

The Evolution of Growth Control

by Edward J. Sullivan

For a quarter-century, Oregon has had a complete (some would say Baroque) system of state and local control over land use. Every square inch

of the state has a plan and zone designation, even though those designations are not effective with respect to federal lands, which constitute about half of the lands in the state. Every city and county has a legally-binding comprehensive plan that controls its zoning, land division and other actions affecting the use of land. Almost every action taken by state agencies is subject to local plans and regulations. At the tip of the administrative pyramid is the Land Conservation and Development Commission (LCDC) which adopts and enforces land use rules, called goals, to which other state agencies and local governments must comply. All this should be a planner's nirvana. Why, then, are Oregon planners unhappy?

The answer to that question lies in the history of the program, which has resolved one set of problems but created new ones. Oregon planners face the dilemma of answered prayers. Planners have preached for years about the inherent superiority of planning over zoning and the need for state policies to break down the parochial barriers erected by local jurisdictions. In Oregon, planners achieved both these desiderata, but found other and different problems. Those troublesome second generation problems include the difficulty of making decisions that are consistent with inconsistent (and sometimes conflicting) plan policies; the extent to which decision-makers could interpret policies free from second-guessing by reviewing bodies and courts; and the frequent resort to the legislature by disappointed litigants which render the process far more political than anticipated by planners.

Yes, much changes when one leaves the ordinary world of complete delegation of land use authority to local governments without state review, where the only constraints are the federal and state constitutions, majority rule, and the use of vague terms by result-oriented local governing bodies. The days of yore, when things were simple, are lost in the current storm of



Artist's depiction of Oregon City in 1845.

doubt, conflict, and ambiguity. However, those idealized times are the product of a selective memory, in the same way as social and political attributes of earlier days are more colored by nostalgia than fact. The good old days before the state's land use program existed, or the early days of the program, as they are often remembered wistfully, were, in fact, full of contention, uncertainty, and doubt over the future of the program, particularly the basis of political consensus. Bob Straub, a Democrat, succeeded Tom McCall as Governor, and supported the program, yet put his own stamp on it. Similarly, Victor Atiyeh, a more conservative and business-oriented Republican than Tom McCall, also supported the program, but gave his own meaning to it, as did succeeding governors.

Similarly, the orientation of the program changed over the years from one fixed on the preservation of agricultural and coastal lands (the latter thanks to generous federal grants under the Coastal Zone Management Act), to one in which housing, infrastructure, and transportation were major elements. Preservation of resource lands through prevention of land divisions and non-resource dwellings in rural areas was once the cornerstone of the state's land use regulatory effort. Gradually, these efforts have been supplanted by the establishment and enforcement of urban growth boundaries (UGBs) and realizing the objective of providing sufficient buildable lands for urban housing needs. More than anything else, that rural-urban balance has enhanced the credibility of the program to make it a

rational model.

The past, like the present, was mired in uncertainty and doubt, though it may not seem so in hindsight. The future is more frightening because we have less control over the variables that will influence it. We do know the Oregon legislature in recent years has been less enamored of the state's land use program, although the state's governors have been supportive. While it is unlikely that there will be new initiatives in the rural segment of the program in the near future, neither will there be significant retrogression as to the objectives and policy direction of that program. Moreover, there continues a healthy tension between the home-building interests on the one hand and those who desire more local autonomy (in such matters as annexations and residential density allocations for example), so that changes to the urban segment are more likely to be consensus-oriented.

Oregon's land-use program has survived its enemies. More importantly, it has survived its friends who sought to use it for single-issue purposes. It is the signature of Oregon, the outward expression of the state's political will. The challenge for the future is for the program to accommodate change in political and social expression. The second quarter century of the program promises to be as exciting as the first.

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