

LCDC Implements State-wide Goals

The Land Conservation and Development Commission (LCDC) is four months into its second biennium. However, it is only beginning the work which will make it the nation's most significant state land use agency. During 1974, LCDC developed state-wide land use policies, called "goals." Now LCDC must interpret and enforce the goals, and help counties and cities implement them in local comprehensive plans and zoning ordinances.

In enacting Senate Bill 100 and creating LCDC, the 1973 Legislature built upon existing state planning laws. Senate Bill 10 of the 1969 Legislature required counties to adopt comprehensive plans and zoning in accord with nine broad policies by December 31, 1971. Senate Bill 100 uses Senate Bill 10's policies as "interim" land use goals until LCDC's goals take effect. Senate Bill 100 also authorized the Governor to administer planning and zoning in counties (including land in cities) which did not meet the deadline or obtain an extension.

The missing element in SB 10 was a working agency to refine and administer state land use policies. Without such an agency, the law was basically a dead letter.

The 1973 Legislature recognized this weakness. SB 100 authorizes LCDC, in effect, to refine SB 10's goals, and to adopt new land use goals and guidelines which cities, counties, and state agencies must follow.

SB 100 also requires counties to report annually to LCDC on the status of all comprehensive plans in the county, including city plans. The reports enable LCDC to determine whether local efforts actually carry out the goals. Finally, LCDC may review governmental land use decisions when public bodies, individuals or corporations appeal to LCDC contending that such decisions violate LCDC's goals.

The legislature gave LCDC two other important powers which LCDC has not yet exercised. First, LCDC may recommend to the legislature the creation of "areas of critical state concern" to which special controls may be applied. Second, LCDC may regulate (by permit) the siting of public schools, water supply and sewer systems, and solid waste and transportation facilities as "activities of state-wide significance." No progress is expected in these two areas in the 1975-1977 biennium.

In 1974, LCDC suffered staff and research limitations because it was underfunded (\$180,000 in state money, plus \$588,000 in federal grants from October 3, 1973, to July 1, 1975). Some of the goals reflect these limitations. However, two of the goals—those dealing with urbanization and agricultural land preservation—constitute a nationally significant state land use policy: a growth control process to minimize urban sprawl on productive agricultural lands, particularly in the Willamette Valley.

Key LCDC decisions in 1975

The 1975 Legislature was generous to local land use planning efforts. LCDC's \$5.9 million budget includes \$4.4 million in grant money which LCDC will distribute to local governments to help pay the cost of implementing the goals. LCDC is now developing criteria by which it will distribute these funds. The criteria are designed to encourage specific work projects (e.g., resource inventories) which will produce compliance with LCDC's goals.

The commission is also developing criteria and procedures to review local plans and ordinances for compliance with the goals. SB 100 requires cities and counties to adopt plans and zoning ordinances which comply with the goals by January 1, 1976. LCDC may grant "reasonable extensions of time" to local governments which have plans and ordinances under consideration, and which are making "satisfactory progress" towards adopting complying plans and ordinances.

On January 1, 1976, land use programs from 36 counties and 230 cities are scheduled to arrive in LCDC's mail box, together with status reports and requests for time extensions. The most important decisions LCDC makes in 1976 will be the criteria and

procedures to (1) review this mass of comprehensive plans and zoning ordinances for compliance and (2) distribute the \$4.4 million in order to produce concrete results for the 1977 Legislature to review.

Finally, LCDC has begun hearing appeals of local land use decisions. While comprehensive plans and zoning ordinances need not comply with the goals and guidelines until January 1, 1976, they must already be in compliance with the old SB 10 goals.

SB 100 authorizes citizens to appeal to LCDC any comprehensive plan provision or any zoning ordinance or regulation implementing the plan if the provision violates LCDC's goals. Local decisions not

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Farm lands will be used for development. But the decision to do so will be tied to growth management techniques, such as location and scheduling of public services, urban growth boundary adjustments, and, when possible, taking Class III and IV soils before Class I and II.

LCDC's Forest Lands goal requires comprehensive plans to inventory forest lands, including the mapping of forest lands by site class, the criteria of forest land productivity. Unlike the Agricultural Lands goal, however, the Forest Lands goal provides only a very general definition of "forest lands," and provides no standard for uses which will be permitted on forest lands. The use standard in the Agricultural Lands goal is the EFU zone, which has been defined by the legislature and which carries an automatic tax break.

The local comprehensive plan is the key element in Oregon's land use program. The plan, together with the zoning ordinances which implement the plan, must provide for industrial growth and housing as well as protect the environment. The development issue is not "whether," but "where," "when" and "how." The plan must be based on facts relating to natural resource limitations, economic factors, population projections, public service needs, etc.—not the subjective desires of special interests. At the same time, however, the planning process should be open, and should involve the public. The plan should resolve use conflicts in the policy-making stage of the decision-making process instead of later, in the development stage, when money and time have been invested in a specific project. The plan's perspective should be long-term as well as short-term.

The so-called "taking" issue should be considered in the context of these broad social purposes of land use planning. The "taking issue" is generally whether the U.S. Constitution requires the public to pay a landowner when land use regulations limit land uses to density levels below the highest possible market value of the land.

The Oregon courts have been saying for fifty years that landowners in places like downtown Eugene or residential Salem can't do "whatever I want with my land." Now, for the same reason, people can't do "whatever I want" with productive agricultural lands: other people's interests are involved.

The farm land subdivider no longer stands on better legal ground to avoid reasonable land use regulations than does the applicant for a permit to construct an aluminum plant in the center of downtown Bend, or a department store in residential Medford.

LCDC's goals and local comprehensive planning are simply a response to the adverse impacts which uncontrolled use of land may impose on adjacent landowners, on taxpayers, and on the public's overriding interest in reasonable, long-term use of limited economic and environmental resources.

In many ways, the problems with which most of the rest of the country contends simply haven't reached Oregon yet. We have a breathing spell, but it will elapse soon. By the year 2000, Oregon's population is expected to double. No one needs a crystal ball to realize that this population growth and its concomitant urbanization will severely pressure the natural qualities which make Oregon a special place.

Senate Bill 100 is the tool all Oregonians can use to take advantage of this fortuitous interlude. Inside the traditional framework of local government implementation, constitutional protections, and legislative supervision, Oregon's land use program is as much concerned with dollars and cents as it is with the quality of life.

About 1,000 Friends of Oregon

1000 Friends of Oregon is a non-profit public service organization which works with citizens throughout the state to implement Oregon's land use laws at the state and local level.

1000 Friends of Oregon is particularly concerned to see that the Land Conservation and Development Commission (LCDC) properly implements Senate Bill 100, and that counties and cities implement LCDC's goals.

To the extent that our resources permit, 1000 Friends of Oregon gives free legal assistance to any citizen who comes to us with land use problems which the Board of Directors finds present important questions of policy or precedent.

We believe it is unfair to expect a single family to shoulder the financial burden of costly administrative proceedings or litigation when the resolution of an important question will actually benefit the public generally.

We believe that a professionally-staffed organization specializing in land use and accountable to a Board of Directors can provide an element of balance in the administrative process which will help Oregon's land use program succeed.

In January, 1975, former Governor Tom McCall asked several people from around the state who agreed with these purposes to form 1000 Friends of Oregon. Advisory Board members are former Governor Tom McCall, Portland, Chairman; Eric W. Allen, Jr., Medford; Ray A. Atkeson, Portland; Martin Buchanan, Milton-Freewater; Elizabeth C. Ducey, Portland; J.W. Forrester, Jr., Astoria; John D. Gray, Portland; Glenn L. Jackson, Medford; Hector Macpherson, Albany; Thomas Vaughan, Portland; and Mrs. Robert C. Warren, Portland.

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1000 Friends of Oregon's work is financed by pledges to pay \$100.00 over the course of a given year. Pledges may be paid quarterly. Any number of people may join to back a single pledge. We also solicit membership pledges from organizations and businesses. All gifts and membership payments are tax deductible.

Our ultimate goal is 1000 members and an annual operating budget of \$100,000.

A major part of 1000 Friends of Oregon's program will be the publication of a monthly newsletter.

Presently, no publication explains the fast-changing complex of statutes, goals, procedures, deadlines, ordinances, hearings, planning techniques, and court opinions known collectively as land use planning.

We believe land use planning will benefit Oregon. But if the people and officials involved in the Senate Bill 100 program at the local level do not have an opportunity to understand it, the program won't work.

This newsletter will include a report on the status of the LCDC program, significant court decisions in Oregon and elsewhere, other states' approaches to land use problems similar to those facing Oregon, as well as reviews of books, reports and government publications, pro-and-con articles on topical issues, highlights of individual county and city planning programs, and reports on 1000 Friends' activities.

The newsletter will be sent free to county and city officials with planning responsibilities (about 1,800 people) for the first year. We hope to convert them to paying subscribers thereafter.

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involving ordinances or plan changes—for example, conditional use permits—may be appealed only by governmental bodies, not citizens.

LCDC's appeal system is obviously important for citizens interested in local government land use decisions. However, it is chiefly important for LCDC itself. It gives the Commission the opportunity to interpret the broad language of the goals in the context of particular factual situations. This will refine and clarify state policy, making it easier for local governments to understand the meaning of the goals and to gauge their own performance. Appeals may also identify weaknesses in the present goals, enabling LCDC to sort out possible conflicts and make appropriate changes.

After two years, it has been necessary for LCDC to finally decide only one appeal, dismissing it for lack of jurisdiction. Twelve others are pending, but about half of these are likely either to be settled by the parties, or dismissed by LCDC on jurisdictional grounds.

While LCDC's appeal workload has been light, the initial appeals have given LCDC the opportunity to develop procedures and to otherwise get the appeals process working smoothly.

By Robert Stacey

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