you are doing to address these critical problems facing the future of Oregon's iconic landscapes and the ability for future generations to build sustainable farming operations, that can be passed down to our heirs.

Thank you for the opportunity to comment and your attention/consideration. 50 years ago our forebearers had the foresight to set us, at least partially , on the path of preserving our landscape and sustaining our natural resources for future generations.

It is incumbent on all of us to build and improve on the foundation they left us.

