



OREGON PLANS

The Making of an Unquiet Land-Use Revolution

SY ADLER

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Sy Adler

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Contents

- Acknowledgments* 7
- Series Editor's Preface* 9
- Introduction: Oregon Plans 13
- 1 The Laws, 1961-1969: The Path to Farmland Preservation 25
- 2 The Laws: The Path from SB 10 39
- 3 SB 100 in the 1973 Legislative Session 59
- 4 The Agency: Starting Up LCDC and DLCD 83
- 5 Adopting Statewide Planning Goals: The Grassroots Phase
and a New Approach. 103
- 6 Adopting Statewide Planning Goals: LCDC, Stakeholders,
and the Politics of Conflict Resolution 119
- 7 Watchdog Emerging: 1000 Friends of Oregon 151
- 8 Governor Straub, the 1975 Legislature, and LCDC 169
- 9 The Agency, the Watchdog, and the Dynamics
of Local Planning 191
- 10 The Coastal Goals 209
- Epilogue: Oregon's Unquiet Land-Use Revolution Unfolds 219
- References* 229
- Index* 248

Introduction

Oregon Plans

Oregon's Senate Bill 100—commonly called simply SB 100—and the statewide land-use planning program it initiated were controversial from the start. Passed by the legislature in 1973, the program would affect in various ways the daily lives of everyone in the state, and would earn Oregon a reputation as a leader among states in the field. Those who led the effort to pass the revolutionary legislation included environmental activists—some of them attorneys, professional planners, legislators, and state officials—business people, and farmers. Their goal was to insert what they saw as statewide interests into land-use decision-making processes that had been up to that point resolutely local. They were motivated by pragmatic concerns about the future of critical sectors of the state's economy and increasing costs to taxpayers, as well as by desires to protect the state's natural beauty and livability. This is the story of the path to SB 100, what it took to get it passed, and how it was implemented during the critical early period of the mid-1970s.

Context

Advocates for statewide land-use planning expected opposition to SB 100, and they got it—from local governments that were competing with each other to attract population and economic growth, state agencies that pursued projects shaped by local growth-promoting interests, and property owners and developers hoping to reap speculative gains associated with growth. Advocates wanted to address the resulting environmental, economic, and social problems that transcended local government boundaries, and the transformation of land-use planning institutions and practices became the vehicle to accomplish that.

Modernizing those institutions and practices involved elaborating a complex set of legal mandates and establishing a new agency to administer

them. It also meant enlarging the role of professionals in making and implementing plans and requiring them—and the officials they worked for—to base their work on objective information about current and likely future conditions. Enacting and implementing SB 100 involved many thousands of Oregonians who sought to shape land-use-related actions at state and local levels in a variety of forums and provided intense scrutiny of what planners and elected officials at all levels were doing every controversial step along the way.

Oregon began to chart a path toward SB 100 in the early 1960s. The legislature, traditionally attentive to agricultural interests, attempted to preserve farmland on the fringes of growing urban areas by borrowing and tinkering with methods that had been used in states such as Hawaii and California. The effects of urbanization were most clearly evident in the Willamette River Valley, where about two-thirds of the state's population lived and where the most productive agricultural land was located. Oregon's population grew by 18 percent during the 1960s. The Willamette Valley accounted for 86 percent of that growth, 54 percent of it in the Portland metropolitan area. During the 1970s, the state population grew by another 26 percent, this time with a larger proportion occurring outside the Willamette Valley. Land-use issues were becoming increasingly important throughout the state as a result.

State lawmakers were also revising land-use planning laws that had been adopted in the 1940s and 1950s to facilitate farmland preservation. Those laws enabled county governments to zone land for a variety of uses, but a county's zoning code had to be consistent with a land-use plan. Most counties showed little interest in taking advantage of the opportunity to plan. In the early 1960s, the legislature authorized counties to create exclusive farm-use zones, a different approach to farmland preservation than was emerging in other states. Farmers in those zones would automatically be entitled to property-tax breaks that were intended to give them an incentive to keep their land in agricultural production. The path to farmland preservation in Oregon, though, still required comprehensive plans that designated land for farm use. With continuing resistance to planning in most counties, relatively little land in rural Oregon was planned or zoned into the early 1970s.

Interest in farmland preservation increased dramatically in the United States during the 1960s and 1970s, especially from 1972 through 1974.



Map of Oregon counties (the Willamette Valley counties are unshaded)



Map of Willamette Valley counties and some key cities

National and global developments affected the agricultural sector worldwide, producing rising prices for agricultural products. There was also a concern that productivity-enhancing technical innovations had reached their limits, and, starting in 1973, a growing national interest in using income earned by agricultural exports to offset higher prices for imported oil (Lehman, 1995; Peterson and Yampolsky, 1975). Those developments were especially significant for Oregon, where agriculture was the second largest economic sector in the state.

While the threat to the agricultural economy was the prime motivation for state involvement during the early years, the concurrent rise of new social and political movements shaped the state's intervention in local land-use decisions. Environmentalists, proponents of citizen empowerment, feminists, public interest lawyers, and advocacy planners pursued overlapping agendas. Many public interest attorneys, for example, worked on environmental protection issues, and women were prominent among those advocating for citizen empowerment. Many planners were both involved in the environmental movement and supported efforts to give citizens more power. Activists saw land-use planning processes as arenas within which to articulate social, economic, and environmental concerns and to challenge the capture of local government decision making about land use by property owners and developers, which often led to projects and policies that activists saw as being environmentally destructive and socially inequitable.

Laws

The key structural feature of Oregon's land-use program was the preeminent role SB 100 assigned to comprehensive plans produced by local governments. A law passed in 1969—Senate Bill 10 (SB 10)—had mandated that every city and county government adopt a comprehensive land-use plan and zone its jurisdiction “border-to-border” by the end of 1971. The Governor's Office was authorized to take over planning and zoning if a local government failed to meet that deadline, and ten goals were included in the law to guide the Governor's Office in the event it did. Oregon was the second state in the country, after California, to require local governments to produce plans and the first to require them to adopt zoning ordinances. It was a dramatic move, elevating the status of local comprehensive plans to a level well above what they occupied elsewhere in the nation. The shift

from enabling to requiring local governments to plan and zone proved to be highly contentious, and SB 100 was crafted to overcome the obstacles that the implementation of SB 10 revealed.

SB 100 maintained the SB 10 mandates and stipulated clearly that zoning ordinances had to be consistent with plans. The plans and projects of special districts—such as those providing water, sewer, school, and port facilities—and of state agencies—such as those dealing with transportation, economic development, and environmental quality—also had to be coordinated with local comprehensive plans. SB 100 assigned to counties the critical role of coordinating the planning efforts of all cities in their jurisdictions, especially regarding growth outside city boundaries, as well as the plans and projects of special districts and state agencies.

The mandated plans and zoning ordinances and all state and special district programs affecting land use had to conform to a set of legally binding goals adopted by a new state agency, the Land Conservation and Development Commission (LCDC). The new agency would review the plans, ordinances, and programs that cities and counties created for conformance with statewide goals, and was authorized to assume responsibility for planning and zoning if a local government failed to comply before the end of 1975. LCDC also had to ensure that citizens were involved at all stages of the process, from developing goals and making plans through implementation. At the time, this ensemble of mandates was unique in the United States. Norman Williams, Jr., a law professor who worked closely with national planning organizations, wrote: “The new Oregon Planning Act [SB 100] . . . represents the most advanced step yet taken in American planning legislation” (Williams, N., 1975).

The Quiet Revolution in Land Use Control, a landmark book published in 1972, significantly influenced the development of SB 100. Underlying an enhanced role for state governments, the authors argued, was a transition underway in the status of land, from an individually owned commodity bought and sold in the marketplace to a common property resource in which the larger community had an interest. Because local officials often resented the notion that there were statewide interests in the resources in their jurisdictions that they were failing to protect, one piece of advice offered by the authors was that state governments begin with modest efforts to regulate land uses to achieve a few select goals. That approach would be more successful, they predicted, than imposing a planning mandate that

might generate resistance and undermine the state's ability to achieve its larger land-use objectives (Bosselman and Callies, 1972). By that time, though, the Oregon legislature was already headed down the mandate path.

Another influential source for those working on SB 100 was the American Law Institute's *Model Land Development Code* project (American Law Institute, 1974). The original version of SB 100 included several Model Code proposals, including state-designated areas of critical concern and activities of statewide significance. A state agency would be centrally involved in planning and regulating those areas and coordinating those activities.

Hawaii in the early 1960s and the Canadian province of British Columbia in the early 1970s pursued versions of the critical-area approach to preserve farmland on the fringes of rapidly growing metropolitan areas. They created state/provincial agencies that directly zoned land for farm use after consulting with local and regional governments and taking their planning considerations into account. Oregon interposed local planning and state acknowledgment of local plans between the state goal of preserving farmland and zoning land to achieve that objective. Local planners, especially in rural areas, often faced resistance from property owners and officials that prolonged those processes and threatened the achievement of the state's goal.

Plans

Many city planners in Oregon had concerns about implementing the local comprehensive planning mandate. They were often more interested in doing short- and intermediate-range plans and more specific plans that targeted particular districts than doing the long-range comprehensive plans SB 100 and LCDC required. While population in the Portland metropolitan area grew substantially between 1960 and 1980, the City of Portland's population increased just 2 percent between 1960 and 1970, and declined by 4 percent between 1970 and 1980. Acutely concerned about the competitive position of its central business district, the city adopted an ambitious downtown plan just before SB 100 was enacted, and city officials were looking forward to creating additional such plans and projects to implement them. The legislature defined comprehensive as "all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan." Producing such a plan would clearly be a very complex, time-consuming,

and resource-intensive process. Portland planners, as well as their city and county counterparts elsewhere, were reluctant to allocate the time and resources to the state-mandated effort.

Oregon enacted its local planning mandates at a time when the U.S. government sometimes required and often encouraged state and local governments to plan before spending federal money. In the 1960s, for example, comprehensive metropolitan-area transportation plans had to be created before federally financed highway projects would be approved for construction. State and local governments also had to create associations of local governments to review and approve applications for a wide range of federal program grants, including law enforcement, social services, and physical infrastructure projects. Those new regional entities were required to prepare and adopt plans to guide their reviews. The federal government also mandated planning for water-quality-related facilities, air-quality-related projects and programs, and health care facilities.

The planning mandates were intended to rationalize federal expenditures during a time when rapid metropolitan population and economic growth were creating turmoil. The actions of federal agencies that affected the location of growth were often in conflict with each other; and federal agencies, each pursuing its own mission and cultivating its own relationships, were drawn into the competition for investments that raged among state and local governments. In the absence of explicit national goals for the location of population and economic activity—Congress was particularly reluctant to adopt such goals—executive branch officials hoped that regional planning processes would produce the coordinated allocation of resources they were unable to implement themselves and mitigate the troubling social, economic, and environmental impacts generated by competitive pressures operating at state and local levels.

The lack of coordination of the projects and programs initiated by state and local agencies and private developers motivated Governor Tom McCall to support SB 100, and coordination objectives figured prominently in the preamble to the bill. McCall strongly supported authoritative planning roles for regional agencies in metropolitan areas, in the Oregon coastal zone, and in nonmetropolitan regions to address coordination issues. During his first term, McCall was officially the state's chief planner, a role that he relished.

McCall was also an outspoken advocate of the National Land Use Policy Act, a much-amended bill that Congress debated between 1970 and 1975.

The act proposed to give money to states to develop plans and regulations, just as McCall strongly supported giving local governments money to plan and zone. In fact, the governor fervently hoped that federal money would be available to finance state and local land-use planning in Oregon. Lobbyists for homebuilders, realtors, farmers, and large business organizations were centrally involved at both federal and state levels. Although the national land-use law did not pass, in part due to the opposition of those groups, the federal government enacted several laws that had profound effects on land use during that period (Lehman, 1995; Lyday, 1976; Plotkin, 1987; Weir, 2000). It clearly made a difference to its success that SB 100 had the strong support of a popular Republican governor, key legislators, many of who were also Republicans, and leading members of the business community, including farmers.

Zones

At the same time that some reformers and practitioners were questioning the value of long-range comprehensive plans and state planning mandates, zoning was getting its share of criticism. Many land-use planning advocates and some homebuilders were troubled by the use of zoning to exclude lower-cost housing in the suburbs, and exclusionary zoning was a major concern for the reformers working on the Model Code project. The creation and changing of zoning designations were critiqued more generally by planners and environmental activists because those decisions focused primarily on enhancing the value of private property without regard for social consequences, and sometimes involved corrupt practices by appointed members of planning commissions and elected officials, many of whom were involved in property development. In rural areas, decisions to establish zones and to change them often reflected personal relationships among elected and appointed officials and their constituents (Rudel, 1989). Given those relationships, advocates of resource land preservation were skeptical that local government officials would or could apply zoning to preserve farmland or sensitive natural areas when landowners wanted zoning designations that would permit more intensive uses of their land. The 1969 mandate to zone all privately owned land had generated substantial controversy in rural Oregon, including an unsuccessful 1970 ballot measure to repeal the requirement. Protecting resource lands required changing county decision-making practices, but many county officials and

their constituents were ideologically opposed to SB 100 on the grounds that its mandates violated private property rights.

Local Coordination and Citizen Participation

Assigning county governments the responsibility of coordinating the plans, regulations, and projects of local and state government agencies in their jurisdictions was both controversial and problematic. The legislature said in SB 100 that a plan would be coordinated “when the needs of all levels of governments, semi-public and private agencies and the citizens of Oregon have been considered and accommodated as much as possible.” The definition included a pragmatic element, but it was still a daunting prospect. Many of Oregon’s thirty-six counties, especially those outside the state’s four metropolitan areas—Portland, Salem, Eugene, and Medford—had little, if any, planning experience and limited technical and financial capacities. In addition, the requirement to open plan-making and implementation processes to participation by all of a jurisdiction’s residents, and to include opportunities for citizens to appeal government actions, challenged the practice—widespread in city residential neighborhoods, suburban municipalities, and rural areas—of planning land uses according to the desires of property owners, realtors, and developers. Participation requirements also appeared to challenge representative government; there were worries that the authority of elected and appointed officials would be undermined. Citizen involvement through legal proceedings before LCDC and in the state courts emerged early on and became increasingly central to the evolution of the statewide program, which increased the level of contention.

Goals

SB 100’s requirement that zoning ordinances had to be consistent with comprehensive land-use plans, and that both plans and ordinances had to conform to statewide planning goals, was another Oregon first. The consistency requirement, the deadlines, the review process, and the threat of the state’s big stick all heightened the tensions associated with developing statewide goals and producing local plans.

Formulating those goals and processes was a massive, complex, and controversial undertaking for the Land Conservation Development Commission. The lightning rod issue of whether statewide goals should be detailed and specific in order to create a more certain environment or more general

to provide flexibility at the local level to adjust to changing circumstances was heatedly debated. Stakeholders clashed regarding how much discretion state and local governments should have in establishing priorities, resolving conflicts, and reaching judgments about the balance between state interests and local aspirations during plan making and implementation.

Watchdog

All of the legal requirements, though, enhanced the status of local plans and their significance for Oregonians. Lobbyists representing local governments, industry, and property rights groups, as well as environmental, citizen empowerment, and planning activists, participated, often passionately, during goal development and local plan making. There were some differences between planners and environmental activists. The activists, especially the attorneys among them, were skeptical about the ability of local planners to effectively protect environmental resources. They believed that detailed, specific laws and goals and a state agency that was committed to enforcing compliance were necessary to counterbalance the power of local development interests. The lawyers carved out a critically important watchdog role in relation to state and local planners to increase public capacity to monitor and enforce. They were especially worried that the Herculean tasks looming for LCDC, a new agency with seriously limited resources, would lead to a loss of focus, especially on the preservation of farmland. After statewide land-use goals were adopted, LCDC had to allocate public funds to thirty-six counties and 241 cities to produce plans and ordinances and evaluate their products. State and local land-use actions were subject to a great deal of scrutiny—an unprecedented situation.

Several national organizations were doing public interest legal work at the time, but 1000 Friends of Oregon was unique in its concentration on land-use issues in one state. As a land-use rather than an environmental organization, 1000 Friends communicated clearly its support for both conservation and appropriate development, an approach that was consistent with a strategic re-orientation nationally among environmental activists (Popper, 1981). The new organization advocated strongly on behalf of farmland preservation as a key part of a state economic policy, as well as for compact urban development as a way to reduce the cost of infrastructure investments. It sought allies among both farmers and homebuilders to implement its growth-management agenda. 1000 Friends also emphasized

the importance of basing plans on objective, fact-filled analyses of current and likely future conditions and doing so in the context of detailed laws and goals. The specifics were intended to reduce what Friends' attorneys saw as the tendency of local planners and elected officials to inappropriately "politicize" land-use decision-making processes and to enhance the chances that regulations would survive legal challenges.

An Unquiet Revolution

Oregon's land-use revolution was noisy and lengthy. Ballot measures—all unsuccessful—challenged SB 100 in 1976, 1978, and 1982. The legislature considered dozens of bills every session that sought to change the program in ways large and small. The last local comprehensive plans were not acknowledged by LCDC until 1986, thirteen years after the passage of SB 100. The broad outlines that shaped conflict about the program's evolution as well as the sources of its accomplishments were visible during the mid-1970s. Frank Popper captured a key aspect of the Oregon experience:

There may never have been a time when it was as good to be an American city planner or land use lawyer as the late 1960s and early 1970s. Planning was coming alive; huge segments of the public were interested in it and its possible contributions, probably for the first time in American history. The post-World War II building boom, culminating in the record-high development rates of the late 1960s, had produced a professionally exhilarating set of environmental problems . . . planners, lawyers, and environmentalists were animated by a truly public-spirited desire to show how well they would perform if given the opportunity. (Popper, 1988, 292-93)

Professional and civic activists played major roles in the unfolding drama of Oregon's land-use planning revolution. Many were young, had time on their hands, and were passionately concerned about those environmental problems. Elected and appointed state officials, business leaders, and representatives of industry groups and local governments joined them in constructing the statewide program. Everyone wanted good planning, but differences among the stakeholders about what that meant guaranteed that conflict and compromise would shape the specific outcomes that emerged over time.

Oregon Plans provides a rich, detailed, and nuanced analysis of the origins and early evolution of Oregon's nationally renowned land-use planning program.

Drawing primarily on archival sources, Sy Adler describes the passage of key state laws that set the program into motion by establishing the agency charged with implementing those laws, adopting the land-use planning goals that are the heart of the Oregon system, and monitoring and enforcing the implementation of those goals through a unique citizen organization.

Oregon Plans documents the consequential choices and compromises that were made in the 1970s to control growth and preserve Oregon's quality of life. Environmental activists, farmers, industry groups, local governments, and state officials all played significant roles. Adler brings these actors—among them governors Tom McCall and Robert Straub, business leaders John Gray and Glenn Jackson, 1000 Friends of Oregon, and the Oregon Home Builders Association—to life.

“Adler's story is about unusual conditions, purposeful action, dynamic personalities, and the messiness of democratic and bureaucratic processes. His conclusions reveal much about how Oregonians defined livability in the late twentieth century.” —WILLIAM L. LANG, from the Preface

SY ADLER is a professor of urban studies and planning at Portland State University. He is co-author of *Planning a New West: The Columbia River Gorge National Scenic Area*, co-editor of *Planning the Oregon Way: A Twenty-Year Evaluation*, and author of numerous articles on urban planning and transportation.

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