

White Paper: Preserving Oregon's Working Farms and Forests, and Protecting Important Natural Areas

In rural parts of the state, there are three primary land use issues that the Big Look Task Force has identified through their work.

Issue One: Identifying and Protecting Important Natural Areas

- A. Planning Goal 5
 - a. Identify and plan for environmental, historic, scenic areas
 - b. Prescribes a process
 - c. Allows substantial local discretion
- B. Perception that natural areas are preserved using farm and forest designations
 - a. May no longer be appropriate to rely solely on local designations from Goal 5 process if some lands of statewide importance
- C. Sensitivity to adopting new regulations
 - a. BLTF not considering new regulations
 - b. Incentives or other market-based tools should be used
 - c. Statewide purchase of land or easements represents tangible public investment

Framing Question #1

How do we identify important natural areas, protect them, and use incentives to complement regulations?

- A. Existing Program
 - a. Regulatory Program
 - i. Important Natural Areas
 - 1. Goal 5
 - 2. Prescribes process to inventory, assess, and plan
 - 3. Allows significant local discretion
 - ii. Voluntary incentive programs
 - 1. Measure 66
 - a. State acquisition of land and easements
 - b. State acquisition of parkland
 - 2. Non-governmental efforts
 - a. Land trusts & conservancies
- B. Option #1: Retain status quo: preservation primarily through regulation and existing incentive programs
 - a. existing program of land classification, Goal 5 process, Habitat incentive programs
 - b. Outcomes:
 - i. no major changes to regulatory program or landscape;
 - ii. large share of public investment remains in the form of special assessments

C. Option #2: Identify important natural areas, retain current regulations, and create new tools to encourage more conservation easements to protect important natural areas. This may include transferable development rights program to remove rights from conflicted lands, and zoning that allows additional development in urban areas in exchange for conservation easements in rural areas.

- a. Identify important natural areas
 - i. Oregon Conservation Strategy
 - ii. Assessment of wildlife habitats across the state for conservation
 - iii. Defined crucial lands by habitats and specific species
 - iv. Is recommended by environmental organizations as model for classifying important natural areas
- b. Add clustered zoning provisions in rural areas
 - i. Similar allowable densities overall, with development focused to minimize conflicts with natural areas
 - ii. TDR or purchase provisions to remove development rights from conflicted areas
- c. Outcomes:
 - i. allow greater flexibility for shape rural development could take;
 - ii. TDRs may increase pace of development if lucrative enough; primarily market-driven;
 - iii. Require funding & resources for planning and administration

D. Option #3: Identify important natural areas, retain current regulations and add additional tax credit programs to incentivize preservation of natural areas

- a. Identify important natural areas
 - i. Oregon Conservation Strategy
 - ii. Assessment of wildlife habitats across the state for conservation
 - iii. Defined crucial lands by habitats and specific species
 - iv. Is recommended by environmental organizations as model for classifying important natural areas
- b. Tax credit for conservation (natural area)
 - i. Colorado example: 50% of value of the easement, up to \$375,000
 - ii. Used in \$50,000 increments over 20 years
 - iii. Credit can be sold to another taxpayer to offset income tax bill
 - iv. Since 2001, \$274 million in tax credits granted, 1.2 million acres under easement
- c. Oregon Land Trust modeled after Oregon Cultural Trust
 - i. Oregon Cultural Trust revenues FY 2008 \$4.26 million
 - ii. Permanent fund at \$11 million (goal \$200 million)
- d. "Oregon Land Conservation Trust"
 - i. Income tax credit for donations
 - ii. Board and strategic plan
 - iii. Leverage funds

Framing Question #2

Who decides what existing resource lands are "important", what criteria do they use to reevaluate existing resource lands, and how can incentives be used to complement regulations protecting important resource lands.

- A. Important Resource lands
 - a. Task force has proposed the state clarify what types of lands it considers important to statewide land use goals of protecting working farms, forests, and natural areas.
 - b. Lands would continue to be subject to limitations on non-farm and non-forest uses already in place

- B. Option #1: Retain current program, rural development occurs through existing procedures (rezoning or exceptions).
 - a. Current process
 - i. Lands are currently classified using relatively coarse data
 - ii. Land can be rezoned where shown to not meet state criteria on case-by-case basis
 - iii. Rezoned if land is granted exception to farm or forest goals if already developed or irrevocably committed to other uses, or if other uses must be in resource lands (i.e. industrial related to resources)
 - iv. Lands that are granted an exception or are considered non-resource are given new zoning designation allowing limited rural-scale development
 - b. Existing incentives
 - i. Income tax incentives for working farms & forests
 - ii. Property tax incentives for working farms, forests
 - c. Outcomes
 - i. No substantial change to regulatory framework or landscape
 - ii. Reclassification of lands limited (~1,000 acres rezoned each year)
 - iii. Not likely to alleviate tension over lands classified for farm or forest uses but which are not economically profitable
 - iv. Existing incentives, primarily in the form of tax incentives remain in place

- C. Option #2: State of Oregon (DLCD) engages in a peer-reviewed process to classify "important" resource lands for agriculture, timber and natural areas.
 - a. The classification process would take into account multiple characteristics such as soil classification, parcel conditions, as well as factors relating to the functional importance and role of specific lands in specific types of farm and forest operations
 - b. Likely to be expensive and time-consuming and controversial
 - c. Two potential models
 - i. Metro's Assessment Model

1. Used to identify potential urban and rural reserves
 2. Classified agricultural lands as "foundation" (vital), "important (potential foundation lands), and "conflicted" (potentially high productivity, but impacted by adjacent uses, lack investment, or market conditions)
 3. Process highlights nuances of agricultural economy in the Metro area
 4. Could be model for statewide farm, forest, and natural area assessment
- d. Local Adoption Provisions
- i. After the statewide survey and classification of important farm, forest, and natural areas counties could adopt state's analysis or conduct their own
 - a. Counties carry out own analysis using state's criteria but could refine information
 - b. Results subject to review by the state
 - c. Concurrent with robust public involvement process
- e. Outcomes
- i. Clarify the relationship between goals of protecting farm and forest economies and preventing sprawl
 - ii. Clearer identification of important farm, forest lands could better inform natural area protection efforts
 - iii. Creation of a unified statewide database of farm, forest, and natural areas
- D. Option #3 Counties or regions reexamine and classify lands using state-supplied criteria
- a. State would define criteria by which farm, forest and natural areas are considered important
 - b. Counties conduct actual analysis if they desire to do so (county option approach)
 - i. Statewide grants and technical assistance could be made available to carry out the analysis
 - ii. Robust public involvement process required
 - iii. Multiple jurisdictions encouraged to carry out this process collaboratively
 - c. Counties adopt new land classifications under current Comprehensive Plan amendment process (subject to review by LCDC)
 - d. Outcomes:
 - i. Delegate responsibility of reexamining and classifying lands to counties
 - ii. Some would choose to do so, others would not
 - iii. Local expertise and values could make for better analysis, but too much local discretion could undermine process meant to better inform statewide land use policy
 1. LCDC review potentially balances these issues

- iv. Budget and manpower needs would be high and many counties may require state financial assistance
- E. Option #4: Counties or regions reexamine and classify lands, as in Option #3, including cooperation with adjoining cities and counties to coordinate creation of urban and rural reserves
- a. State would define criteria by which farm, forest and natural areas are considered important
 - b. Counties conduct actual analysis if they desire to do so (county option approach)
 - i. Statewide grants and technical assistance could be made available to carry out the analysis
 - c. Results of analysis would inform creation of urban and rural reserves for cities' urban growth boundaries
 - i. Urban reserves represent land best suited for future urbanization and annexation
 - ii. Rural reserves represent land that should not be urbanized
 - d. Robust public involvement process required
 - e. Multiple jurisdictions required to carry out this process collaboratively
 - f. Adopt reclassification and urban, rural reserves under current Comprehensive Plan amendment process (subject to review by LCDC)
 - g. Outcomes
 - i. Delegate responsibility to local governments
 - ii. Collaborative approach would ensure coordination of urban and rural reserve designations by cities and neighboring counties
 - iii. Budget and manpower needs would be high and many counties may require state financial assistance

Issue Three: What Development should be allowed on Rural Lands that Are Not Important for Farming, Forestry, or as Natural Areas?

- A. What type and level of development is appropriate
- B. How much discretion should local governments have
- C. Overarching questions related to
 - a. Carrying capacity of the land, sustainability factors
 - b. Empowering communities to manage their use

Framing Question #3

What should be done with resource lands determined to be non-critical

- A. Option #1: Retain the status quo farm and forest resource designations; lands that do not qualify as resource lands can be rezoned as non-resource lands.
 - a. Farm, forest, and natural areas classified as important retain existing zoning designations and protections

- b. Any lands not found to qualify as resource lands under state criteria could be rezoned as non-resource lands by counties and allowed limited rural development under current system
 - c. Outcomes
 - i. Creation of GIS database at DLCD
 - ii. Some rezoning of lands if determined to be non-resource, but rural development limited to current standards
- B. Option #2 Counties develop their own zoning districts for lands not found to be of statewide importance, but would be subject to state-defined criteria and performance standards
- a. Farm, forest, and natural areas classified as important retain existing zoning designations and protections
 - b. Zoning districts would maintain farm and forestry as primary uses
 - c. DLCD would define sustainability criteria for
 - i. Carrying capacity of the land (e.g. freshwater resources)
 - ii. Carbon footprint limitations
 - d. Rural development is limited to low gross densities, but could include
 - i. clustered development provisions,
 - ii. transfer of development rights,
 - iii. performance-based measures (light, noise, etc.) to prevent conflicts with farms, forests, and natural areas
 - e. Robust public involvement process would be required
 - f. New zoning districts would be adopted as a Comprehensive Plan amendment, subject to review by LCDC
 - g. Outcomes
 - i. Major outcome would be increased discretion at the local level for rural development
 - ii. Counties would be able to experiment with rural development techniques not currently in use, but subject to additional state sustainability requirements
 - iii. Net effect may be some increased development and economic activity in rural areas
 - iv. May place additional pressure on rural infrastructure