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## Preserving On-Farm Processing Requires Lighter Regulatory Touch



As market farmers, we are often asked why it is so hard to find traditional local foods such as fresh hominy, locally grown and ground grains, brined pickles, or prunes and raisins. We reply that Oregon Department of Agriculture's rules discourage small farms from on-farm processing with requirements created for industrial type standards and high fees. The last session of the legislature passed a law allowing ODA to fine violators of food processing laws, big and small, \$10,000, further stifling any experimentation.

Oregon's strict land use laws are predicated upon the productive use of the state's farm and forest lands. The underlying justification for protecting

the land is the flow of economic and social benefits that land preservation brings. Family farms such as ours should be preserved for our day-to-day contribution to the state's economy, and not merely as quaint footnotes from the past.

It is not enough for the state to restrict development on farm and forestland, if our ability to generate income from our land is curtailed. Traditionally, farmers have bolstered farm income by processing some of their crops. Walnut and prune driers were a common part of Willamette Valley farms. Decades ago, dozens of roadside stands sold prunes, pies, pickles and preserves prepared by farm families. As licensing fees and other requirements have put a chill on modern farmers' ability to

add value to their crops, these farm-based foods have disappeared. Sadly, it is hard to find a true Oregon prune anywhere in the state today.

An artifact of the last three decades when almost every Oregon farm sold the majority of their crops to large processors, the food laws are written to regulate large industrial processors. Consequently, few farmers paid much heed to the laws. As processors have folded or abandoned Oregon, farm income is being pinched. We need to draft laws that give farms greater flexibility in value added and encourage a healthy rural economy.

Good models for change exist. Many states have adopted a light regulatory touch when it comes to on-farm processing of low hazard foods such as pies, pickles, preserves, dried fruits, lacto-fermented vegetables, hominy and grinding grains. New York and Iowa have a long tradition of encouraging farmers to offer these foods directly to the public without costly inspections and licensing fees. Minnesota's "pickle law" permits farmers to produce various value added foods without running afoul of the state food processing laws. This spring, Indiana followed suit with its "Pie Law," freeing pickles, preserves and baked goods from heavy regulation when sold directly to the consumer.

These laws are carefully limited to direct sales to the consumer, not third-party sales. It is not a free-for-all, and all products have labeling requirements, including a list of ingredients and a statement that the goods are not produced in an inspected and licensed facility. They simply remove a substantial barrier to expanding food options.

Progressive states treat on-farm value-added products as one would a bicycle

*continued on page 2*



*Lighter Regulatory Touch, continued from page 1*

versus a Mack truck. It does not make sense to require bicyclists to wear seat belts and pass a commercial drivers license (CDL) exam. Likewise, a farm family that bakes a few pies, grinds some cornmeal or ferments a few batches of sauerkraut to sell to regular customers should not be subject to the same laws as a mill grinding tons of corn per day or a processor producing thousands of jars of sauerkraut per hour. These are foods that have

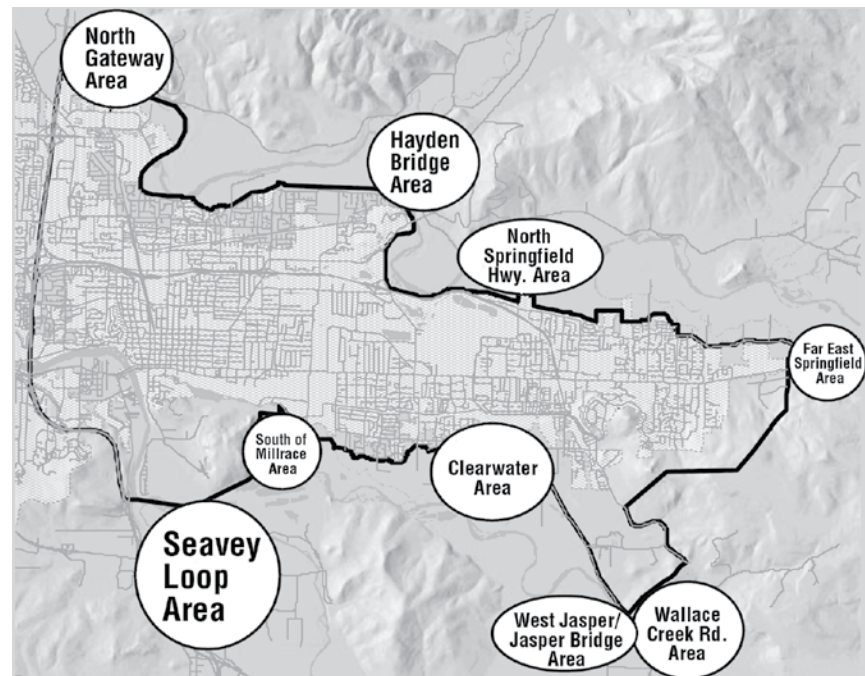
been safely prepared by farmers for generations. We need to reinvigorate the tradition, rather than stifle it with pointless regulation.

Along with other farmers and consumers, we are working to make changes in the laws in the next legislature. We hope land use advocates will join us as the effort progresses.

**Anthony and Carol Boutard**  
**Ayers Creek Farm**

*The Boutards farm 100 Oregon Tilth-certified acres near Gaston, 30 minutes west of Portland. They are staunch proponents of biodiversity and outspoken advocates for small farms.*

*They will speak about the ups and downs of farming and the food system at Avid Gardeners, 1645 High Street, Eugene on January 18, 2010 at 6:30 pm*



*Priority areas for Springfield UGB expansion*

## LandWatch Monitoring Springfield UGB Expansion Proposal

Controlling the expansion of urban growth boundaries (UGBs) is key to reducing sprawl. By state mandate, when a city's supply of vacant land falls below a twenty-year supply the city may expand its UGB. An important step in this process is the "buildable lands inventory" - essentially an accounting of vacant land already within the UGB, combined with an assessment of how many new units of different types could be sited on this

land. If the results show that more units will be needed over the next twenty years than can be sited within the existing UGB, an expansion is allowed.

The concept of a buildable lands inventory is relatively simple, and in an ideal world an inventory would be a straightforward, objective determination. Unfortunately, such studies often misstate the need for UGB expansion when unrealistic assumptions inform the conclusions. Inventories can be reverse engineered to derive a desired conclusion, many times in ways that are difficult to detect. These studies, which are often well over a hundred pages in length, can be an intimidat-

ing jumble of numbers and charts. Interested citizens may be tempted to just throw up their hands and "leave it to the experts."

The City of Springfield's proposed Residential Land and Housing Needs Analysis is a good example of this all too common phenomenon. In Springfield's analysis, several of the tactics commonly used to create the apparent need for a UGB expansion are on display: claiming that "constraints" such as slope preclude development even as the city continues to allow that same land to be developed, failing to account for all the developable land that is already within the city, and overstating the need for housing or other auxiliary uses.

According to Springfield, its buildable land supply is only 956 acres. However, there is another 1,345 acres of land that is deemed unbuildable because it is "constrained". Vast areas of Springfield, including already developed areas in the Thurston Hills, are mapped as "constrained" because they exceed 25% slope and are summarily deemed unavailable to meet any part of Springfield's land need. In undeveloped areas Springfield assumes that absolutely no development will occur on these hillside sites, even as Springfield's code continues to allow such development.

Springfield goes even further out a limb and claims that steep slopes, riparian areas and wetlands also

preclude the use of land for parks, further increasing the size of the proposed UGB expansion. Yet these very qualities often lead to these areas being selected as parklands. There are many real life examples demonstrating Springfield's willingness to use steep lands for parks, including almost one hundred acres of parks planned for the MountainGate development on lands exceeding 25% slope.

Springfield's analysis provides for some essential non-residential needs as well, such as government, schools, utilities, parks, and churches. Oddly, the only land considered available for these non-residential needs is residentially designated land. Vacant and underdeveloped land specifically designated for government, educational and park uses is ignored when considering where to place those very uses. Again, this overstates Springfield's real UGB expansion needs.

Finally, Springfield assumes that future per capita park needs will be much higher than they are now. With a forecasted need of 752 acres of net buildable land for houses, Springfield claims to need an additional 357 acres for parks. At this rate, every third block would be parkland, an unlikely scenario.

These are only four of the flawed assumptions present in Springfield's proposed Residential Land and Housing Needs Analysis. They combine to create the illusory need for a UGB expansion, and provide an excellent illustration of why critical analysis of underlying assumptions is so important. LandWatch has filed comments objecting to these and other important matters. We will be closely monitoring the Springfield process to guard against unwarranted UGB encroachments into our farms and forests.

**Mia Nelson**



*Soil conditions in the winter of 2005 across Territorial Rd. from a proposed 13 lot development.*

## Housing Approved in Lorane Floodplain

Lorane has for a long time dodged the developer's bulldozer. True, a few years back a couple of developers a few miles down Siuslaw Road logged off the timber then tried to create and move lots around on eighty acres and claim an assortment of substandard shacks as footprints for McMansions. But maybe because they failed to employ a local land use "consultant," their plans bogged down in Lane County's Land Management Division. Now the economic climate is unfavorable to building big houses 40 miles from the big city, but climates change.

Along Siuslaw Road and across Territorial Highway from the Lorane General Store and Deli, lie eighty acres of former beet field in a flood plain less than half a mile from the confluence of Norris and Hawley Creeks--the official beginning of the Siuslaw River. One day earlier this year I saw surveyors on the site.

A big yellow excavator dug a ditch and numerous septic test holes around and throughout the property in the height of summer. Then work came to a halt in early fall. Thirteen lots with "template" dwellings have been approved for this land, zoned as Impacted Forest, though there's scarcely a tree on it except those growing in wetlands.

A flood plain is, to say the least, an inappropriate place for a housing development. This one floods knee deep at least every other year. New owners may question their choice of a soggy lot at the junction of Territorial and Siuslaw Access Road when they're jarred from their country solitude by the blast of exhaust brakes from log trucks barreling down the road in the wee hours of the morning. And those having to work thirty miles away may find it less and less appealing to walk to their cars in the middle of winter in a pair of hip boots.

While gullible homeowners are taking a bath, flood insurance agents should come away high and dry.

**Norm Maxwell**



## Measure 49 Claimants Gain Ground

In November 2007, Oregon voters passed Measure 49 to “fix” Measure 37, the radical anti-land-use regulation law that passed three years earlier. When M37 exempted a certain group of landowners from having to follow Oregon’s land use laws, a feeding frenzy ensued to exploit those lands for maximum profit. Many voters who initially supported M37, believing it simply allowed landowners to build a home or two on their rural property, were alarmed by the scale and audacity of developments being sought by M37 claimants. Attempting to restore some protection for resource lands while retaining the spirit of M37, legislators crafted M49, which prohibited the massive subdivisions and shopping malls while allowing smaller residential developments to move forward easily. Staunch opponents of M37 were dismayed by M49’s dangerous concessions to developers, but many ultimately supported it as the lesser of two evils.

The State Department of Land Conservation and Development was charged with devising rules and procedures to implement the new law. M37 claimants were required to reapply for an M49 claim and elect one of two options for their residential developments. The “Express” option authorizes up to three houses per claim (and accompanying land partitions) if the reported ownership and date of acquisition of the property are valid.

The “Conditional” option authorizes up to 10 dwellings if more stringent criteria are met, mainly establishing the loss of property value attributed to land use regulations.

Now, two years later, claims are working their way through the process, and we’re getting a glimpse of how M49 might impact rural Lane County. A hundred of Lane’s M49 claims have been processed (roughly a third of the total), and a vast majority elected the Express option and were authorized for three houses. Relatively few have started building on their property, but that’s not surprising given the current economic climate. One notable exception is the Haffner claim southwest of Eugene where construction of a 10-lot subdivision is underway, authorized under M49’s Conditional option. Nearby residents have fretted for years over the ability of their common groundwater supply to support all the additional houses the Haffners have sought under M37 and now M49.

Perhaps the most damaging provision of M49 concerns transferability of homesite authorizations. Unlike M37, which prohibited such transfers, M49 permits a claimant to sell his or her property along with its development rights to anyone. Given the time and flexibility afforded M49 claimants to develop their property, there’s an unfortunate likelihood that these claims will be built out to the maximum extent allowable when the housing market rebounds.

**Jim Babson**



### Interview with Anti- Herbicide Activist Lynn Bowers

Lynn Bowers is a potter who has lived in Fox Hollow for 37 years.

*You’re the coordinator for the group called Forestland Dwellers. How did the group come together and what is its purpose?*

Forestland Dwellers was formed seven years ago by a group of Fox Hollow neighbors concerned about spraying of herbicide poisons on industrial forestlands near our homes.

We seek ways to protect rural residents from the effects of herbicides that contaminate our air sheds and inevitably drift onto organic farms, gardens, into streams and into drinking water. We lobby elected officials and the Oregon Department of Forestry to get the laws regarding the reporting and use of these poisons changed to protect the general public.

*Aerial herbicide spraying on corporate forestland is a method of forest management practiced for 30-40 years in Lane County. How has your group been able to keep aerial spraying away from your neighborhood?*

Five years ago we stopped Rosboro Lumber from using any herbicides on the ridge top between Fox Hollow

and Peaceful Valley. This ridge is directly above and in the watershed of hundreds of rural residents. We did a massive community organizing and letter-writing campaign. Then we sent a delegation to talk it over with them. Since that time, the Rosboro land has been sold and is being managed as industrial forestland without the use of herbicides.

Giustina Land & Timber owns hundreds of acres in and around Fox Hollow. Through publicity and lobbying efforts as well as testimony to the Lane County Board of Commissioners, Forestland Dwellers has induced Giustina to stop using aerial herbicides above Fox Hollow during 2008 and 2009. We believe they are still doing on-the-ground application.

In September, 2009, Forestland Dwellers held a press conference and got KVAL television and KLCC radio to interview 20 neighbors about the issue of herbicide spraying. We believe this gave Giustina incentive to change their plans.

*Any other success stories?*

Earlier this year, Forestland Dwellers discovered that Lane Electric Cooperative had been spraying herbicides on vegetation at the Fox Hollow substation, year by year, for 20 years. We also learned that Lane Electric Cooperative has 11 other substations, and this is standard practice for most utility companies. There is a small, dense neighborhood near the Fox Hollow site, including a young family with small children and pets immediately adjacent to the substation.

I contacted Rick Crinklaw, General Manager of Lane Electric, and he scheduled a meeting at the Cooperative’s offices that was attended by a group of neighbors. Mr. Crinklaw heard the neighbors’ concerns, and he agreed to stop spraying herbicides in Fox Hollow and instead try three alternative methods of vegetation

management. The co-op has given staff time to create and document this experimental program in our valley. I’m going to monitor the effectiveness of those methods and report my findings in the future.

*Herbicide spraying occurs all over Lane County. Who else is doing it and where? How can Lane County residents become aware of the danger to their areas?*

At least 10 timber companies hire private helicopter spraying companies, such as Oregon Forest Resources, Western Helicopter and Farm and Forest Helicopter, to poison thousands of acres of forestland.

Anyone can subscribe to *Notifications of Forest Activity* with the Oregon Department of Forestry at their Veneta or Springfield offices. Currently our group receives notification on a sampling of sections of industrial forestland in Lane County and keeps maps and data regarding when, what and how toxic sprays are being used on forests.

*What are some of the health effects of herbicide exposure?*

Residents in Triangle Lake report many illnesses from chemicals sprayed on forestlands, including shortness of breath, vomiting, joint pain and heart symptoms. And neighbors in Fox Hollow have had their animals sickened and vegetable plants die from overspray.

Forestland Dwellers has produced a leaflet: *Signs of Herbicide Poison*, so neighbors can know what to watch for.

*What are the toxics typically used on forestlands, and what are their actual or potential effects?*

A partial list of some of the poisons and their trade names used on forestlands includes:

- Atrazine
- Triclopyr (Garlon, Pathfinder,

- Remedy, Release)
- Imazapyr (Arsenal, Chopper, Assault, Stalker, Habitat)
- 2-4-D, (An ingredient in Agent Orange)
- Glyphosate
- Clopyralid (Transline, Stinger, Reclaim)
- Diuron (Valpar)
- Hexazinone (Valpar)
- Sulfometuron Methyl. (Oust)

The actual application is often a “tank mix” of several products. No one knows what the health effects are when cocktails of these chemicals are used in combination on forests. The EPA has conducted no human studies on the effects of overspray and the effects of these chemicals when they mix with drinking water and when they leach into the soil. Recent research shows, however, that the environmental effects are synergistic; ie, they are enhanced by exposure to more than one herbicide. No surprise there.

*Are there alternatives to herbicide forest management?*

Forestland Dwellers recommends:

- Planting tree species that thrive in the soil types, slopes, light levels and water situations encountered on the land. Let nature take its course.
- Mulching, through the removal and chipping of dead branches, and spot irrigation when the trees are small.
- Avoiding monoculture reforestation. Monoculture forest management is betting against climate change and the diversity of a native forest.
- Thinning trees to create a sustainable yield. Never cut more timber than the land regenerates in a given year.

Forestland Dwellers is a 501c(3) non-profit organization. Donations are tax deductible.

M49...A Wolf in Sheep’s Clothing







Jim Just

## Lane Code Amendments A Landmark Achievement for Land use Advocates

LandWatch Lane County and Goal One Coalition have together over the past several years been working diligently to fix problems with Lane County's land use decision making and property line adjustment processes. Those efforts are finally bearing fruit.

Let's begin with a brief review of the issues.

**Decision-making process.** Lane County's hearings and appeals process is complicated, convoluted, repetitive, and time consuming; and it has become so costly that Lane County residents - applicants and neighbors alike - are priced out of the process. LandWatch and Goal One Coalition recommended two alternative solutions:

- Streamline Lane Code Chapter 14 to make a single-hearing process the default process. Local governments would retain their existing authority to review decisions at their own discretion.

- If Lane County chose to retain an option for a second local appeal, fees for such appeals would be capped at the same cost as for the initial public hearing - \$250.

### Property Line Adjustments.

Lane County currently does not purport to regulate the adjustment of property lines. Rather, county practice is to allow property owners to "adjust" their own property lines by simply recording deeds with the county clerk. The property owner can then, at some later date, apply for a "legal lot verification," at which time the county may "ratify" that the resulting lot or parcel was legally created.

Goal One Coalition and LandWatch Lane County have seen that the county's "hands off" approach has led to myriad abuses where developers find tiny "lots," commonly created when a road was built, slicing through properties and leaving new "lots" on each side. Developers buy up the land and reconfigure the property lines to create what are in essence rural subdivisions. They then get the county's blessing after the fact, selling off the now-developable parcels at a hefty profit - all without public notice or review.

Goal One Coalition and LandWatch Lane County have for years argued that Lane County practice does not comply with state law and puts Lane County property owners in legal jeopardy, and we have advocated for amendments to Lane Code Chapter 13 to bring county practice into compliance with current statutes.

Culminating many years of effort by LandWatch and Goal One, the Lane County Board of Commissioners in April ordered the Land Management Division to initiate post-amendment plan amendments (PAPAs) to adopt the property line adjustment provisions proposed by our organizations. The new Board of Commissioners, under the leadership of Pete

Sorenson and Bill Fleenor and aided by the election of Rob Handy, unanimously agreed that the time to act on the LandWatch/Goal One Coalition proposals had finally come.

The first public hearing on the proposed amendments to Lane Code chapters 13 and 14 was held at a joint meeting of the Lane County Planning Commission and Board of Commissioners in July. At that hearing, the Board directed the Land Management Division to conduct stakeholder meetings to see if consensus proposals could be agreed upon. Those stakeholder meetings resulted in proposals that achieve all of Goal One Coalition's and LandWatch's objectives. The consensus "decision making process" proposal would cap the fee for an appeal asking for the Board of Commissioners to "finalize" a Hearings Official decision at \$250. The consensus "property line adjustment" proposal would incorporate state law into Lane Code and would require that property line adjustments be reviewed and approved by the county.

On October 6 the Lane County Planning Commission unanimously approved both amendments, as did the Board of Commissioners on October 21. They were formally adopted into ordinances on November 4, 2009.

The text of the proposed Chapter 13 and Chapter 14 amendments is available at the Goal One Coalition website: [www.goal1.org/goal-one-institute](http://www.goal1.org/goal-one-institute)

**Jim Just**

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30 miles from Phoenix...

## Duel in the Desert: Lane County Advocate Confronts Sprawling Phoenix

Howdy from the gun-toting, wide-open west.

What a strong reminder a year in Arizona has been for my appreciation of organizations like LandWatch Lane County. Late last summer, with minimal warning, I relocated temporarily to the edge of the Phoenix-Metropolitan area so that my daughter could pursue advanced gymnastic training in Mesa. We drove two days through Oregon and California to get here, and have since flown in and out of Phoenix Sky Harbor airport several times. The view from the air is shocking. Not only because of the seemingly endless miles of eave-to-eave rooftops, 8-10 lane highways, golf courses, swimming pools, concrete walls and huge commercial developments, but because all this development is in a desert - or former desert. Where once the javelina and the rattlesnake roamed, now dozens and dozens of green-grass golf courses carpet the desert floor.

Arizona (6<sup>th</sup> largest state), like Oregon (9<sup>th</sup> largest), is large in terms of overall land area. With about 114,000 total square miles, Arizona is approximately 14% larger than Oregon (98,386 square miles). Yet, Arizona's 2008 population, at about 6,500,000, is almost double that of Oregon, which

has about 3,790,000 people. Even so, single family residential lots large enough to accommodate horses, barns, pastures, and corrals are allowed in the city limits of almost every city in the metropolitan area.

Not surprisingly, of Arizona's total land area only 364 square miles are surface water, while Oregon has more than 2300 square miles. Yet, little if any water conservation policies exist anywhere in Arizona, and there is no monitoring of, or permits needed for, well drilling in unincorporated areas. Water conservation is voluntary, and there are few incentives for any resource conservation efforts.

The popularity of this extremely consumptive, growth driven economy is a constant threat to the amazing beauty and vulnerability of the Sonoran Desert, with its incredible variety of cactuses and massive volcanic rock formations. The desert has been so devoured by sprawl development patterns that, if it weren't for the hundreds of acres of Native American reservation land adjacent to and surrounding the metropolitan area, likely every square mile of non-rock formation land would be converted to impervious surfaces.

This, as it turns out, is exactly the "plan."

Under the guise of "strategic planning", the 2050 "vision for the future" of the greater Phoenix area

"is 400 miles of new highways." A recent Arizona Republic article reports that planners from the Maricopa Association of Governments (MAG, similar to LCOG) have "sketched out a far-reaching network of new freeways and highways...that would double the current highway system...and cost the region a daunting \$60 billion." With a strategy "based on decades-old migration and birth statistics and on existing land-development rights" the planners say that "long-range plans for roads to serve non-existent cities don't foster speculative sprawl, they anticipate what's already in the works."

My plea and message to LWLC members and concerned citizens throughout Lane County and the rest of Oregon is to remember what the growth machine always has in the works - speculative sprawl development. My Arizona experience is proof enough for me that it is only through the efforts of concerned, proactive citizens that livable, sustainable cities and communities will ever be realized.

The Phoenix rising from the deserts of Arizona is an insatiable monster that continues to devour its children—and everything else in its path. Working together is the only hope for ensuring Oregon doesn't die the same death.

**Lauri Segel**



Javelina exploring new habitat.