



Oregon's Land Use Planning System Under Gubernatorial Assault

When the Oregon legislature reconvenes February 5, 2024 to March 10, 2024, Governor Tina Kotek will propose major legislation certain to profoundly diminish Oregon's quality of life for humans, flora, and fauna.

As Speaker of the House in 2017, then Rep. Kotek helped get funding for the Eastern Oregon Border Region Economic Development Board that led to legislation allowing Malheur County to build 100 McMansions on 200 acres of EFU land near the Idaho border. This opened the door to further weakening Oregon's Urban Growth Boundary (UGB) protections.

For the past 50 years, urban growth boundaries have been largely successful in containing urban type development within urban areas. Unfortunately, during the 2023 session, SB 4 was passed, allowing the governor to super-site two very large parcels of any size and six parcels up to 500 acres each of exclusive farm use (EFU) land — outside UGBs — to accommodate huge semiconductor manufacturing plants that use enormous amounts of water, electricity, and destroy prime farmland. <https://www.opb.org/article/2023/04/06/oregon-legislature-passes-bill-to-lure-semiconductor-investment/>

Further, at the last minute of the 2023 session, Governor Kotek added a provision to HB 3414 that would have allowed

automatic expansion of every city's urban growth boundary by a specified number of acres. She proposed this without data indicating that adequate land was not already available inside the UGB of these cities. In response, the Oregon League of Conservation Voters (OLCV) placed HB 3414 on their Major Threat List.

Candidate Kotek had said she would focus on getting housing for those who are on the streets or in danger of ending up on the streets. Now Governor Kotek says she wants 360,000 houses built in Oregon within the next 10 years for home seekers of any income.

(Gubernatorial Assault, continued on page 2)

(Gubernatorial Assault, continued from page 1)

Land use planning advocates were able to kill HB 3414 on the Senate side the last day of the session by only one vote. We might not be so fortunate during the upcoming 2024 session, because, even though most cities are not asking for it, Kotek is formulating another bill to put the expansion of UGBs on a fast track. Worse, cities do not have to tell the counties how much buildable land is already inside their UGBs.

To counter this move, Lane County has several key legislative players who need to hear from opponents asap via a scheduled meeting, emails, and/or phone calls. They need to know that Oregon's land use laws should not be weakened in any way, especially by allowing the fast UGB expansions without information on available land within the UGBs.

Rep. Julie Fahey is second in command as Majority Leader of the Oregon House of Representatives and will most likely be the next Speaker of the House. She was 2023 Chair and will be a member of the House Housing Committee during the 2024 session. Rep. Fahey voted in favor of weakening the UGB process in 2023 by voting for SB 4, SB 70, and HB 3414.

Whether via a scheduled meeting, by Zoom or by email or phone, Ms. Fahey should be urged to vote "No" on weakening our land use laws in the 2024 session. The current philosophy on Rep. Fahey's Home Page is to allow new housing only inside current UGBs and is most likely the position that will be taken by the majority of Democratic legislators in the 2024 session.

Others to contact are Rep. Paul Holvey and Senators James Manning and Floyd Prozanski. Holvey should be thanked for voting to uphold our UGB system in 2023 and Manning and Prozanski for voting against HB 3414 last session. Prozanski should also be commended for trying to kill SB 70, the Malheur County housing bill.

Following are the links to Kotek's office and to those legislators you should contact:

Find your state representative and senator:
<https://www.oregonlegislature.gov/>

Governor Kotek:
503-378-4582
Governor.Kotek@oregon.gov or
<https://www.oregon.gov/gov/Pages/share-your-opinion.aspx>

Senate President Rob Wagner:
503-986-1600
Sen.RobWagner@oregonlegislature.gov

House Speaker Dan Rayfield:
503-986-1416
Rep.DanRayfield@oregonlegislature.gov

Aileen Kaye
Marion County

"An Oregon Story" showing in Eugene and Salem.

This is a locally made film regarding Oregon's land use planning system, the struggle to maintain it, and current threats awaiting at the February legislative session.

In Eugene, Thursday, January 18th, 6:30 pm at The Art House, 492 E. 13th Ave. There will be a panel discussion after the film.

In Salem, Sunday, January 21st, 6:30 pm; Salem Cinema, 1127 Broadway St NE. The panel for Q and A will be Sen. Deb Patterson, Robert Liberty, and Jim Johnson.

A trailer is available at www.anoregonstory.com
For more info: Aileen Kaye
503-743-4567

County Commissioners Waste Taxpayer Money On Sham Study

In 1973, the Oregon Legislature ratified the hard-fought victory of visionary governor Tom McCall to protect his state's farms, forests, natural areas and open space by adopting a comprehensive program of land use goals, statutes, plans and codes.

In its 50th year, we can celebrate the success of a program that became a model for the nation, but we must also recognize the steady erosion since its inception of protections in land use law by developer attorneys and agents aided and abetted by anti-regulation, anti-government commissioners, legislators, lobbyists and

weak, vulnerable and corrupt state and county administrators and officials. To void the consequences of this systemic weakness and bias, LandWatch Lane County has been working with neighbors for over 25 years to challenge land use approvals that violate county code and or state statute.

Our success, however, and the strength and integrity of the land use program are ultimately dependent on a fair-minded body politic making informed decisions in accord with both state and local laws. Nothing could be more rudely antithetical to that ideal than the present majority on the Lane County Board of Commissioners (BCC).

As a recent example, West Lane Commissioner Ryan Ceniga, Springfield Commissioner David Loveall and North

Eugene Commissioner Pat Farr directed Public Works administrators to send out a Request For Qualifications (RFQ) with the intent to hire an external vendor to assess county barriers to affordable housing, including the county planners. In evaluating an RFQ, Lane County typically selects the lowest priced bid from the vendor deemed most qualified to do the work.

The county received five quotes ranging from \$31,440 to \$249,454. Former Lane County Planning Director Kent Howe and Lane County Planner Jim Mann submitted a bid of \$60,000 with half of it payable upfront when the contract is signed, the only vendor with that provision. The pair offered no examples of relevant former project experience and did not provide the number of hours and costs per hour for their services as re-

quired by the RFQ. Howe/Mann worked their entire adult careers as planners in some capacity in Lane County; Howe was Planning Director for 17 years, and Jim Mann, who said he is retired, is an agent who had four applications pending for one client before the Land Management Division.

By contrast, the vendor with the lowest bid, Morant - McLeod, offered several examples of relevant projects in Oregon and, as required, broke down the tasks they would undertake by hours and cost per hour. Because they appear to be eminently qualified and were the lowest bid, Lane County staff recommended them as the preferred vendor and referred their choice in a report to the Board.

At the 9/26/23 BCC meeting, Chair Farr had scarcely finished introducing the agenda item before Commissioner Loveall put forward a motion to hire Howe and Mann as the consultants. The motion was quickly seconded by Commissioner Ceniga. This underhanded maneuver cut-off discussion of the other quotes — including their experience, qualifications and cost. There was no discussion of the justification for the selection other than that these ex-Lane County planners had what Loveall characterized as “lived experience.” By immediately introducing the motion, Loveall strategically limited any discussion to the Howe/Mann proposal, foreclosed broader discussion of

the merits of other proposals and, thereby, eliminated any consideration of the other vendors.

The underlying purpose of the Board majority was to select two development facilitators who would recommend changes to county code, changes to state laws, and changes to LMD procedures in order to further their goal of eliminating regulations that inhibit the urbanization of rural lands outside Urban Growth Boundaries (UGBs). To address concerns raised about a conflict of interest, county counsel Rebekah Dohrman prepared a statement requesting that “Mr. Howe and Mr. Mann sign an acknowledgment that while working under contract they would be working in the capacity of public officials and subject to ethical standards for public officials.” Instead, Howe and Mann refused to do so and hired former Lane County counsel, Steve Dingle, who sent a letter to the county that argues against the request and claims it would not be legally binding

According to a county memo to the Board of Commissioners, Ms. Dohrman requested that Mr. Dingle ask his clients to either provide the assurances requested by the County or provide a statement that explains why they decline to provide those assurances. Dingle indicated he would provide a response by 11/1/2023, but no response was forthcoming.

Because the selection of Howe/Mann is manifestly unethical and unfair to competitive bidders — not to speak of a waste of taxpayer money — the RFQ should have been reissued with clear scoring criteria. On 11/6, however, Farr, Loveall and Ceniga voted to hire the pair without a response from Dingle or the contractors signing the county document.

As our lead article reveals, in her zeal for unlimited housing Democratic Governor Tina Kotek has done everything in her power to obscure and ignore the purpose and function of State Goal 10 to contain housing and plan for urban infrastructure and services within UGBs. Consequently, this Democratic governor has sent an open invitation to conservative commissions and other legislators across the state to do everything in their power to destroy state and local land use protections.

Whether we cram another multiplex in a historic neighborhood, fill the sky and block the horizon with multistoried or fill wetlands, clearcut trees and pave farmland, we look, as into a mirror, at an image of ourselves we refuse to recognize. The earth is a commons congested with numbers of people that have exceeded its carrying capacity, and who, even as it degrades to wasteland, remain steadfast in their complicity and denial.

Robert Emmons

Interview with Ed Gunderson

Bio

After graduating from high school I spent close to a year in Norway, farming, fishing, logging, and traveling. I learned how indulged my American life was and gained a stronger interest in nature and forestry. Promising my mother to attend university, I enrolled in the College of Forestry, University of Idaho, Moscow, with a full-ride cross country ski scholarship. One summer I worked the woods for Potlatch

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(Gunderson, continued from page 3)

Forest Industries and two summer internships at the College of Forestry, University of Washington in wood technology. Due to differences with the U of Idaho Forestry Dean about clear-cutting and industrial forestry, I transferred to chemistry, receiving a BS in 1969 with an education minor. With available wood products jobs only in the Southeast and chemistry jobs in warfare industries, I taught science at a rural Idaho High School/ Jr. High. A graduate fellowship found me back at the UW in wildlife biology and forestry.

LW: *What brought you to Oregon and Creswell?*

EG: I was offered a job at MEDCO SELPLY specialty laminate division in Medford. I moved to Creswell because of a wife with horses and a business start up in Springfield for a vinyl building material company from Denmark.

LW: *What motivated you to become a member of the Creswell Planning Commission? The commission has been tasked with balancing development with environmental protection. Can they be balanced? How's that playing out locally?*

EG: The mayor asked me to be on the committee, and I was concerned about planning for non-motorized traffic and our orientation as a single family dwelling bedroom community. We use the name planning commissions, but they are too often reactive commissions. Our planning commission and planners try to forecast, but conditions change so rapidly and policy slowly.

Historically, the need for planning and zoning arose primarily because the property/employer class was more concerned with profit and convenience than the welfare of neighbors. Warehouses and industrial sites were encroaching into residential neighborhoods, tall buildings were erected that blocked light to neighbors. So much litigation ensued that the federal government promoted planning and zoning during the early 1900s.

Increased population density leads to increased conflict and, in our society, regulations designed to reduce conflict. Planning commissions attempt to reduce conflicts by trying to ensure that regulations are followed. The property/ employer class, however, benefits from no regulation: More people makes property and resources worth more and labor worth less, and both enrich the already rich. Unfortunately, many people cannot see the relationship between population increase and loss of freedom.

With uncontrolled population growth and increased materialism, development and the environment cannot be balanced, only mitigated. A shift in cultural values is required to truly protect the environment. See: <https://www.growthbusters.org>.

LW: *You are also on the Creswell wetlands Technical Advisory Committee and reviewed Branch Engineering's analysis of wetlands to determine the number of buildable lots within Creswell's UGB. What was your conclusion?*

EG: It was difficult to understand what seemed like different languages used by the various agencies but they were each trying to uphold the rules protecting wetlands. The combination of different agencies creates difficulties for cities to understand and plan.

Cities could have more developable land if we reduced on-street parking and reduced traffic lane width. This would also greatly reduce infrastructure cost.

LW: *Considering what you've observed and experienced locally, what must governments, societies, individuals do to avert an apocalyptic meltdown? Is there world enough and time?*

EG: The biggest impact in our culture would be to curtail motor vehicle use (including electric). In our small town most people could walk or cycle anywhere needed, but they don't. One recent warm Sunday afternoon there were 27 customer cars in the BiMart parking lot and one bicycle. Government, society and individuals could all curtail motor vehicle use by choice or mandate.

LW: *Conspicuously missing from most serious conversations about causes is any mention, let alone consideration, of human population and carrying capacity. Why do you think this is? Do you think overpopulation and its consumption are the root causes of our environmental ills? If so how might it/they become the main topic of a resolution instead of, at best, an afterthought?*

EG: Population is the gorilla in the room. In many groups, however, if the topic is broached one will be accused of racism. My first experience with that was in 1965 when visiting a former high school classmate. I mentioned that increasing population caused many of society's adverse issues and that some ethnic groups had very high reproductive rates, which I linked to poverty in those groups. My classmate screamed at me, accused me of racism and told me to leave, and I never heard from her again.

Too many people consuming more than is needed is the overarching problem. A basic paradigm in wildlife biology is population boom and crash due to overtaxing the environment. We are not immune.

Unfortunately, we are constantly fed a capitalistic narrative that we are owed or deserve more than we have. When our peers respond by increasing their consumption it puts pressure on us to follow. One must live the future one wishes to see.

LW: *If we can't change the world, it may be said, we can at least change ourselves, one footprint at a time. Other than your public service, what have you done and what are you doing to reduce your own ecological footprint?*

EG: Since the late 1950s I have tried to make a bicycle my first choice for transportation. For the last 20 years, I've worked on some human powered vehicle and light electric vehicle projects. I've built two velomobiles (streamlined, enclosed, human powered vehicles) hoping to demonstrate that fast, weather protected, human power travel is possible; organized velomobile rallies to promote

(Gunderson, continued on page 5)

(Gunderson, continued from page 4)

their use; constructed a neutral, power-assist bike trailer, with self-actuating brakes; fabricated a surf board/paddle board rack for recumbent trikes and traveled to and on the coast with surfboard and gear to illustrate one can participate without a motor vehicle.

I have recycled as long as it has been possible, grow some of my own food, try not to waste, live in a small home, resist travel. Dress warm, keep the heat down, only heat rooms being used, have no air conditioning. Plant trees. Use hand or electric power tools as much as feasible. Use an electric car when I drive. Travel with a folding bike on bus and train. Ride

share. Fix and donate bicycles. Repair old computers for donation. Ignore “best by” dates and question expiration dates. I periodically purge possessions not being used for donation, repair all I can and practice preventive maintenance. Still I have more than needed but less than I did some years ago.

Their Plight and a Plea for McKenzie River Salmon

For the last three years, the McKenzie River Trust and McKenzie Watershed Council have been working on four salmon restoration projects on the McKenzie, and the results are impressive. Unfortunately, based on returning salmon numbers that average 25 fish per mile above Leaburg Dam, these efforts may be too little too late.

The native salmon run in the McKenzie in 2022 was 1,779 and in 2023 was 1,531. The lowest run in history was 668 in 2021. Prior to the dams, native salmon runs in the McKenzie were estimated at over 40,000/year.

As noted in an earlier newsletter, the salmon’s cataclysmic decline began with dams that channelized the river, eradicated side channels, meanders and oxbows, and cut off passage to tributaries that had for millennia served as spawning grounds. Enabled by the dams, housing and other development destroy riparian vegetation and pollute and otherwise degrade the health of the river, while forest removal on the hillsides above it leads to runoff of toxic sediment and contributes to warmer temperatures. Entirely without county or state oversight or regulation, re-development along the banks of the river burned by the Holiday Farm Fire continues to scour and gouge precious soils to provide rentals and B&Bs for outside developers.

Built in the 1920s, Leaburg Dam is nearing 100 years old and has not produced electricity in over three years. EWEB’s power generation license with the Federal Energy Regulatory Commission states that if the dam fails to produce power it must be removed and the lands



Assault on the McKenzie continues...



impacted by the dam restored to pre-dam condition. This includes Leaburg Canal and Walterville Canal (both under one license). Although EWEB plans to remove the dam, that process may take 20 years or more. And while raising the dams three gates would allow unrestricted

upstream and downstream migration of salmon, trout and all fish species, the utility wants 10 years to “think about it.”

(McKenzie River Salmon, continued on page 6.)



(McKenzie River Salmon, continued from page 5.)

Instead of authorities taking steps to eliminate the direct threats to survival of the species, hatchery salmon (from another river with different DNA/genetics) have been raised and planted in the McKenzie from the 1950s to today to mitigate salmon losses. However, the interbreeding between native and hatchery Chinook salmon that occurs below Leaburg Dam

results in weaker, smaller salmon that are less resistant to diseases and thus have less chance of survival migrating to the ocean. These hybrid salmon offspring can migrate above Leaburg Dam and spawn with true native salmon, degrading their genetics.

With salmon runs in desperate condition in both the McKenzie and the Willamette River, any action that can aid recovery of chinook salmon must be en-

acted now to avoid losing the native runs forever. In 2023, the Columbia River and Pacific Ocean fisheries had total chinook salmon closures for the first time ever due to alarmingly low numbers. McKenzie River chinook are part of this run.

It is the position of our organization that Chinook salmon fishing in the McKenzie River should be suspended indefinitely or until native runs reach a minimum of 20,000 fish per year. Further, releasing of non-native hatchery salmon in the McKenzie River should be permanently banned and replaced by the raising and releasing of native Chinook. But salmon need a healthy river to both survive and thrive, and that won't be possible until it is freed from dams and the egregious violations of state and county law occurring with no enforcement and apparent indifference.

Bob Spencer, President
McKenzie Watershed Protective
McKenzieWatershedProtective.org

It Runs In The Family

WLC recently learned that Rick McDougal, a relative of the McDougal brothers Mel and Norm, has since 2008 constructed a huge array of structures without land use approval or building permits on 50 acres he owns in Fall Creek, zoned F2 and F1. The F1 zone prohibits development not associated with forest uses.

The only thing permitted on the property is a template dwelling approved in 2002. A first hearing on this matter has been held and another is scheduled for January 11, 2024 at 1:30 in the Customer Service Center, 3050 N. Delta HWY, Eugene. McDougal did not appear, as required,

at the first hearing. It is unclear what penalty will be imposed.

The link below is to a YouTube video of the illegal "compound" made by a realtor,

Rebekah Marsh, of Keller Williams Realty: <https://bit.ly/41shMjU>

Here is a sample of what the video shows:



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Political Plight and a Plea for Support

For every LandWatch newsletter, I write a brief update on the status of land use applications, appeals, and decisions in Lane County and statewide. This time I'm inclined to reflect on the general condition of land use protection in the county and the state.

Locally, the Lane County Board of Commissioners has a right-wing majority aligned with land use developers, eager to do their bidding at every turn. Whether it's undoing protections for big game in the forest zones or

chastising staff for just doing their jobs enforcing the Code, the majority commissioners appear driven to cause chaos in the land use arena.

Statewide, we have a Democratic governor who is acting more in line with lobbyists for the realtors and homebuilders than with environmental and neighborhood protection organizations. As reported in the lead article in this edition, threats to our Urban Growth Boundary (UGB) protections — led by Governor Kotek — are ongoing, and the homebuilders are elated by the free UGB expansions they expect Kotek and the legislature to give them in 2024.

If more of us do not speak in support of a state and community that works for those of us living here now, that is more than a cash cow for short-term financial gain and power of the few, the abuse will escalate, and our quality of life will diminish. LandWatch cannot go it alone; we need commitments from our backers to offer oral and/or written comments when we put out a call for support, be it local or statewide. If you need help doing so, please consult our website at landwatch.net.

Lauri Segel

Research Analyst



Fall Creek farm and forest: major big game habitat.

LandWatch Is Seeking New Board Members

We can't promise you'll see the world if you join us, but we can guarantee you'll see Lane County with wider, more informed eyes and be part of a respected organization that for 27 years has effectively worked with neighbors all over the county to protect farm and forest land, natural areas and open space.

The present board includes a former Lane Community College instructor, a plant nursery owner, a craftsman in a wood recycling company, an owner of a forest products business and a former tree planter. Most board members live in rural Lane County near Lowell, Fall Creek, Creswell and Cottage Grove. Several board members live in Eugene.

Board members are expected to attend and contribute to quarterly meetings, and, when possible, to prepare and provide oral and/or written comments in support of LandWatch appeals of land use applications at local hearings and commissions and regarding contested bills during state legislative sessions.

Check out our website at landwatch.net or gives us a call at 541-517-4743.

Join Us!

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To join LandWatch, please complete the form below and return it with your tax deductible contribution. Your contribution will help us preserve the rural character and special beauty of Lane County.

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