

To: Members House Committee On Energy and Environment
Chair Representative Ken Helm

Cc: Representative Barbara Smith Warner
Senator Michael Dembrow

From: Jonathan Harker, AICP, Resident House District 45

Date: April 1, 2019

RE: House Bill 2322 (Support)

I support HB 2322 in recognizing the need that “the current statewide land use planning goals omit the goals and policies of the state” and the direction to DLCD to amend statewide land use planning goals related to energy to incorporate development of renewable energy facilities and reduction of greenhouse gas emissions and to match state energy policies.

In addition to supporting updating the state planning goals regarding renewable energy I suggest that the legislature initiate a process for updating all of the planning goals in response to State goals for climate change action.

I bring to this testimony a perspective as a long time Oregon-based City planner having worked for the City of Gresham for over 27 years (1986-2013). Most of career was doing comprehensive planning projects and at retirement I was the Planning Department Director. During that time I had roles supporting regional and state planning efforts both by doing projects implementing the Metro regional 2040 Concept Plan and the Statewide Planning Goals (periodic review) and by participating in regional efforts such as being a member of the Metro Technical Advisory Committee and a member of a State rule making committee (Urban/Rural Reserves). I have a Master’s Degree in Urban & Regional Planning from Portland State University and am a life member of American Institute of Certified Planners.

Specifically I request that the bill be amended to begin the update regarding renewable energy and that the *Oregon Climate Authority collaborate with the Department of Land Conservation and Development (DLCD) to develop a plan for the review and update of the Statewide Planning Goals to contribute to GHG emission targets and to deal with climate change action for adaption, mitigation and sequestration, for presentation by June 30, 2020 to the Governor and the Joint Committee on to the 2021 legislature. Additionally that the bill be referred to the Ways and Means Committee to ensure that DLCD has adequate funding for this program.*

Here are some brief points on why I am requesting these actions followed by more detailed dialogue:

- Land use practices have climate change impact and provide meaningful opportunities to mitigate GHG emission, adapt to climate change impacts, and sequester carbon.

- Oregon already has in place a state-wide planning program structure that can be used to link Oregon's climate change goals to local land use practices and decision making.
- The State Planning program has mandatory goals and guidelines and a requirement that has resulting in local jurisdictions adopting comprehensive land use plan and implementing zoning and development goals that are consistent with those State goals and guidelines. Those goals and guidelines were written and adopted over 40 years ago and thus lack any intentional linkage to actions needed to address climate change.
- Amending the state-wide land use planning goals to align with the State's climate change goals will result in another tool added to Oregon's actions on climate change that will benefit communities throughout the State.
- The status quo, even in communities that have created separate climate actions plans, is not resulting in intentional land use practices that further climate change action nor are land use decisions being made with findings specific to the State's climate change goals.
- Citizen participation - Goal 1 is out-of-date. Communication technology available in 1975 is significantly different than that of today. Additionally Goal 1 lacks a specificity for inclusion especially in providing for the participation needs of impacted communities.
- Oregon is well placed to once again be a model for the country in linking climate change goals and needed action to land use practices and decision making. And in engaging in a state wide conversation during the amendment process.

Goal 13 - Energy Conservation, adopted in 1975 and never amended, is out of date as regards climate action goals on renewable energy. I first noticed this earlier in this decade and prior to my retirement when Gresham decided to update its energy conservation policies and zoning/development codes. It did this initially in response to the State Legislature requirements that mandated allowing roof top solar panels (within locational/dimensional parameters) but allowed an exception for historic resources structures. But also recognized that its policies and development code were inadequate regarding not just solar but also renewable energy sources such as wind, biomass, geo-thermal and micro-hydro). Gresham's ultimate approach was to have policies to allow for small, medium and large for each type of renewable energy system and to tailor what zones they can be allowed in and what development codes would apply based on the land use district. This would ensure that a property owner or developer would know what could be permitted and where. Our research at the time found little to almost no similar provisions or policies in order jurisdictions in the state.

Why Review and Update the Statewide Planning Goals and for Climate Change?

Oregon's Planning Goals express the State's policies on land use and related topics such as citizen involvement, housing and natural resources. All of Oregon's cities and counties have adopted comprehensive land use plans that comply with 19 mandatory Statewide Planning Goals and which are the basis for their specific rules and land use regulations. The first 15 goals were adopted in 1975 and the remainder in 1977 at a time when there was no anticipated need to mitigate or adapt to climate

change or sequester carbon. Most of the goals have been amended once or twice (but not all for example Transportation - Goal 12 or Energy Conservation - Goal 13) and none of those amendments addressed climate change.

A report, *Countdown to 2050*, (Green Energy Institute, Lewis & Clark Law School 11/15) takes a comprehensive look at Oregon's emissions reductions laws; renewable energy and efficiency laws; and transportation and land use laws identifying what is not working and how to fix it. Regarding transportation and land use laws it concludes that they are "woefully inadequate". Its findings included:

- Oregon's laws do little to address climate impacts from the land use sector.
- That cities and counties are permitted, but not required, to address climate change mitigation and adoption in their comprehensive land use plans.
- Oregon's land use law also declares that the land use program should, but is not required to, help communities achieve sustainable development patterns and manage the effects of climate change.
- And that DLCD does not have the authority to direct local governments to address climate change mitigation in their land use plans.

The need to update the Statewide Planning Goals is well articulated in a recent article, *Climate Change and Oregon Law: What Is to Be Done?** by Alan K. Brickley, Steven R. Schell and Edward J. Sullivan, in the Journal of Environmental Law And Litigation. It extensively reviews and analyzes the Statewide Planning Goals in the light of climate change. It notes they are more than 45 years old and have not been updated to address the climate change threat. And that the current goal amendment process provides an excellent way for Oregonians to meet the threat and decide what more should be done. Goals that they feel could be amended to address climate change include:

To address mitigation:

1. Establish eco-districts and climate smart planning strategies for them (Goals 9 and 10)
2. Integrate emissions reduction targets into the land use planning process (Goal 13)
3. Tie transportation objectives to measurable CO₂e reductions (Goal 12)
4. Address impacts from climate refugees (Goal 14)

To address adaptation:

1. Coordinate climate impact requirements of other agencies (Goal 6)
2. Articulate and update Hazard response planning and objectives (Goal 7)
3. Add rolling easement planning to address sea level rise (Goals 16, 17, 18)
4. Provide a 50 year planning horizon for movement of shorelands lines (Goal 17)
5. Recognize a moving elevation line for Oregon's beaches (Goal 18)
6. Address acidification, oxygen depletion and habitat change in the 3 mile zone (Goal 19)
7. Plan for more rapid runoff in the Willamette River (Goal 15) and elsewhere (Goal 5)

To address sequestration-carbon capture:

1. Establish a measurable forest sequestration requirement (Goal 4)
2. Provide incentives for climate friendly farming practices (Goal 3)
3. Identify basalt formations and other critical areas for sequestration (Goal 5)

[*https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/23295/Schell%20-- %20final.pdf?sequence=1&isAllowed=y](https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/23295/Schell%20--%20final.pdf?sequence=1&isAllowed=y)

From my own experience and observations there are other reasons to address all the goals. For example when Goal 1 was written in 1975 (amended once in 1988) there was no widespread use of the Internet let alone social media with the guidelines only mentioning “television, radio, newspapers, mailing and meeting”. More importantly Goal 1 was written without consideration of equity or ensuring that those who are most vulnerable to climate change are integral building climate resilience in our land use system. Studies done by the National Association of Resilience Planners (Community-Driven Climate Resilience Planing Oct 2017 — <https://www.nacrp.org>) and by the Urban Sustainability Directors Network (guide to Equitable, Community Driven Climate Preparedness Planning, May 2017 — https://www.usdn.org/uploads/cms/documents/usdn_guide_to_equitable_community-driven_climate_preparedness-_high_res.pdf) are resources for current approaches to equitable citizen involvement.

The current state planning goals were in written as a response of Oregonians wanting to prevent urban sprawl from encroaching into areas that were treasured: rural lands, natural resources lands, coastal lands and the like. During the 1990’s and into the 20oughts much of the Gresham planning program that I worked on was in response the Statewide Planning Goal periodic review and other mandates and the Metro 2040 Growth Concept and its accompanying Urban Growth Management Plan. I can speak from experience to the powerful and positive effects that these State and regional mandated programs had on the Gresham community and its residents. New concepts such as transit supportive zoning; walkable neighborhoods; mixed-use development; minimum densities; preservation of natural resources lands; regional and town centers; and new community planning for UGB expansion areas were adopted and implemented.

Although many of the changes help address climate change they were not done to respond to climate change. In my latter years with Gresham very little of the planning program was either in response to State or Regional planning requirements. Nor was there any planning programs in response to the State’s climate change goals or climate change in general.

None of the current goals speak specifically to urban form such as walkable neighborhoods or complete communities. The book *Drawdown* (edited by Paul Hawken, 2017) summarizes research that identifies and ranks by effectiveness actions that can be taken to reduce GHG emissions. The 54th rank action is to create walkable cities which have a significant impact on reducing vehicle emissions. They identify six dimensions of the built environment — demand, design, destination, distance and diversity the need to be considered to create walkable neighborhoods. Although many Oregon jurisdictions have aspirations for these kinds of neighborhoods no State Planning Goal or guidelines provide a direction for jurisdictions to address urban form for climate change action.

Does the Status Quo Planning Program Support Climate Goals?

It has become my understanding that there are those who believe that the status quo approach to State-wide planning is sufficient in meeting the State climate change goals. I don’t believe this is case. Two of

the seven “Propositions” developed by OGWC (Road to 2020, Spring 2011) directly describe land use changes needed to successfully reduce GHG emissions:

- Proposition 1 “*Embed Carbon in the Planning Process*”; “*include carbon generated by local transportation and land use decision in the community planning process*” and “*incorporate meeting Oregon’s GHG reduction goals into State transportation and land use planning*”.
- Proposition 2 “*Maximize the Energy Efficiency of Cities*”; “*redesign neighborhoods so schools, services, and shopping are easily accessible by walking biking or transit*” and “*maintain existing Urban Growth Boundaries through 2050*”.

I don’t believe any action has been taken to realize these propositions. Instead, it seems, there has been a reliance on existing outcomes of the State-wide planning program that originally (in 1975) was intended to prevent sprawl into rural and natural resources areas. I believe this is reflected, for example, in the 2018 OGWC Biennial Report. This report includes a graphic (*Table 8. Summary of progress from ODOT 2018 STS Monitoring Report* - page 63) which indicates that the two land use components — Mixed Use and UGB Expansion Areas — “as on-track with or exceeding the STS vision”.

However a review of the analysis which this rating is based on describes caveats to the rating. The analysis is in *Appendix B: Department of Land Conservation and Development Report on STS Implementation Progress*, an attachment to the STS 2018 Monitoring Report issued by ODOT.

This analysis makes a finding that Oregon is meeting its goals regarding the percentage of “urban households” living “in compact mixed use neighbors in 2010 and 2020 and indicate that meeting the 2035 and 2050 goals **feasible**”. But it goes on to note that “***a bulk of the progress comes from the Portland Metro area. There are significant opportunities to improve on this measure for other metropolitan areas that don’t show much movement from the base year and have low numbers overall.***”

The analysis does not describe why this progress is occurring in the Portland Metro area but not elsewhere. My experience is that the form of the Portland Metro area is a direct result of the decision in the early 1990’s to address UGB expansions by deciding that development for population growth should go “up” rather than “out” or into “satellites” which resulted in the 2040 Growth Concept Plan of a hierarchy of design areas and its accompanying implementation plan (the Urban Growth Management Functional Plan). Metro led this effort in its unique role as regional land use planning agency (by Charter) with regulatory authority. Cities and counties were obligated, especially during the late 1990’s and early 2000-oughts to address the design types. This model is not replicated elsewhere.

The analysis suggests opportunities for achieving the goal in the future: *Opportunities for increasing the development of compact mixed use neighborhoods outside of regulatory strategies include incentives for infill development, reduced parking requirements, and ensuring that zoning codes allow for mixed use development. There are two ways for local governments to increase compact mixed use neighborhoods, one is to include zoning provisions that allow or require it, the other is to redevelop existing areas with infill and mixed land uses.*” Jurisdictions can already do these things but many don’t or not consistently — the remedy is to link the State-wide planning program to climate goals so that jurisdictions must address this issues critical to successfully addressing climate change.

On UGB expansions the findings are that UGB expansions have grown by about 17% of the rate of the population growth from 1990 to 2015 and that “*The findings show that Oregon is not meeting the goal for this measure, but doing so is feasible.*” It notes that the requirement to meet a 20-year supply of land produces uneven results over time. It notes that the “*Opportunities for making more progress towards this goal include working with cities to encourage infill development, updating plans and codes to ensure that new development occurs in a compact form, and reducing barriers to developing multi-family and mixed-use buildings*”. Despite the previous finding that the Portland Metro area is meeting targets for compact development as recently as December 2018 the Metro Council approved a UGB expansion of about 2,200 acres exclusively for single family homes (which a condition to address the “missing middle”. Again the status quo is not resulting in holding UGB expansions nor are they being decided on based on their impact on meeting the State’s climate goals. A remedy for this is to update the State-wide Planning program.

Are City and County Climate Action Plans Sufficient?

There are some that think because some jurisdictions have adopted Climate Action Plans that is evidence that jurisdictions are doing what needs to be done. I don’t believe the is the case. I have observed that Metro, Portland and Multnomah County have, in recent years, engaged efforts to address climate change. Yet this efforts have not been tied Comprehensive Plans or land use decisions.

For example, In 2011-14 Metro in 2011-2014 engaged in Scenario Planning as a response to a mandate from the Oregon Legislature for Metro to develop and implement a strategy to reduce per capita greenhouse gas emissions from cars and small trucks by 2035. Its final 2014 report (*Climate Smart Strategy for the Portland Metropolitan Region*) identifies strategies and rates each for its impact on GHG emission reductions. A strategy to implement land use plans that help hold the urban growth boundary, create walkable neighborhoods and support transit received the highest 5 star rating (16-20% GHG reduction). **However there has been no specific follow-up action to this scenario planning effort related to land use decisions making.**

The City of Portland and Multnomah County have jointly adopted a Climate Action Plan (CAP). Embedded in the CAP are a number of findings, objectives and future actions relevant to how land use impacts the climate change action. For example it notes that the urban form strongly influences carbon emissions and that integrating higher density land uses with safe active transportation and transit is critical to reducing carbon emissions. **However the CAP has not been tied to the City’s or the County’s Comprehensive Plan nor is it being used in land use decision making.**

There are recent examples regarding Metro and Portland — two jurisdictions that have been advanced in climatic change action — land use actions that demonstrate the current disconnect between their climate change action agendas and criteria used for making land use decisions. Bringing up this examples are not to suggest that the actions are harmful to climate change actions but rather demonstrate the lack of using climate change actions as rationale for the decisions.

Metro approved a UGB expansion at end of last year. The COO report while stating that one of Metro’s desired outcomes is “the region is a leader in minimizing contributions to global warming” the report’s findings have no reference to climate change impacts. Interestingly enough the report did recommend

(and the Council adopted) a recommendation to review the 2040 Growth Concept Plan to consider new issues including “Climate change mitigation and adaptation” and action not unlike what I am requesting be initiated in HB 2020.

A second example is Portland’s Residential Infill Project. As currently recommended by the Planning Commission that project will allow “the missing middle housing types such as 2, 3 or 4-plexes” on lands typically zoned for 1 home. By promoting more compact and walkable neighborhoods that can be supported by transit and local businesses and lessening the demand for UGB expansions this action will have a positive impact for climate change. Yet in the 16-page Comprehensive Plan findings in the Planning Commission Staff Report none of the 8 policy themes or the narratives accompanying those policy themes mention climate change as a reason to approve the project. This despite the fact that Portland has a comprehensive Climate Action Plan.

Thank you for the opportunity to testify on this important legislation. I make these suggestions not only as a long time Oregon land use planner but also as the father of two millennial aged sons.

Sincerely,

Jonathan Harker