

Oregon's Senate Bill 100: One State's Innovative Approach to the Protection of Farmland

The State of Oregon instituted in 1973, under Senate Bill 100, one of the most innovative and comprehensive land management systems in this country. While often described as state planning, the Oregon program in fact represents a unique partnership between state and locality; one which allows local governments flexibility in solving local land use problems, while at the same time protecting significant elements of statewide planning concern.

The central foci of the Oregon program are its nineteen statewide planning goals, ranging in subject from housing to transportation, to environmental quality. The goals carry the weight of law, and each local government must prepare its comprehensive plan and implementing ordinances so that they are in conformance with them. A seven-member laybody, the Land Conservation and Development Commission (LCDC), was created to oversee the statewide planning process, with its chief responsibility being to review all plans and ordinances for goal conformance. The commission has substantial enforcement powers, and is legally able to prevent or nullify local land use actions it deems inconsistent with the goals.

From its beginnings, the Oregon program has had as a major focus the protection of agricultural land. Two of the statewide goals, the Agricultural Lands and Urbanization Goals (goals 3 and 14), and related statutory provisions, form the nexus of the farmland protection program. The Agricultural Lands goal is one of the more specific of the nineteen goals, and requires localities to inventory agricultural land, and to include within Exclusive Farm Use (EFU) zones all such land "suitable" for agricultural production. The goal further defines suitable agricultural land as that of predominantly SCS soil classes I through IV in western Oregon, and SCS classes I through IV in eastern Oregon. The provision thus requires the protection not only of prime farmland, but all land generally suitable for agricultural production.

EFU zones are defined by statute as allowing certain uses by right, such as the construction of farm-related buildings and dwellings and the harvesting of farm products. Other uses, such as non-farm residences and limited commercial activities, are allowed only by special permit. Such a permit is contingent upon the local governing body making four key findings of fact, that such proposed uses: 1) are compatible with farm uses, 2) do not seriously inter-

fere with farming practices on adjacent lands, 3) do not materially alter the overall land use pattern of the area, and 4) are located upon land generally unsuitable for agricultural production. While localities are solely responsible for making these findings, potential review by LCDC and a newly established Land Use Board of Appeals (LUBA) serves as a strong enforcement check.

An important component of the protective framework relates to the subdivision and parcelization of land within EFU zones. The Agricultural Lands goal requires that localities adopt provisions to ensure parcel sizes "appropriate for the continuation of existing commercial agricultural enterprise" (LCDC, 1977). A proposed dwelling's designation as a farm-related or non-farm use is determined by reference to the lot size necessary for a commercial agricultural operation. Proposed residences on lot sizes smaller than this standard are considered non-farm uses. Those on lots meeting the minimum standard are considered farm-related, and as such are allowed by right. Because of the diverse nature of commercial agriculture in Oregon, the minimum farm size necessarily varies from one region to another. In areas where specialty crops are grown, viable farm sizes may be quite small, while in the eastern portion of the state, where wheat and cattle farming are prominent, requisite lot sizes are considerably larger. Localities may develop minimum lot standards in several ways, by enacting one jurisdiction-wide minimum lot size, varied lot sizes for different areas of the jurisdiction, or by developing performance standards for judging future parcelizations on a case-by-case basis. The LCDC requires clear justification for whichever method a locality chooses.

Several other features of the program have provided localities flexibility in complying with the Agricultural Lands goal. One provision allows localities to exempt certain lands from EFU zones if it can be reasonably shown that they are already "committed" to urban or non-farm uses. A second provision, known as the "exceptions" procedure, allows localities to

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bypass goal provisions in certain limited situations. A locality may seek an exception to the Agricultural Lands goal, for example, to provide land for desperately needed rural housing. Before LCDC will allow such an exception, the locality must satisfactorily address the issues of need, alternatives, consequences, and compatibility.

The Oregon program recognizes that zoning alone will not ensure the viability of farming. Consequently, the program provides for strengthening the agricultural community. First, use-value assessment (with a ten year roll-back provision) is automatically provided to qualifying farmland. Second, local "nuisance" ordinances which unreasonably restrict normal farming practices (e.g. ordinances regulating farm noise or the spreading of manure) are generally prohibited from application within EFU zones. Third, farmland within EFU zones is legally exempt from special service assessments (e.g. sewer and water extensions). Finally, EFU farmland is assessed at its farm value for state inheritance tax purposes.

While the Oregon approach relies heavily upon protective mechanisms in rural areas, it also acknowledges the need to accommodate and guide growth around existing urban centers. Under Goal 14, the Urbanization Goal, all Oregon cities are required to establish site-specific Urban Growth Boundaries (UGBs) by which to separate urbanizable and resource land. The stringent EFU provisions described above do not apply within UGBs. When establishing the UGB, jurisdictions must provide sufficient land to accommodate approximately twenty years of future growth, taking into consideration reasonable predictions of future residential, commercial and industrial land needs. Debate over the size and content of UGBs has consumed much of LCDC's attention, and it has been unsympathetic when dealing with excessively large proposed UGBs, and where need has been inadequately documented. Once the UGB is established, it delineates the areas in which intensive forms of development may occur. The extension of urban facilities, such as public sewer and water, into areas outside of the UGB, for example, would generally be prohibited. Development within the UGB is also governed by a series of conversion standards which require, among other things, that land in central "urban" areas be developed before "urbanizable" land in fringe or outer zones.

CONCLUSION

At this point in the Oregon experience it is difficult to conclude much about its effectiveness at preserving farmland. A recent analysis of EFU administration in several Oregon counties indicates that a substantial number are frequently disregarding the protective standards



(Benner, 1981). Given the substantial property devaluations that typically accompany EFU zoning, and the inequities perceived by local elected officials, these actions are not difficult to understand. There is, however, reason to be optimistic about the Oregon program's success. As of January 1982, over fifteen million acres of farmland had been included in EFU zones, and evidence suggests that many, if not most, Oregon jurisdictions have made good-faith efforts at following statewide standards. Moreover, effective implementation of EFU standards should improve with time, as land value expectations, and in turn the perceived inequities of EFU regulations, are substantially lessened.

REFERENCES

- Oregon Land Conservation and Development Commission. Statewide Goals and Guidelines. 1977.
- Benner, Richard. Administration of Exclusive Farm Lands in Twelve Oregon Counties: A Study of County Applications of State Standards to Protect Oregon Farmland. 1000 Friends of Oregon. 1981.

A more extensive review of the Oregon program was presented at the conference "Land: Renewable Resources, Institutions and Use," Virginia Polytechnic Institute and State University, January 19-20, 1982. Copies of the conference proceedings can be obtained by writing the Department of Agricultural Economics, VPI&SU, Blacksburg, Va.