Planning the Oregon Way

Presenters:
- Rob Hallyburton, DLCD Community Services Mgr.
- Brian Davis, Roseburg Planning Director
- Gordon Howard, DLCD Principal Urban Planner
- Tim Murphy, DLCD Farm and Forest Lands Specialist
- Jon Jining, DLCD Community Services Specialist
Oregon’s Planning Program

History

“There is a shameless threat to our environment and to the whole quality of our life, an unfettered despoiling of the land. Sagebrush subdivisions, coastal ‘condomania,’ and the ravenous rampage of suburbia in the Willamette Valley all threaten to mock Oregon's status as the environmental model for the nation. We are dismayed that we have not stopped misuse of the land, which is our most valuable finite natural resource.”
Oregon’s Planning Program

History
Oregon’s Planning Program

History
Oregon’s Planning Program

History

OREGON LEGISLATIVE ASSEMBLY—1973 REGULAR SESSION

Enrolled

Senate Bill 100

Sponsored by Senators MACPHERSON, HALLOCK

CHAPTER

AN ACT


Be It Enacted by the People of the State of Oregon:

PART I INTRODUCTION

PREAMBLE

SECTION 1. The Legislative Assembly finds that:

(1) Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.

(2) To promote coordinated administration of land uses consistent with comprehensive plans adopted throughout the state, it is necessary to establish a process for the review of state agency, city, county and special district land conservation and development plans for compliance with
Oregon’s Planning Program

History - Senate Bill 100

- Created LCDC and DLCD
- Directed LCDC to develop statewide planning goals
- Required all cities and counties to adopt comprehensive plans
- Gave LCDC the authority to approve or reject comprehensive plans
- Required state agencies to comply with comprehensive plans
Land Conservation & Development Commission (LCDC)

- Seven citizen volunteers appointed by the Governor and approved by the Senate
- Geographic representation
- Adopts state land use goals and rules
- Ensures local plan compliance with goals
- Hears certain land use cases
Land Use Regulation Hierarchy

- Oregon Revised Statutes (ORS)
- Statewide Planning Goals
- Oregon Admin. Rules (OAR)
- Comprehensive Plan
- Local Ordinances
- Local Decisions
Statewide Planning Goals

- 19 goals – the foundation of the Oregon land use program
- Express Oregon’s fundamental policies on land use
- Local comprehensive plans and ordinances must be in compliance with applicable goals
- Comprehensive plans replace the goals upon acknowledgment
Statewide Planning Goals

Goal 1 - Citizen Involvement
Goal 2 - Land Use Planning
Goal 3 - Agricultural Lands
Goal 4 - Forest Lands
Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources
Goal 6 - Air, Water and Land Resources Quality
Goal 7 - Areas Subject to Natural Disasters and Hazards
Goal 8 - Recreational Needs

Goal 9 - Economic Development
Goal 10 - Housing
Goal 11 - Public Facilities and Services
Goal 12 - Transportation
Goal 13 - Energy Conservation
Goal 14 - Urbanization
Goal 15 - Willamette River Greenway
Goal 16 - Estuarine Resources
Goal 17 - Coastal Shorelands
Goal 18 - Beaches and Dunes
Goal 19 - Ocean Resources
Oregon Administrative Rules (OARs)

- Some implement and refine goals
- Some apply only to LCDC and DLCD
- Many apply directly to local land use decisions
  - Most relate only to plan and code amendments
  - Some regulate permits
Primary Statutes (ORS)

- ORS 197 (and 197A) includes a wide variety of requirements
- ORS 215 provides laws for county planning and EFU and forest zones
- ORS 227 provides laws for city planning
- ORS 92 regulates land divisions

Time check – 1:30
Comp. Planning Requirements

- All cities and counties must adopt a comprehensive plan and implementing codes
- All urban and rural areas must be planned and zoned
- LCDC approves plans as complying with the statewide planning goals, rules, and statutes
- State agency plans and permitting actions must comply with local plan/zoning requirements
Comprehensive Plan

- Establishes a “vision”
- Guiding land use document for local government
- Comprehensive document that guides land use, infrastructure development, conservation of natural resources, economic development, public services, etc.
Comprehensive Plan

A comp plan includes the following components:

- Data and inventories – natural, social, and economic information
- Goals and Policies – broad statements of intent used to guide implementing measures
- Implementing measures – zoning or development codes, subdivision and partition ordinances, etc.
- Maps – future land use, zoning, transportation system, etc.

Housing Goal

To provide for the housing needs of citizens of Medford.

Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Medford households and allow for flexibility of housing location, type and density.

Housing Policies and Implementation Strategies

Policy 1: The City of Medford shall assess the housing needs of current and prospective residents, including the elderly, disabled, active retirees, and other groups with special housing needs, to determine development priorities and to formulate specific strategies and activities to meet those needs.

Implementation 1-A: When considering changes to the Medford Comprehensive Plan or Land Development Code, base such changes on the Housing Element adopted on December 2, 2010, particularly:

- Housing Need Projection in Table 31
- Forecast of Needed Housing Units in Table 37
- Buildable Land Needed for New Dwelling Units in Table 39
- Residential Land Deficit by Plan Designation in Table 41

Implementation 1-B: Assess compliance with Housing Element goals and policies and progress in meeting density goals. Consider actions such as:

a) Producing an annual residential development report;
b) Preparing a Housing Needs Analysis and Buildable Land Inventory at least every five years and utilizing it to assess housing policies and priorities;
c) Identifying areas suitable for manufactured home parks.
Comprehensive Plan

The plan is the basis for and implemented by zoning regulations.

Policies are sometimes regulatory ("shall").

Plans are often organized consistently with statewide planning goals, but not always.
Amending the Plan

- Requirements for notice to DLCD
- Generally a minimum of two hearings
- All the goals potentially apply
- Appeals go to the Land Use Board of Appeals

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<th>Uploaded Name</th>
<th>User</th>
<th>Document</th>
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Local governments are required to send notice to DLCD at least 35 days before the first evidentiary hearing. OAR 660-025-0080 for a completed copy of this form.

Jurisdiction: __________
Local file no.: __________

Please check the type of change that best describes the change:

- [ ] Urban growth boundary (UGB) amendment or an adopted urban growth boundary
- [ ] UGB amendment over 100 acres by an adopted urban growth boundary
- [ ] Urban reserve designation, or amendment over 2,500 within the UGB
- [ ] Periodic review task – Task no.: __________
- [ ] Any other change to a comp plan or land use regulations

Local contact person (name and title): __________
Phone: __________
E-mail: __________
Street address: __________
City: __________
Zip: __________

Briefly summarize the proposal in plain language (maximum 500 characters):

Date of first evidentiary hearing: __________
Date of final hearing: __________

This is a revision to a previously submitted proposal:

Check all that apply:

- [ ] Comprehensive Plan text amendment(s)
- [ ] Comprehensive Plan map amendment(s)
- [ ] New or amended land use regulation
- [ ] Zoning map amendment(s) – Change
- [ ] Change
- [ ] An exception to a statewide planning goal

Check if an exception to a statewide planning goal is required:

An exception to a statewide planning goal is proposed: __________

Goals Subject to Exception: __________

Total Acres: __________

Locations (if there is a large number of parcel numbers associated with the amendment, please contact DLCD for assistance)

Add A New Location

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<th>Location of Property, if Applicable</th>
<th>Site Address (if available)</th>
<th>Location Map (if available)</th>
<th>Zip</th>
<th>Description</th>
<th>Acres</th>
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Add New Location

Affected Agencies and Contacts

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<tr>
<th>Affected Agency</th>
<th>* Contacts</th>
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Report A Problem

(updated): __________

Proposed Change? Yes No

RECOMMEND

Statewide planning goals those sections

goal exception was required for this

goal exception was required for this

goal exception was required for this

goal exception was required for this

goal exception was required for this change.
Basics of Permits, Notices, Appeals, etc.
Types of Land Use Procedures

Type I (Administrative)

- Made by the Planning Official or designee
- No public notice or public hearing
- Clear, objective, non-discretionary criteria
- Recognized impacts have been incorporated into development standards

B&B Example:
I want to build an addition, so I need a zoning clearance for a building permit
Types of Land Use Procedures

Type II (Administrative)

- Made by the Planning Official or designee
- Limited discretionary criteria
- Requires public notice
- Opportunity for a public hearing if appealed

B&B Example:
I want to build an addition into the yard setback, a variance is required
Types of Land Use Procedures

Type III (Quasi-judicial)

- Made by impartial third party (Planning Commission, Hearings Officer)
- Requires public notice
- Public hearing
- More complex development issues
- Discretionary criteria

B&B Example:
Zone does not allow B&Bs, so I need a zone change
Types of Land Use Procedures

Type IV (Legislative)

• Decision made by governing body in legislative role
• Not private party applications for one property
• Creation, revision, or large-scale implementation of public policy

B&B Example:
Zoning prohibited B&Bs. They changed my zone’s code language, allowing B&Bs. Thanks, Planning!
Notice Requirements

ORS 197.763 Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures

Notice distance
Notice timeframe
Notice content
Point of contact
Availability of application, staff report
Time Requirement for Final Action
ORS 227.178 for 120-day Rule (ORS 215.427 for non-UGB 150-day Rule)

- **App 1**: No city response within 30 days; deemed complete on Day 0

- **App 2**: City deems complete on Day 30

- **Deadline for final city action**: *May be extended by applicant, not to exceed 245 days*
Writ of Mandamus
**Time Requirement for Final Action**
ORS 227.178 for 120-day Rule (ORS 215.427 for non-UGB 150-day Rule)

- **Day 0**
  - No city response within 30 days; deemed complete on Day 0

- **Day 30**
  - City deems complete on Day 30
  - City deems incomplete on Day 30
  - Applicant responds; starts clock again

- **Day 120**
  - Applicant responds; starts clock again
  - No written response from applicant...

- **Day 150**
  - *Deadline for final city action
  - *May be extended by applicant, not to exceed 245 days

- **Day 180**
  - App is void

- **App 1**
  - No city response within 30 days; deemed complete on Day 0

- **App 2**
  - City deems complete on Day 30
  - City deems incomplete on Day 30

- **App 3**
  - City deems incomplete on Day 30

- **App 4**
  - No written response from applicant...
Findings

• Written basis for local government’s decision
• Encourage clear reasoning (forced to address criteria)
• Educate parties how decision was made
• Assist appellate body determine if procedures and criteria were properly addressed

LUBA: “It’s all about your findings.”
Findings

Don’ts

• Conclusionary findings – no facts
  (“The criteria are met...”)
• Findings not affirmatively stated
  (“No detriment could be found. Criteria are met.”)
• Summarizing evidence without stating the basis for decision
  (“House is historic. Criteria are met.”)
• Avoiding criteria, even when you determine a weakness in the code
  (“City finds the criteria do not apply in this case.”)
Land Use Board of Appeals

• Created 1979
• Designated body for land use appeals
• Three “referees” appointed by Governor, confirmed by Senate
• Hears about 250 appeals every year
• OAR 661: “…intended to promote the speediest practicable review of land use decisions...” :/
Appellate Courts

“I want to remove the historic designation on my B&B.”

- Historic Resources Advisory Board: No
- City Council: Yes
- LUBA: No
- Oregon Court of Appeals: Yes
- Oregon Supreme Court: No
- Ninth Circuit Court of Appeals: ?
DLCD/OAPA
Planners Network Meeting
sponsored by
the Oregon Department of Land Conservation and Development (DLCD),
the Oregon Chapter of the American Planning Association (OAPA),
the Oregon City Planning Directors Association (OCPDA) and
the Association of Oregon County Planning Directors (AOCPOD).

Planning the Oregon Way: Planning 101 for
Oregon Planner and Planning Technicians