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Land Use Planning in Oregon: The Quilt and the Struggle for Scale

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Introduction

Plans rarely stand alone. Whether in time or space, plans are shaped by and shape the context—physical, institutional, political, policy, economic, cultural, historical, and social—within which they're created. However, that larger context often exists in uneasy tension in many planning processes, if it is acknowledged at all. Being accountable to larger frames is a longstanding tension in American planning. (Hise, 2009)

Yet, many if not all of the key issues of our time—climate change, growing inequality, globalization, environmental protection, urbanization, and the adequacy of water and energy supplies, to name a few—are characterized by the absolute requirement for plans at different scales to not just be coordinated, but to seek, collectively, some higher level of outcome. (Seltzer and Carbonell, 2011) Stated another way, the scale of the impacts of our settlements on natural processes, economies, and cultural evolution range far beyond the boundaries of any single planning and implementing.

On one hand, planning in the America tradition involves the delegation of powers from senior levels of government—the nation and the states—directly to local communities. On the other, regions, states, and occasionally the nation have regularly sought ways to affect local planning goals, processes, and plan implementing actions. A large part of the struggle for effective planning arrangements is a product of these mismatches between the scale of the issues, on one hand, and the institutions given the authority to address them. (McKinney and Johnson, 2009, page 11)

One might argue that in an earlier time, the synergistic effects of growth and change across boundaries didn't seem so pressing. As McLaughlin points out, land use regulation has been part of the American story since colonial times, though applications prior to the 20th century were directed at promoting or creating growth rather than restricting or shaping it. (2012) In earlier decades, cities were smaller, suburbs more discontinuous, and activities more separated.

However, even at an early date in the emergence of American city planning, regional impacts were known and discussed. Lewis Mumford and Benton MacKaye famously proposed “townless highways” in the 1920s. (Mumford and MacKaye, 1931)

The impact of automobile-oriented urban sprawl in metropolitan regions was documented prior to the great depression. (McKenzie (1933(1967))) Even the famous Burnham Plan for Chicago, one of the seminal products for all subsequent American city plans, was itself a regional plan. (Hise, 2009) The issues aren't new, and the challenges emanating from the complex institutional environment in city regions isn't either. In essence, our plans have grown smaller while, if anything, the scale and scope of the impacts and issues have grown larger.

One response to the need to create and act on "bigger" plans has been the emergence of statewide growth management planning "systems" in the US. John DeGrove has identified three distinct waves in the development of statewide growth management going back to the early 1970s. (DeGrove, 2005) The first wave emerged alongside widespread concern for the environment, a product of growing awareness of human impacts on natural resources in the 1950s and 1960s. DeGrove noted that state governments were able to strategically affect land use and the status of land resources if they wanted to. Oregon and Hawaii were identified as having adopted the strongest, most comprehensive planning approaches, with Vermont, Florida, Colorado, California, and North Carolina also identified as having mounted significant, though weaker efforts.

DeGrove's second wave coincided with the aging of the suburbs and a desire to engage in growth management at the substate scale in the 1980s and early 1990s. He notes that emerging concerns for funding infrastructure in the wake of the withdrawal of widespread Federal funding in previous decades caused states and localities to seek new ways for limiting their exposure for building and maintaining expensive infrastructure with largely local sources of funding. This newfound interest in coordination and intergovernmental collaboration arose not because of a Federal mandate, as in previous eras, but because of the arrival of the issues arising from uncoordinated sprawl squarely in the laps of local decisionmakers.

The third wave of statewide planning system development occurred in the late 1990s and continues to the current day with what DeGrove called the "shift to smart growth." Now the challenge is not just to generally outline growth management goals in the most general terms—where change should occur and where change should be prevented or mitigated—but to speak specifically to how growth occurs, to the details and to the cumulative impacts of planning and design decisions at multiple scales. New concerns for active living, energy conservation, carbon emission reduction, and integrating land use and infrastructural systems require a higher level of specificity than earlier planning efforts at the metropolitan and larger scales. Alongside these new concerns for urban form came a more explicit interest in economic development, again reflecting the sustained withdrawal of the Federal government as a funder for meeting local community needs since the early 1980s.

Today, new issues are being discussed and described at the regional and statewide scales. Ingram et al , for example, have proposed that we may be on the cusp of a "fourth wave" of statewide planning, one motivated by the need to meaningfully seek ways to respond to climate change and to limit carbon emissions at the local and metropolitan

scales. (Ingram et al, 2009, page 9) The turn to equity as a central community and planning goal has been described by most as requiring, at a minimum, a metropolitan response. (Pastor et al, 2009; Pastor and Benner, 2011) With new attention focused on metropolitan areas as the scale for economic development, equity, sustainability, regional growth management, and generally to address the need to better match the scale of the impacts with the scale of the response, the effort to “reclaim” scale in American planning has taken on new urgency.

This paper outlines one example of the struggle to match the scale of the planning with the scale of the issues -- the experience of the State of Oregon. The history of planning at the state level in Oregon is one of the oldest in the US, and has survived relatively intact for over four decades. Though emerging as one of DeGrove’s “first wave” states, Oregon has retained and continued to evolve its planning program in the context of both evolving local needs and national trends associated with growth management, smart growth, and now climate change.

We begin with the Oregon context. The Oregon program is a reflection of the physical and economic characteristics of the state, and to put all that follows into context, we start with the state itself. Next, we discuss the emergence of statewide planning in Oregon, and the unique features of what Oregon agreed to and has developed since the late 1940s. The paper then turns to how planning gets done in Oregon, the roles for localities, state agencies, advocates, and citizens. The results of the program, as we know them today are discussed, and lessons learned presented.

Oregon

Two words can be used to characterize Oregon as with any of the western states: big (in area) and diverse (in settlement and landscape). Oregon ranks 10th among the 50 states in land area, covering a total of 96,002 square miles. (Hibbard, et al, 2011; Oregon State Archives, 2012) Interstate 5, from the northern boundary with Washington to the southern boundary with California, spans a distance of 308 miles. Almost 52% of the land in the state is owned by the Federal government. About 42% of the population of Oregon is found in the Portland metropolitan area, with close to 80% of the population of the entire state found along Interstate 5 in the Willamette River Valley and the southern Oregon counties bordering the highway.

The Cascade Mountains run from north to south in the state, dividing the land area into about one-third on the western, coastal side of the mountains, two-thirds to the east. Much of the land west of the Cascades is part of the northern temperate rain forest, with some of the highest rates of forest productivity in the world. East of the Cascades, Oregon is comprised of desert, high desert, rangeland, and arid forests, along with other mountain ranges and the microclimates that go with them. Elevations in the state range from 11,250 feet at the top of Mount Hood, to sea level.

Oregon has been an abundant place for people to live for over 12,000 years. (Robbins, 2005) The oldest artifacts associated with human habitation date to over 14,000 years ago. The densest population densities have been and continue to be in the western third of the state, concentrated in the Willamette Valley. Approximately 70% of Oregon's population and employment can be found in the Valley. The Willamette Valley is also the agricultural heartland of Oregon, as well as the home of most of its largest cities (the exceptions are Medford in southern Oregon and Bend in central Oregon). The combination of extraordinary soils, plentiful water, river-borne transportation, and major urban service centers made the Willamette Valley the epicenter for pioneer settlement in the 19th century, and for conflicts between agriculturalists and urban development in the mid to late-20th century.

Oregon's largest industries prior to 1980 were agriculture and forest products. After 1980, high tech became the single largest industry in the state, although agriculture and forest products have remained as the second and third largest, with agriculture continuing to grow in economic importance to the state. High tech (microprocessors, printers, display technologies, software) is also concentrated in the Willamette Valley, helping to reinforce the role for the Valley as the epicenter of Oregon population and economic growth. Much of eastern Oregon and parts of Central and Southern Oregon are characterized by stable or declining population and high unemployment, largely as a result of substantial declines in timber production on federal lands.

Oregon is comprised of 36 counties and 242 cities. Importantly, about 52% of Oregon is owned and managed by the Federal government, including 60% of Oregon's forest lands. Approximately 18 of the 36 counties are in the dry, eastern part of Oregon, and 9 in the Willamette Valley, with the rest in southern Oregon and along the Pacific Ocean coast. In addition to its cities and counties, Oregon utilizes special districts to provide services to areas comprised of multiple jurisdictions, and school districts exist as separate, directly elected entities. In the Portland metropolitan area, Metro is the directly elected regional government, the only directly elected regional government in the US. There are six other councils of governments in Oregon with regional planning responsibilities, along with 17 directly elected and locally supported community colleges.

Oregon has no sales tax. A constitutionally limited property tax pays for local government services and schools, and an income tax funds state services. Though Oregon, like all American states, experiences governmental fragmentation, the numbers here are far less extraordinary than in states to the east.

In sum, Oregon is comprised of very different landscapes, with different histories and prospects, has its population concentrated in the same places that have best served people for millennia, and is institutionally complex. Its economy is both highly dependent on the productivity of its farms and forests and on its links to the knowledge economy. Over time, the economic interdependence of urban and rural Oregon has been declining, leading to weaker economic and political ties between Oregon's diverse regions. (Hibbard et al, 2011) Nonetheless, the natural beauty of the state is revered across the state, and serves as a touchstone for all Oregonians. With snow-capped peaks,

the Columbia River Gorge, ocean shores, and the big skies of the high desert and the great basin framing their lives, every Oregonian feels in some sense defined by the stunning beauty of the landscapes that the state is known for. (Oregon Values and Beliefs Survey, 2002)

Land Use Planning in Oregon

Comprehensive city planning in Oregon emerged with the growth of Portland into one of the largest cities on the west coast in the late 19th and early 20th centuries. The Olmsted brothers prepared a plan for parks and boulevards in Portland in 1904. In 1912, Edward Bennett, a protégé of Daniel Burnham, prepared The Greater Portland Plan, a City Beautiful-inspired grand vision for Portland in the coming age of the automobile. (Abbott, 1983) In 1919 and 1923, the Oregon legislature enabled cities in the state to plan and zone. (Knaap and Nelson, 1992, page 16) The construction of the Bonneville Dam inspired a new round of inquiry into how the city and state should grow, with Lewis Mumford making his one and only visit to Oregon in 1938 to consult on the best way of hosting the new growth to come as a result of the new source of energy provided by the Columbia River. (Mumford, 1939).

Portland boomed again as a major shipbuilding and heavy industry center on the west coast during World War II. In 1947, in response to “chaotic” urban fringe growth in unincorporated parts of counties, the Oregon legislature enabled counties to zone. Again, Oregon was a big state with a small but concentrated population relative to its land area. However, in what was to become a pattern leading up to the contemporary institution of statewide land use planning, few counties chose to use the new tools provided by the state.

The modern era of state interest in planning in Oregon began to take shape in the 1960s, when growing concern about rapid and uncoordinated suburban growth became more pressing in the Willamette Valley, on the Pacific coast, and in Central Oregon. The population of Oregon grew by 18% during the decade of the 1960s, with 86% of that growth taking place in the Willamette Valley, and 54% in the Portland metropolitan area. (Adler, 2012, p 14) Farmland was being lost at an alarming rate in the Willamette Valley, the most important agricultural district in a state whose economy depended on agriculture and forest products. The cumulative effect of industrial development and urbanization had severely degraded water quality in the Willamette. On the coast, then Governor Mark Hatfield remarked in 1964 that the so-called “20 Miracle Miles” of the Oregon coast around Lincoln City should be renamed the “20 Miserable Miles” because of its “junky” appearance. (Terry, 2011).

In response, the Oregon legislature developed a number of innovative programs to address growing concerns about the quality of the environment. In 1961, the State enacted legislation to allow reduced property taxes for farmland zoned for Exclusive Farm Use. (Sullivan and Eber, 2008) If counties exercised their authority to plan and zone, and identified Exclusive Farm Use zones, farms within those zones could apply to

have their property taxes limited, potentially a huge break for farmers, really farm land owners, and provided at local expense. Then, property taxes were the most significant source of revenue to support local government services and schools. However, few counties in the state were interested in creating the plans needed to develop the zoning.

In 1965, Oregon instituted a “clean water act” that required permits for point source discharges into state waterways, one of the first in the nation. The bottle bill put a refundable deposit on all beverage containers, a direct response to the rising tide of roadside litter. The Oregon Beach Bill guaranteed public access to the dry sand beaches along the entire Oregon coast, and prevented the encroachment of private development on what is arguably one of the nation’s most spectacular landscapes. The legislature also dedicated a percent of the state highway fund for the creation of bike paths, and the State instituted a program for restoring water quality in the Willamette and for securing parks for public access to the river. All of this helped to secure Oregon’s reputation as an environmental leader, in advance of the landmark Federal environmental legislation to come.

In response to growing concerns about what later became known as “urban sprawl” and in light of the inaction on the part of local government with respect to the exercise of planning and zoning authority already granted to them, the Legislature passed Senate Bill 10 (SB 10) in 1969, which required all cities and counties to adopt comprehensive plans and zoning by the end of 1971. (Adler, 2012, page 39) Local planning and zoning was controversial and viewed by many cities and counties as detrimental to efforts to compete with other jurisdictions to attract the growth needed to grow local tax bases. Nonetheless, the focus for SB 10 was on getting cities and counties to create comprehensive plans, not on the creation of plans by the State. In fact, then Governor Tom McCall and his staff didn’t view planning carried out by the state as either possible or desirable, and the focus in SB 10, as in the legislation to follow, was solely on the development of plans and implementing actions by local governments. (Sy Adler, personal communication)

SB 10 made Oregon the second state in the nation, after California, to require local governments to create comprehensive land use plans. The bill required the development and application of zoning to implement the plans, and included ten goals that the state could use to determine whether or not the local plans had met the objectives of the law, should the state so desire. The goals included the requirement to identify prime farmland for the production of crops, and to create Exclusive Farm Use zoning to protect it. Many local officials opposed the mandatory requirement for planning and zoning, but a ballot measure to repeal SB 10 was rejected by the voters in 1970.

However, despite the provision in SB 10 that allowed the Governor to provide plans for communities that didn’t meet their responsibilities, the response at the local level was a combination of inaction and little consequence. The reasons were that SB 10 incorporated no clear role for supervision by the state, no funding or technical assistance for local governments, most of which had no planners on staff, and no mechanism for

coordinating plans with each other or for resolving conflicts. Most plans adopted under SB 10 requirements tended to simply reiterate existing land use trends and agreements.

Through this 50-year progression of state action, from enabling legislation for city zoning in 1919, to enabling county planning and zoning in 1947, to the association of farm tax deferral with planning and zoning in the early 1960s, and finally to SB 10, Oregon had gradually stepped up its engagement with local land use planning, zoning, and management. However, though a handful of cities did undertake substantial planning efforts directed at local land use issues, local governments largely failed to address exurban sprawl and the loss of agricultural land (Adler, 2012, page 50) The State's interest in local comprehensive planning and zoning to counter the impacts of urbanization and conflicts between farming practices and new residents still had not been served, particularly as the pace of change accelerated during the 1960s.

With little to show from SB 10, then Governor Tom McCall launched several projects from his office to bring new attention and a sense of urgency to the need for comprehensive land use planning. Population growth forecasts suggested that a million new Oregonians would join the state by the year 2000, a number that was shocking to a state with barely 2 million residents in 1970. One of the most significant products of those efforts was the Lawrence Halprin-directed work that resulted in "The Willamette Valley: Choices for the Future," a set of future growth scenarios for the valley and an invitation to all Oregonians to participate in planning for what the future of the valley could be (Halprin and Associates, 1972)

In 1970 McCall was elected to a second term on a platform that included the need to correct the flaws of SB 10 and to develop effective comprehensive planning and zoning initiatives at the local level, where the land use decisions were being made. Despite the acknowledged ineffectiveness of SB 10, opposition to planning carried out in any way by the state remained strong. Attention focused less on the role for the state as a planner, and more on the role of the state for creating accountability, extending funding to local governments for planning, and coordinating plans with each other.

Much has been written about the development of new legislation for the 1973 session of the Oregon legislature, and in particular the creation of Senate Bill 100 (SB100) and accompanying bills to remedy the defects in SB 10. (Leonard, 1983; Knaap and Nelson, 1992; Liberty, 1992; Abbott, Adler, and Howe, 1994; Adler, 2012) SB 100 was shepherded through the legislature by a coalition of urban environmentalists and rural agricultural interests. Legislative leadership for the bill was provided by rural Republicans and urban Democrats, along with Republican Governor Tom McCall. SB 100 continued the requirements in SB 10 for cities and counties to write mandatory comprehensive land use plans and adopt zoning based on the plans. (Oregon Revised Statutes, 2011), but it added several elements that would prove key to its long term success.

The first was direction to the state executive branch to develop and adopt statewide planning goals. SB 100 specified several policy subjects that the state planning

goals must address, but it also created a department (the Department of Land Conservation and Development (DLCD)) and a policy-making body (the Land Conservation and Development Commission (LCDC)) with the authority to adopt additional goals. The degree of policy-making authority the legislature granted to LCDC was unusually broad, an authority that has, however, been used sparingly.

Another key element of the legislation was that it set a deadline for local adoption of comprehensive plans, and specified that if local governments failed to meet the deadlines, that the state goals would directly control land use decisions. Additional fiscal penalties for non-compliance also were included in SB 100. Although local governments largely failed to meet the initial deadlines, most had complied by the mid 1980s.

As with the efforts preceding SB 10, SB 100 was constructed with the assumption that planning, zoning, and land use decision-making would continue to be a local government activity. In Oregon, the state sets a planning framework with its statewide planning goals, but (for the most part) there is no state-level plan. Instead, a “quilt” of city and county comprehensive land use plans implement the statewide goals, along with local priorities, and collectively address land use on 100% of the State’s land area.

Provisions in SB 100, as it was originally proposed in 1973, called for the identification of areas of critical statewide concern and activities of statewide significance, and for regional planning and plan coordination. Though these provisions were eliminated in the legislative process due to the perception that they enabled the State to engage in planning that would conflict with or supersede local concerns, a special provision was enacted into law to allow the Columbia Region Association of Governments (CRAG) in the Portland metropolitan region to develop a regional comprehensive plan. That provision was eliminated upon the creation of the Metropolitan Service District in 1979. Since that time, however, subsequent legislation has enabled regional agencies in Oregon to develop plans for issues of regional concern and, in some cases, for issues of critical statewide concern. However, by law in Oregon, only cities and counties can create a comprehensive land use plan.

SB 100 also created the Oregon “Land Conservation and Development Commission” (LCDC) to adopt the statewide land use planning goals, create and adopt administrative rules to implement the program, review the plans created by cities, counties, state agencies, and special districts, and create policy to guide the work of the Oregon Department of Land Conservation and Development (DLCD). (Oregon Department of Land Conservation and Development, 2012; Oregon Administrative Rules, 2012) Consistency between local plans and the state goals was implemented via an “acknowledgement” process, where local plans were reviewed and approved (or sent back for revisions) by LCDC. The 19 statewide planning goals were written between 1974 and 1976, involving thousands of Oregonians from across the state. (Adler, 2012, chapters 5 and 6)

Today, the goals can be divided into four groups:

- 1 Process goals: Goal 1, Citizen Involvement, requires meaningful citizen involvement in all phases of plan preparation and implementation, a hallmark of the Oregon system. Goal 2, Land Use Planning, explains how comprehensive land use planning is to be done, calls for the basis of planning and implementing decision-making to be based on facts, and provides guidance for taking an “exception” to the requirements of a goal when local conditions dictate otherwise.
- 2 Conservation goals: Goals 3, Agricultural Lands, and 4, Forest Lands, rest at the heart of the Oregon program. Jurisdictions with rural resources lands, in this case the counties, are required to show both where those land resources are and how they are to be protected. Goal 5 asks all communities to inventory and identify protective actions for natural resources, scenic and historic resources, and open space. Goal 6 speaks to the protection of the quality of air, water, and land resources. Goal 7 directs that lands subject to natural hazards be addressed in plans. Goal 13 identifies energy conservation as a particular aim for the state. Goal 15 calls for the identification and protection of the Willamette River Greenway in the plans of jurisdictions bordering the Willamette River.
- 3 Development goals: Goal 8 is principally directed at counties, and though titled “Recreational Needs,” is primarily concerned with the siting of destination resorts. Goal 9, Economic Development, Goal 10, Housing, Goal 11, Public Facilities and Services, and Goal 12, Transportation, speak specifically to meeting the requirements for urbanization in efficient and equitable ways. Goal 14, Urbanization, calls for the creation of an urban growth boundary (UGB) surrounding land to be set aside for meeting urban, nonresource purposes over the time horizon of the plan, by convention and, for residentially zoned urban land, by law, 20 years. Goal 14 is probably the best known of the Oregon statewide planning goals because of its requirement for UGBs, but it is at root a requirement for urban growth management by making the conversion of rural land into urban land uses both a conscious decision and based on the factual demonstration that the land would be needed for urban purposes, that the proposed uses couldn’t be accommodated elsewhere, that the impacts on nearby farmland would be minimized, and that the overall efficiency of existing urban lands and service systems would be maintained if not enhanced.
- 4 Coastal goals: In 1976, four goals (16-19) applying to Oregon’s coast, estuaries, beaches and dunes, and the state’s territorial sea (the first three miles offshore), were adopted by the Land Conservation and Development Commission. In 1991, the Oregon legislature approved Oregon’s Ocean Resources Management Act (ORS 196.405-415) , and three years later LCDC adopted Oregon’s Territorial Sea Plan, which implements elements of Goal 19.

Once a community adopts a comprehensive plan, including implementing tools and ordinances, the entire package is submitted to DLCDC for an initial review and then to LCDC for final state approval. In the “acknowledgement” process, LCDC determines

if the plan (on the whole) is or is not consistent with the requirements of the goals. Once the plan was acknowledged by the state as being consistent with the goals, most local land use decision-making is made by applying the *local* plan and code, rather than the statewide goals. This allows a fair degree of local autonomy in day-to-day land use decisions, and takes the State out of a day-to-day decision management role.

Subsequent amendments to local plans or their implementing tools are, however, required to return to LCDC for “post-acknowledgement” review for consistency with the statewide planning goals. Communities that make decisions in conflict with adopted and acknowledged plans are subject to state sanctions, including (most often) the requirement to apply the state planning goals directly until their local plan is acknowledged. Other state sanctions can include suspension of the jurisdiction’s authority to grant building or subdivision permits, a requirement to issue permits when a community is engaging in a *de facto* development moratorium, or even withholding state transfers of tax revenue distributed to localities on a formula basis.

Oregon provides direct grants to localities to support the creation and periodic update of plans, codes, and procedures. In fact, in the early years, the majority of the funding allocated to the program was used for this purpose. In more recent years, state grants have been reduced, and now most jurisdictions depend on a combination of local tax revenue and permit fees to support planning. Once local plans are adopted and acknowledged, larger cities must update their plans through “periodic review.” In 2003, the legislature directed that periodic review focus on whether larger cities are meeting development objectives, rather than on conservation issues. Periodic review now occurs on a schedule set by LCDC. Periodic review documents are submitted to DLCD and LCDC for review, and any plan or code changes coming out of the process are acknowledged in that review process.

The Oregon program is a rules-based program. That is, the heart of the statewide planning program is the goals, and the state writes the rules used to determine whether the goals are being adequately served. With Goal 1, Citizen Involvement, leading the program, participation is intended to be broad-based, as is the classification of who may appeal any local decision. With a broad range of interests given legal standing in the process of acknowledgement, post-acknowledgement, and rule-making, combined with the fact that the program is standards-based, the program quickly moved to the courts as a means for interpreting standards and settling conflicts between parties. In 1979, the Legislature created the Land Use Board of Appeals (LUBA), comprised of three attorneys appointed by the Governor and confirmed by the State Senate, to create a faster path than the then-tortuous path through the county-level state Circuit Courts.

Advocates have played an essential role in the evolution and operation of the program since its inception. (Adler, 2012, page 151) Again, SB 100 got passed due to the efforts of a coalition of agricultural and environmental interests and interest groups. Both industry groups—the Associated General Contractors, Oregon Home Builders Association, Home Builders Association of Metropolitan Portland, Oregon Farm Bureau, to name a few—and advocacy organizations, notably 1000 Friends of Oregon and

Oregonians in Action, have been engaged with each other and the program through planning, rule making, legislation, and at the ballot box. By most accounts, 1000 Friends, created explicitly by Governor Tom McCall and Henry Richmond to watch over and safeguard the program enacted by SB 100, has played an essential role for ensuring that the fundamental objectives of the program are served and met locally and statewide.

Like SB 10, SB 100 has been challenged directly at the polls. An early referral effort in 1973, the year the bill was signed, failed due to a lack of signatures. Counting Senate Bill 10, repeal campaigns went to the voters in 1970, 1976, 1978, and 1982, failing each time. In 1998, a measure (Oregon Ballot Measure 65) to repeal the statewide planning goals went to the voters and failed. In recent years, measures to assert rights to private property, and a direct challenge to the ability of local jurisdictions to use regulation as a mechanism for plan implementation, have passed, and more will be said about them, below.

Though 1000 Friends and the builder groups started out as antagonists, they were able to find common ground as it became clear that the value of mandating planning, and consistency between implementing tools and decisions with plans, was the provision of certainty for landowners and developers. Rather than negotiating conditions with every proposal, those negotiations were intended to take place in the planning, not the permitting, process.

Unlike in neighboring California and Washington states, which followed the national lead and adopted state level environmental impact analysis requirements, Oregon did not, expecting that environmental impacts would be revealed and addressed early in the planning process. This meant that in Oregon, types of land uses often subject to lengthy and complicated permitting processes in other states—multifamily development, commercial development, and others usually associated with urban development in quickly developing communities—were allowed by right, providing a level of certainty heretofore unknown.

As a consequence, though the homebuilder groups supported repeal efforts in 1976 and 1978, they opposed repeal in 1982 as the value of the program for saving them time and for enabling development to occur by right became apparent. To codify this relationship between planning and certainty as a program benefit, the Oregon Legislature enacted a statute requiring a local decision on a permit request within 120 days of application for all permits submitted consistent with adopted and acknowledged local plans, codes, and rules.

Acknowledging the plans submitted by the cities and counties took much longer than expected. Though most plans were adopted and acknowledged by the early 1980s, the last appeal of the initial set of plan acknowledgements took place in 1986. More recently, two new cities have been incorporated and are proceeding through the acknowledgment process. All of Oregon's 36 counties and 242 cities have adopted and acknowledged comprehensive land use plans, which provide the guidance for all land use decision-making at the local level. These plans cover most of the non-federal lands in the

state, and together create a quilt that collectively, serves as the statewide product of Oregon's land use planning program.

Most state agencies and any special districts engaged in making land use decisions (note that the definition of “land use decision” itself has been litigated and clarified through the courts and subsequent legislative and rule-making action) also have adopted and acknowledged agreements with DLCD outlining the ways in which their activities comply with the goals and are consistent with the adopted, acknowledged plans of cities and counties. In Oregon, only cities and counties can adopt comprehensive land use plans, though Metro, the regional government in the Portland metropolitan area, can and has adopted functional and growth management plans that create a regional context for planning within its jurisdiction, consistent with the statewide goals and linked to city and county plans in the Portland area.

More recently, a consortium of cities in Southern Oregon, along with Jackson County, have developed and adopted a regional growth management and transportation plan for that area, which will be implemented through city and county plan amendments that are consistent with the regional plan (and which, in turn, must be consistent with state goals). This regional plan was recently acknowledged by LCDC, using legislation adopted to encourage voluntary efforts to plan at a regional scale by allowing local governments that do so more flexibility in terms of compliance with state planning requirements. (Rogue Valley Council of Governments, 2012)

In sum, the history of reclaiming scale in Oregon planning continues, beginning in 1947 with enabling counties to plan and zone to protect farm and forest land, and now in the present with targeted efforts within regions to address both old and new challenges. In the 1940s, urbanization in and around fast-growing Willamette Valley communities was threatening farming, one of the foundations for the Oregon's resource-based economy and the basis for creating and maintaining the working landscape that had defined, for many, their sense of place. However, by the early 1960s, county inaction left gaping holes in the fabric for managing growth, and stronger tools were needed. The state acted to provide relief to local property tax assessments for farmland owners, actually enabling farmers to secure property tax assessments based on farm use rather than speculative development value, if that land was zoned for exclusive farm use as a consequence of an adopted county land use plan.

County inaction persisted and SB 10, a mandatory requirement for local planning and zoning by both cities and counties, was the State's newest attempt to corral local land use decision-making viewed by some as having run amok. Again, local governments failed to act, and with no real oversight or enforcement powers in SB 10, or clear roles assigned at the state level, little happened.

However, what happened next happened in an entirely new and novel environment. The nascent national environmental quality movement took off, and earth day in 1970 became a rallying point for citizens concerned about the unaccounted for and unaddressed impacts of human activity on the environment. Federal acts governing air

quality, water quality, and the pre-project assessment of environmental impacts were enacted into law, but similar legislation for land resources failed to gain passage. It was also “the 60s,” a time of profound questioning of existing institutional and social relations.

Together, these social and political forces made the environment for SB 100 profoundly different than for SB 10. Though it didn’t rewrite constitutional expectations for rights to property, and it didn’t give the state a free hand in planning and land use decision-making, the notion of a much stronger state role, created to achieve state-level goals that expressed clear ambitions for core values held by state residents, was now both possible and desirable.

To go from SB 10, with its weak overtures to local jurisdictions in control of the planning and land use decision-making, to SB 100 with its relatively strong role for the state in heretofore local concerns, all in four short years, must be regarded as no less than amazing. With SB 100, Oregon had found a way to both preserve the central role for cities and counties as the loci for comprehensive land use planning and decision-making and, at the same time, reassert a broader state interest in that local activity and the need to have it all add up to a common vision for the state, its landscape, and its future. However, both the unfinished business of growth management and new challenges like climate change make it likely that the State will continue to seek ways to see its interests reflected in what are regarded as largely local concerns and responsibilities.

Nonetheless, of great importance is that in Oregon, in this era of post-acknowledgement planning and land use decision-making, DLCD and LCDC do not plan, do not zone, and do not issue permits. The state provides oversight, the goals, and a consistent set of rules that apply to everyone. Achieving the outcomes envisioned in the statewide planning goals is the product of literally thousands of decisions made by local governments and state agencies pursuant to their adopted and acknowledged plans and agreements, and without the direct engagement of DLCD or LCDC. Whether or not it all adds up to a coherent vision of the future as envisioned in the goals is the topic to which we now turn our attention.

Results

In a comparison of “Smart Growth States” and states that hadn’t adopted a statewide approach to achieving smart growth outcomes, Ingram et al found that “...smart growth states tend to perform well in an area that is a high priority for that state.” (2011, page 146) That is, statewide growth management programs, like Oregon, can accomplish the goals for which they are created, but will not accomplish all goals associated with smart growth without a specific commitment and focus.

In the case of Oregon, the Oregon Statewide Land Use Planning program was clearly directed at stopping urban sprawl, preserving farm and forest land, and ensuring that plans and planning mattered to shaping land use outcomes. Though other

concerns—housing, housing affordability, habitat preservation, and other issues addressed by the 19 statewide planning goals—had to be addressed through local comprehensive planning, it is these three central issues that Oregon is perhaps best known for, and for which it has the greatest accomplishments to show.

That plans and planning matter in Oregon can be demonstrated in several ways. First, every city and county has a comprehensive land use plan, collectively addressing land use management on all non-federal lands in the state. The county plans, in particular, have accomplished what earlier efforts could not: exclusive farm use and forest land zoning, needed in one form or another for counties to meet the requirements of Goals 3 and 4: Agricultural Land and Forest Land, are present in every county and farmers and forest land owners throughout Oregon now have access to farm and forest tax deferral programs that help make their resource-based uses of the land economically sustainable.

Land use decisions throughout Oregon are made according to the plans, and the work of activists and others, particularly 1000 Friends of Oregon, has established that there must be a factual basis for plans, and that subsequent decisions cannot be made irrespective of the plans. In the landmark *Fasano v. Board of County Commissioners of Washington County* (1973) decision, the Oregon Supreme Court established that quasi-judicial land use decisions, like legislative decisions, must also include procedural protections designed to ensure fair and open decision-making. Among other protections, the court decided that decisions must include written and adequate findings and prior notice of applicable standards and procedures, allowing all affected persons to participate effectively. (Sullivan and Eber, 2009, page 14) The *Fasano* decision also clearly established the principle that zoning was subservient and intended to implement the County's comprehensive plan. In a later decision, *Baker v. City of Milwaukie* (1975), the court extended this link between zoning and plans to city comprehensive plans.

In addition, the principle that the development allowed by right in plans should not be impeded by actions that contravene plans has been defended and established. Oregon planning has provided owners, neighbors, and communities with certainty, making plan implementation the product of predictable institutional processes rather than protracted and contentious negotiations, or, on the other hand, cozy backroom deals developed out of sight of the public. In Oregon, plans aren't trivial, they must be directly and publically addressed in land use decision-making, and carry with them specific expectations and responsibilities.

The impact on sprawl is another signature accomplishment of the Oregon system. The centerpiece for this effort is the creation of urban growth boundaries (UGBs) around all incorporated cities and the previously urbanized portions of counties. UGBs were created to manage the transition from rural to urban land use by containing urban development within them and by managing the relationship between urban development and adjacent resource lands just across the boundary. The establishment of UGBs in Oregon was attempted prior to the development of statewide land use planning in 1973. Originally proposed as a means for addressing sprawl through better coordination, UGBs

under Senate Bill 100 emerged as a means for making the conversion of land from rural to urban use a conscious and planned decision. (Seltzer, 2009)

Post-Senate Bill 100, and according to Statewide Planning Goal 14: Urbanization, locating and managing an urban growth boundary and the lands within that boundary has to be based on a demonstrated need for additional urban land after examining the capacity of lands within the boundary for additional development. Cities must make a factual demonstration that existing urban land can't accommodate needed future uses stemming from population growth or employment needs, that the particular lands being added are best suited for urban development and least adverse to farming and forest uses.

Several things about this approach are notable. First, unlike other approaches to resource land preservation, where valuable resource lands are identified and protected by a boundary, here urban land has to make a case for its existence and all other lands outside UGBs are planned and managed to further farm, forest, and range use. In essence, Oregon's Goal 14: Urbanization recognizes that once converted to urban uses, resource lands are lost forever.

Second, as has been established in the courts, a demonstration of need has to be based on facts pertaining to population growth or to specific land needs associated with a particular use (for example, land for ports can only be found adjacent to rivers and bays). It may be nice or even easy to develop land adjacent to highway interchanges, or large flat tracts currently used for farming, but nice and easy isn't enough: the proposed urbanization must be necessary, and it must demonstrate that its adverse effects on resource uses and other key interests are minimized.

Third, Oregon's supply of land for urban development grows in an intentional, coordinated fashion. Note that UGBs were never intended to be fixed limits imposed forever. Though they use regulation in a ways similar to the ways that greenbelts use time and distance to separate urban from rural, UGBs are intended to move as new land needs are demonstrated. Since 1970, Oregon's population has practically doubled, and the UGBs within which most of that growth has occurred have expanded to varying degrees to accommodate that population growth. However, each of those changes represents a conscious decision, made in concert with existing plans and according to the statewide planning goals.

This approach, though at the heart of Oregon's sprawl control efforts, has been controversial from the start. It affects the ability of individual rural landowners to enter speculative land markets. In the opinion of some, it creates an artificial scarcity of urban land that drives up housing prices. For others, it represents an erosion of local control over land use (because the expansions are subject to state review and approval), and therefore the very destinies of local communities unable to simply expand outward in the name of local economic development. In 1981, faced by a deep and prolonged recession and cutbacks in state budgets that threatened the ability of the state to fund local planning efforts and expeditiously complete the acknowledgement process, Republican Governor Victor Atiyeh, created the "Governor's Task Force on Land Use in Oregon" to

“...conduct an impartial evaluation of both the positive and negative impacts of Oregon’s land use planning program.” (1982, page 4)

The Task Force held hearings throughout the state, hearing from a wide range of citizens, developers, lawyers, advocates, and elected officials. As the Task Force noted, comments ranged from the claim that land use planning was a communist plot, on one extreme, to the notion that the system was perfect and shouldn’t be touched, on the other. In the end, the Task Force could find no evidence that land use planning had either dissuaded a single firm from locating in Oregon or that land use planning had enticed a single firm to locate within the state.

In response to its findings, the Task Force issued recommendations covering a range of topics including actions to streamline state review of local plans and decisions, to speed the completion of comprehensive planning and to enforce a final deadline for plan completion. The recommendations issued by the Task Force became the basis for wide-ranging revisions of the program, but in the end, the Task Force ratified the core elements and the value of the program, and did not find cause to lay the State’s economic problems at its feet.

Similarly, in late 1990’s, as prosperity and growth returned to the urban centers in the state, new concerns were raised about the extent to which UGBs were artificially preventing the development of needed housing, and needlessly increasing the cost. The “Committee to Study Housing Affordability,” a broad-based coalition of builders, advocates, cities, counties, and state agencies, was created in 1998. The Committee commissioned the “Oregon Housing Cost Study” to determine why housing prices, particularly in the Portland metropolitan area, increased so rapidly in the 1990s, the trends influencing prices, and the actions that could be taken to moderate price increases and make housing more affordable. Though many interests involved in the Committee had their own theories about why prices had increased, the study found that, “The data included in this study does not prove or disprove any particular theory about the cause of rapidly increasing housing prices in Oregon during the mid-1990s.” (1998, page 70)

Rather than indicting UGBs as a simple explanation for rising home prices and increasing cost burdens, the Committee found that a wide range of factors, ranging from rapid population growth, low rates of single-family home production, first time buyers as a declining share of all buyers, weak income growth, the small scale of Oregon builders, and rising land costs all contributed to the environment for the real estate market during the study period. They also suggested that the perception of land scarcity, the fragmented nature of home building industry, lagging incomes, builders targeting move-up markets, the low rate of production of attached single-family infill, and system development charges were all important topics for future research. However, as with the previous study, UGBs alone could not be shown to have the impact claimed by opponents.

In 2008, at the request of the legislature and DLCD, an inter-university group of scholars was convened by the Institute of Natural Resources at Oregon State University to review the performance of a selected group of the statewide planning goals, including

Goal 14. Ellen Bassett and George Zaninovich contributed a chapter that reviewed the literature pertaining to the use of UGBs and containment more generally. (Bassett and Zaninovich, 2008) Their review was organized to take on the primary impacts associated with constraining or limiting the amount of available land, including:

- the rate of land conversion
- increasing compactness and population density
- increasing land values inside UGBs and decreasing it outside
- decreasing public service costs due to constraints on sprawl
- affecting housing prices both positively and negatively
- impacts on transportation mode choice and system performance

They found that there was a sizable literature, though the mix of methods and time periods made it challenging to assess the performance and impacts of UGBs statewide. They found that the literature generally supports the contention UGBs do have impacts on land markets, as was intended in order to change the land economics to support higher urban development densities, making land more valuable, inside UGBs compared to adjacent rural land.

In fact, from a very early moment in the Oregon experience, there has been an ongoing and robust debate about whether the increases exceeded what was intended and were creating unintended and undesired distortions in land markets. However, the impacts in Oregon were very similar to those observed in Washington, a state that adopted a growth management act in the 1990s (that is generally viewed as less restrictive than Oregon's program, and that hadn't had as much time for its program to take effect).

More important, they found that the academic literature did not clearly associate housing price increases with UGBs, pointing instead to economic growth and income growth as more significant causes of upward pressure on housing prices. Similarly, Jaeger et al (2008), in a study of housing price impacts in the Portland metropolitan region, concluded that the UGB in the Portland metropolitan area could not be implicated as the cause of distorted or rising housing prices.

Ingram et al find in a comparative study of two groups of states between 1970 and 2005, one group engaging in smart growth practices and including Oregon, and the other of states that do not, that Oregon was more successful in promoting denser development. They state that, "Oregon is the only state in the study—and Portland the only metropolitan area—where the population became more concentrated... Moreover, the share of population growth in urban areas was higher than in any other case study state, while the share of population growth in rural areas was the second lowest." (2011, page 195) They also found that of the states in the study, Oregon had the highest share of population growth in already urbanized areas. (Ingram et al, 2011, page 137)

Similarly, a comparison of urban growth patterns in Oregon, Idaho, Washington, and California for the period 2000-2010, carried out by Richard Whitman and Tyler

Evilsizer, and utilizing 2010 census data, found that the proportion of Oregon urban areas with an increasing population density exceeded the other states, and that the proportion of population growth occurring outside of urban areas over this time period was substantially less than the other states. (Whitman and Evilsizer, 2012) They also found that, unlike in neighboring states, the land area of cities, particularly in the Willamette Valley, was increasing at a rate substantially below the rate of population growth.

Similar findings were made by the Sightline Institute in a recent study comparing the Oregon and Washington portions of the Portland-Vancouver Metropolitan Statistical Area, a single metropolitan area with two similar but different planning regimes. (Williams-Derry, 2012) In a comparative study of suburban growth and urban gentrification in the US, Orfield and Luce point to the Portland metropolitan area as being one where urbanized land and population increased at about the same rate, an unusual outcome for many American metropolitan regions, growing or not. (Orfield and Luce, 2012, page 5)

In sum, UGBs in Oregon have been shown to be effective tools for focusing population and housing growth within urban areas and for preventing sprawl on farm and forest land, as we intended by the passage of Senate Bill 100 in 1973. The arguments by opponents that UGBs would distort markets and artificially create land shortages that would drive up housing prices substantially have not been sustained. However, by taking the step to create urban growth boundaries, Oregon has chosen to intervene in certain market transactions, and that act undoubtedly does have costs that work their way through land and housing markets. Oregon, through its planning goals, particularly Goal 10: Housing, has made the exclusionary zoning found in other states illegal, thereby avoiding at least one of the most common market distortions in America. The evidence compiled to date does suggest that Oregon has benefited from its use of UGBs, has not significantly increased housing or commercial prices and affordability because of it, and has created a different legacy of urban form than those of other states.

Drawing conclusions regarding Oregon's progress towards preserving agricultural and forest lands and the agricultural and forest products industries, as with the impact of UGBs on sprawl, urban form, and housing affordability, is complicated by both exogenous and endogenous factors. Gosnell et al, in a literature review of the research conducted on the efficacy of Oregon's progress towards meeting the preservation objectives in Statewide Planning Goal 3: Agricultural Lands, noted that the wide range of factors affecting agriculture—economic, physical, geographic, cultural, geopolitical, Federal—coupled with the ongoing evolution of Oregon planning requirements and law over the last 50 years, makes drawing definitive causal conclusions difficult. (Gosnell et al, 2011, page 186) Nonetheless, because of Oregon's longstanding and relatively comprehensive approach to farmland preservation, there are research results that do shed light on Oregon's progress to date.

Gosnell et al report on three kinds of studies: those using readily available data from sources like the US Census of Agriculture, those that develop and apply indicators or metrics to assessing the status and trends for both agriculture and forestry in the state,

and finally a more recent literature that uses primary data of actual changes in land use as a means for analysis and model building. Their review of the literature leads them to conclude that, "...the Program has resulted in a measurable degree of forest and farmland protection since its inception in 1973." (2011, page 191) However, they caution that the complexity of assessing causal factors for observed effects at the scale of the state of Oregon, coupled with notable data gaps and time lags, should encourage further research in order to understand definitively the impacts of Goals 3 and 4 in the planning program.

Sullivan and Eber review the history of agricultural land preservation in Oregon from 1961-2009. (2009) They note that the approach taken in the state, linking tax incentives with land use planning, has evolved throughout that period, gradually becoming more prescriptive as voluntary and incentive-based approaches proved to be ineffective. They conclude that the objectives of Goal 3 have been met, particularly with important and substantial legislative amendments to the land use program in 1993, but that there remain a host of other approaches and tools that Oregon could employ as it attempts to preserve agricultural land and production in the face of continued population growth, particularly in the Willamette Valley.

They conclude that the history of land use planning, being one of accommodating ever increasing urban growth and development, is hostile to agricultural land preservation in the first place. (2009, page 63) Agricultural land preservation challenges both prevailing desires to further urban growth and historical, cultural American relationships to land and expectations for the good life. Though they identify notable successes in Oregon's approach, they note that, "Agricultural land is not unused, undeveloped open space." (2009, page 64) Policy and planning in the future needs to explicitly address agricultural use as an important element of Oregon's economy in its own right, and not as a surrogate for either controlling urban sprawl or forestalling non-farm rural uses.

Similarly, in a report to the Metro council, Jim Johnson of the Oregon Department of Agriculture concluded that the assumption that agricultural land preservation trumped all other proposed uses was false. (Johnson, 2007, page 59) In 2005, as Metro was considering how to accommodate a forecasted additional one million residents in the metropolitan region over the coming 30 years, the Metro Council asked the Oregon Department of Agriculture for an assessment of ways to better engage and serve the needs of agriculture in the region. Two of Oregon's ten most highly productive counties, as measured by farm gate receipts, are part of Metro's jurisdiction, with the list expanding to 4 of 10 if the Consolidated Metropolitan Statistical Area is considered. Agriculture is and remains a viable, valuable part of the economy in the most urban, fastest growing parts of Oregon.

However, like Sullivan and Eber, Johnson found that statutory and administrative requirements for sustaining the urban land supply and to accommodate urban growth took precedence over desires to preserve agricultural land, despite the popular notion that Oregon's statewide land use planning program privileged agricultural land. (Johnson, 2007, page 59) Johnson developed a hierarchy of agricultural land types in the metropolitan region to enable Metro both to maintain agricultural land resources and

activities more effectively and to meet its obligations for providing sufficient land within the metropolitan UGB for urban development. Subsequent planning by Metro has resulted in the adoption of rural reserves, areas that are off limits for urban growth for the next 50 years, and urban reserves, places where Metro will look to supply additional urban land, should it be needed, and which are located and managed to minimize impacts on farming and farmland resources.

More recently, the Oregon State Board of Agriculture, in a report to the Oregon Legislature, reported a continuing loss of farmland as population continued to grow. (Oregon State Board of Agriculture, 2011, page 23) Though this is due, in part, to the conversion of farmland within UGBs to urban uses, as planned, the loss of important agricultural land continues to be a cause for concern to the agricultural community. The Board recommended that the state actively discourage expansion of urban growth boundaries and urban reserves on high-value farmland, and that when UGBs and urban reserves are expanded into active farming areas that protections be enacted to protect agricultural activities, that Right to Farm laws be strengthened, and that non-farm uses on agricultural land be re-examined and limited, including events and other “consumer-oriented” activities that further conflicts between farming activities and others.

As with the research on the impact of UGBs and Oregon’s efforts to stop sprawl, the research here is both validating and inconclusive. Oregon agriculture, within the populous Willamette Valley, cradle of Oregon’s statewide land use planning efforts, and in other parts of the state, is doing well. Oregon is losing farmland at rates substantially lower than its neighboring states and the national averages, and per farm and per acre income is rising, as is agriculture’s share of state domestic product. The effort to protect Oregon farmland is measurably succeeding, but the overall demonstration of a cause-effect relationship between Goal 3 and the future of agriculture awaits further research, better data, and inevitable political redefinition of the task.

Furthermore, the legacy of agricultural land preservation in Oregon is clearly linked to the utilization and impacts of UGBs in the state. That is, these goals do not stand alone, and both support and are in tension with each other over time. Without Goals 3 and 4, Oregon would not be able to sustain urban growth boundaries. Without urban growth boundaries, Oregon would not be able to stem the tide of sprawling growth at the edge so characteristic of metropolitan development patterns in the US.

Though results can be attributed to the Oregon experience, so can ongoing controversy and conflict. Land use planning has always been controversial. In addition to four direct efforts to repeal the program at the ballot box, reported above, in recent years opponents have seized on a more basic challenge, namely the degree to which land use planning conflicts with the rights of landowners to do what they want with their land.

In 1993 the Oregon legislature took steps to strengthen and expand the rules and regulations affecting the use of agricultural land. A lack of clarity in the original goal language coupled with a lack of desire at the local, county level to insist on strict adherence with the goal, led to a pressing need to revise Oregon’s rules for agricultural

land. As reported by Sullivan and Eber, this had the effect of mobilizing a committed core of activists focused on the weakening if not the outright repeal of Oregon's land use planning efforts. However, this time, rather than a direct effort to repeal the state program, the focus was shifted to reclaiming what was believed to be, by the activists, a loss of property rights, the longest-standing core issue for program opponents.

In 2000, Ballot Measure 7 was put before the Oregon electorate. Unlike in the 1970s, when Senate Bill 100 was passed, the leadership by moderate republicans had long since passed, and the center had shifted to the right. The Oregon legislature, reflecting these changes, passed a measure aimed at strengthening the rights of property owners at the expense of the land use planning program. Following the veto of that legislation by the Governor, program opponents decided to go directly to the electorate with a ballot measure, Measure 7, that would effectively do the same thing.

The measure did not speak to Senate Bill 100, the Oregon land use planning program, Department of Land Conservation and Development, comprehensive land use planning, or any of the other central elements of the Oregon land use planning approach. Instead, Measure 7 would amend the Oregon constitution to require that state and local government pay for any loss of value occurring as a result of the imposition of any governmental regulations. The Oregon constitution already required that the public provide compensation when private property was taken for public purposes. Measure 7 would have gone much further by requiring compensation for any rule or law or ordinance that restricted the use of property, promising to bring many governmental programs to a halt, including land use regulation at the state and local levels.

Measure 7 passed with 53% of the vote, but was overturned by the Oregon Supreme Court for violating the procedural "one topic" requirement of the Oregon initiative and referendum system. However, its passage, according to Sullivan and Eber, "...[was] a powerful indicator of sentiment and confusion..." about Oregon's land use planning program. (Sullivan and Eber, 2009, page 50)

As Bassett found, the language of the ballot measures had changed markedly between the first four attempts and Measure 7. (Bassett, 2009) The earlier efforts appealed to voters to reject the legitimacy of land use planning, something voters were unwilling to do. Measure 7 and its successors took a different tack, speaking to the impacts of government regulation including land use planning, and to the fundamental belief that all citizens should be treated fairly. (Bassett, 2009, page 164) In the first four campaigns, pro-planning forces could argue the importance of planning for preserving important and valued public goods. In this new environment, pro-planning forces were left trying to defend perceived losses and the specter of governmentally imposed unfair treatment with facts and figures, a decidedly weak and unpersuasive hand.

The demise of Measure 7 in the courts set the stage for Ballot Measure 37 in 2004, modeled on Measure 7 but proposed as a statute, rather than as a constitutional amendment, and focused somewhat more narrowly on land use planning. Measure 37 specifically required that any government implementing a land use regulation either pay

owners for any loss of value or waive the requirements of the regulation. Measure 37 passed, this time with 61% of the vote, and the state and local governments began to receive a wave of claims for compensation. Analysis of those claims soon demonstrated that most were located in rural areas, some 51% in the Willamette Valley directly in farm use zones. Measure 37 required no factual basis for the claim, and explicitly did not allocate or provide any funding for paying claims. Consequently, all claims, with one exception, were met with a waiver of the relevant regulations.

The impact of the claims, and the inability of government to do anything other than waive regulations on a spot basis led to relatively clear patterns that were soon seen to be harmful by both communities and neighbors. (Martin and Shriver, 2006) Case study research on Measure 37 claims coupled with the mapping of the locations of claims, particularly in the Willamette Valley, illustrated the directed connection between the Measure's reputed action on behalf of fairness and its direct attack on the statewide planning goals and the longstanding, now widely held interests served by the planning program, both in substance and in process.

In particular, maps of areas of the state with the most claims, along with information about the potential resulting levels of development, led the Oregon Legislature to put Ballot Measure 49 before voters in November, 2007. Measure 49 attempted to address the perceptions of unfairness by allowing a limited number of new residential development permits, but only within a finite time period. It also required evidence of losses particularly for larger claims, something not included in Measure 37. Measure 49 passed with 62% of the vote, leaving the state program largely intact.

While some claims of lack of fairness persist, the leading property rights group in the state, Oregonians in Action, has publicly proclaimed that its battle to repeal the planning program is over, for now, and that it is focusing its efforts to improve the economic options for individual owners of small-scale rural lands. Nonetheless, the issue is far from settled, and if anything, as Bassett has noted, the battle over land use planning has moved on to a new and probably never-to-be-settled environment where arguments are framed more centrally by values and not by appeals to reason or institutional arrangements, a reflection of the volatile political climate gripping Oregon and the nation.

Lessons Learned

The Oregon planning experience is often pointed to as a model for the nation. Oregon has accomplished many things that other states have either only recently engaged or have tried and failed to do. However, Oregon engaged in land use planning not to create a model but to solve a set of inter-related problems that are somewhat unique to its economic and political geography. The economic and political importance of agriculture and the forest products industry in Oregon's economy, and an urban population that is generally focused on creating strong, vibrant urban communities and preserving the rural landscapes that define the state's "brand," is unusual in the United States. Today, elements of the system put in place by Senate Bill 100 in 1973 have become not just

central parts of the civic discourse of the state, but part of the cultural life of the communities of Oregon. (Abbott and Margheim, 2008) Several clear lessons can be learned from this experience:

- 1) **Planning Matters.** Land use patterns in Oregon have changed, and urban form in Oregon is different than in neighboring states. Citizens have a role in the process, and the purpose of the process is to enable development to occur, guided by plans based on facts, in a transparent and fair manner. Because of the land use planning program, facts and the meaning of words both matter, and aspirations have and continue to be translated into implementable actions.
- 2) **Things Take Time.** The modern era of planning in Oregon has its roots in almost 100 years of state and regional activity. Oregon engaged in a program of statewide land use planning in the 1970s as a consequence of its struggle with issues extending back to the beginning of the 20th century. Further, Oregon is far from finished with its efforts to shape its future through planning and public policy. The Oregon Statewide Planning Program enacted by Senate Bill 100 in 1973 is best viewed as a key moment in an ongoing and robust continuum of effort.
- 3) **Controversy never ends.** Land use planning has and continues to be contentious and will always be so. Fundamentally, we are a nation endowed with abundant land resources and created, in part, to extend the rights of ownership broadly. Government intervention, at any level, in the use of private property has never come easy. The fundamental tension in American society between the rights of individual land owners and the larger public good pervades all discussions of land use planning and will frame them for all time to come. This is further complicated in a state like Oregon, where the “urban-rural” divide adds additional tension and history to any activity that attempts to engage the state in the management of land and natural resources. As rural sociologists have pointed out, rural communities depend on relationships while urban communities depend on rules. Rules-based institutions intervening in largely rural land use issues invoke a vast collision of cultures and expectations before even beginning to deal with the more technical issues of land use and planning.
- 4) **Winning means being able to Collaborate and Compromise.** Everything that Oregon has accomplished has occurred via the creation of coalitions. Urban environmentalists and rural farmers pressed for something better than Senate Bill 10. Land use advocates have joined numerous times with development interests to insist that communities live by their plans, or engage in a public process to change them. These coalitions, made up of interests that sometimes collaborate and sometimes conflict, require that the outcome of the politics of land use result from processes within which compromises can be struck. The only way to ensure that this is possible is for all concerned to take the long view. Being able to recognize that outcomes are linked, not separable, over time is and has been critically important.
- 5) **The Landscape keeps us Honest.** At the end of the day, it’s the landscape of Oregon that creates our common frame of reference. (Hibbard et al, 2011) Once the ramifications of Measure 37 became apparent, for example, and the potential

impacts on the working landscape of the rural Willamette Valley became clear, Measure 49 emerged as a solution, and passed with a slightly larger margin than did the measure that instigated it and that it replaced -- Measure 37. Oregonians enjoy an unusual and diverse set of landscapes and experiences, and in a state that grows primarily through in-migration, those landscapes and experiences come to be critical factors in the self-selection by in-migrants that brings them here in the first place. Oregonians are proud of what they've found here, and with how they've responded to it, not solely or predominantly about what they've created. Senate Bill 100, like other notable Oregon innovations—the “Bottle Bill,” Beach Bill, and others—tend to be innovations of preservation rather than innovations of creation.

- 6) Many Issues Remain. This story is far from over:
 - a. As Sullivan and Eber document, even the definition of agricultural land remains in flux. (Sullivan and Eber, 2009, page 55) There remain a significant number of key terms and relationships in need of clearer definition.
 - b. Regulation is only one tool for accomplishing the goals set forth in Oregon's planning program. Investment, tax policy, and other policy actions at the local, regional, and statewide levels also matter. However, Oregon has never developed comprehensive, sectoral policies to act on issues like the preservation of the agricultural economy and the practice of agriculture. That is, Oregon has made great strides in land use policy, but has yet to match its land use policy with integrated, coordinated sectoral policy and objectives that, as with land use, extends from and connects actions at the local to the regional to the statewide scales.
 - c. Key questions regarding the impact of planning on the economy, and on the use of planning to promote economic development, continue to be debated. Every time the economy slows down, calls for loosening land use requirements get louder.
 - d. Big infrastructure projects continue to raise questions about sprawl, and force discussions about presumed tradeoffs between jobs and the economy. Of great concern today is the fact that infrastructure is no longer paid for by the State or Federal government. Local sources are required and difficult to find. Plan implementation requires more than regulation. Without investment, the very premises of plans are called into question.
 - e. Though Oregon planning is known for agricultural land preservation and the use of UGBs, it's not known for creating greater conditions of equity and justice in society, and for making social justice as important a statewide planning goal as the efficient establishment of urban transportation systems. Though Goal 10: Housing has enabled Oregon to avoid the pitfalls of exclusionary zoning, and has made a range of housing types available, by right, in all communities, the linkage between equal access to the opportunities of the state for all citizens and its land use planning is only now getting systematic attention in the context of

comprehensive land use planning at the local level. (City of Portland, 2012)

- f. Fairness, an issue raised by opponents of land use planning, is far from settled and secure, and as a consequence, the battle over how much and how far land use planning, particularly its implementing regulations articulated in zoning, should affect private and local decisions continues. Often opposition is expressed not in relation to the plan, but to the zoning. Without the zoning, however, the plans lack meaning and a clear role in local decision-making processes. Efforts to make the zoning less onerous have consequent effects on the plans. Driving zoning through planning, and not the other way around, remains a complicated political and conceptual struggle.
- g. Regionalism and regional planning, rejected in the adoption of Senate Bill 100, is an issue in Oregon that never goes away. The regions of the state regard themselves as being profoundly different, and therefore beyond the easy application of a set of rules created centrally by the state. That tension, between tailoring the program to the regions of Oregon versus hewing to a statewide program and goals, is reflected in a memo developed by the Oregon Department of Land Conservation and Development that articulates the flexibility for regions already built into the existing program. (Oregon Department of Land Conservation and Development, 2008) Recently, the Oregon Chapter of the American Planning Association authored a report calling for a new generation of regional approaches as a means for enabling the program to better address longstanding and emerging planning issues in the state, issues perceived to be shaped and defined by their location. (Oregon Chapter, 2010) The quest for regional (if not a reversion to local) approaches set within the desire for a statewide system continues.
- h. The goals are almost 40 years old, and most comprehensive plans are now between 25 and 30 years old. Though the state system calls for the “periodic review” of all acknowledged plans, the challenge remains to keep plans alive and vital elements of local thought and action as communities change, people leave or die, and conditions require new responses.
- i. As fiscal pressures on state and local governments increase, there is an increasing desire to simplify and streamline planning, both to reduce costs and to focus citizen engagement on key policy issues rather battles over numbers and models.

In short, though much has been accomplished, much remains to be worked out. Again, regarding Oregon’s land use planning as settled and done, rather than as an engaging set of questions and as continuing to evolve, is risky, at best.

Conclusions

Oregon's land use planning program is statewide in scope, but it is not a state planning program. Instead, most planning is done by cities and counties, just as it has been since city planning was set in motion in the US in the early years of the 20th century. The closest thing Oregon has to a plan for the state is the "quilt" made up of all of the comprehensive plans developed by cities and counties, all the plans of operating state agencies, and all of the planning efforts of Metro and other regional bodies, all of which are stitched together by the requirement for them to be consistent with the common framework provided by the statewide planning goals.

As this paper suggests, one way to view the statewide planning program in Oregon is as an over 50-year work-in-progress aimed at solving problems that don't get worked out well within the geographic boundaries of single jurisdictions. It's not about creating new scales for planning, and what Oregon has done is certainly not unusual from that standpoint. Instead, what Oregon has done is inserted, in a meaningful way, an extra-jurisdictional scale of interest in how plans get made and acted on. At every turn, Oregon did not fundamentally change the roles for different scales—city, county, region, and state. Instead, it changed the context.

As Hise has pointed out, it's inaccurate to regard the history of city planning in America as having no room for regional or other larger scales of planning. (Hise, 2009) To the contrary, he has viewed the history of American city planning as being one profoundly shaped by regional concerns and engaged with regional planning. In essence, the history of American city planning is one shaped by the issues and concerns of the next largest scale. In Oregon, the difference has been that those larger scale concerns are transmitted via a legally binding framework, thereby ensuring that local plans aren't allowed to develop and get implemented in isolation.

Certainly, Oregon is not the only state to attempt to contextualize local planning in some way. However, the way that Oregon has done it is a reflection of the links between landscape, politics, economy, and geography. The important contribution that Oregon has made is not that it utilizes UGBs or ties zoning to plans or even farm tax assessment to the presence of exclusive farm use zones. Rather, the contribution that Oregon has made is to demonstrate the necessity of real and accountable relationships between local, regional, and state scales of interest and concern, and that even with those links between scales, local concerns can be featured and promoted. In essence, multiple scales can coexist, successfully, and even, on occasion, work together.

Particularly with concerns about climate change, carbon emissions, sustainability, and new attention to social justice framing contemporary planning debates, the ability to reclaim scale is needed now as much or more than ever. Though we may live in a world where the cumulative impact of local initiatives is the best we can hope for to change trends and conditions, it's the way those local initiatives intersect each other and the native scale of the issues at hand that will determine whether the whole is greater than the sum of the parts.

Viewed in this way, the Oregon experience is a lens with which to view the intersection of interests and scales needed to plan and act effectively on behalf of a desired future. To do less is to merely cope with the consequences of diminished expectations and limited aspirations, hardly an inspiring message for those charged with planning and shaping the future.

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