



## Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005  
(541)388-6575 FAX (541)385-1764  
<http://www.co.deschutes.or.us/cdd/>

### MEMORANDUM

**DATE:** February 18, 2015  
**TO:** Deschutes County Planning Commission  
**FROM:** Nick Lelack, Director  
Peter Gutowsky, Planning Manager  
**RE:** HB 2229 / Agricultural Lands / Planning Commission Direction

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#### I. Direction

Staff seeks Planning Commission direction on how to proceed with the agricultural lands program as it pertains specifically to HB 2229. Attached is a matrix of options (Attachment 1). Planning Commission input will be shared with the Board of County Commissioners (BOCC) at a subsequent work session.

#### II. Background

Based on Board of County Commission (BOCC) direction last October, the Planning Commission continues to discuss two topics associated with the agricultural lands program: temporary hardship dwellings in the Conventional Housing Combining Zone and minor plan amendments clarifying that resource land parcels can be re-designated and rezoned to resource lands through a quasi-judicial application process, without taking an exception to Oregon Land Use Goals 3 or 4. In addition, staff received direction from the BOCC a month later to explore HB 2229, also known as the Big Look Bill, as it relates to correcting mapping errors of resource designated lands (includes forest lands).

Two major developments have occurred that complicate implementing HB 2229.

- First, the Oregon Department of Land Conservation and Development (DLCD) sent a letter in response to several interpretation questions regarding implementing this law (Attachment 2). In short, the agency expressed several significant concerns/objections with the County's proposed approach. Based on their letter, County staff would be required to undertake a new approach requiring significantly more resources (staff, budget, and time) to implement this law.
- Second, the Planning Commission asked staff to contact former CDD Director John Anderson (1978-85) regarding the County's process to designate lands as resource and exception lands, in compliance with the then-new Statewide Planning Law. Please find as Attachment 3, a memorandum summarizing staff's conversation with Mr. Anderson, which he also reviewed and approved. In short, the County thoroughly and thoughtfully designated every property based on the best available data at the time and per DLCD's direction. The County asked the agency for more flexibility, but the agency did not grant it.

Attachments:

1. Matrix of Options
2. DLCD Letter
3. John Andersen Conversation Notes

### Matrix of Options for HB 2229

Options	Summary	Timeline
<i>Request Land Conservation and Development Commission (LCDC) initiate rule making</i>	DLCD envisioned rule making for HB 2229. <sup>1</sup> Currently no formal statewide rules or other standards exist to guide local governments in planning and zoning “non-resource land.”	To be determined. If rule making occurred, staff would be able to evaluate its applicability to Deschutes County and the resources and timeline required for implementation.
<i>Await results of the Southern Oregon Pilot Project</i>	<p>On May 10, 2012, Governor Kitzhaber signed Executive Order (EO) 12-07, which establishes a "Pilot Program for Regional Farm and Forest Land Conservation."<sup>2</sup> The pilot program involves three counties—Douglas, Jackson, and Josephine—and authorizes them to enter into a regional process to enable these counties to develop a plan to allow "...appropriate additional regional variation in what lands must be planned and managed as farm and forest lands.</p> <p>According to a DLCD status update, only Jackson County will be pursuing the assessment of possible mapping errors. A new scope emphasizes the regional nature of this project including the identification of regional criteria or methods to establish alternative forest land designations or alternative farm parcel size opportunities and regional criteria or factors for determining which lands should not be designated under Goals 3 or 4. Furthermore, the contract provides additional flexibility to the counties by allowing a county to proceed with an approach that may not be regional in nature if it elects to stay within the parameters of current state law.<sup>3</sup></p> <p>Douglas County has proposed a process to identify lands eligible for non-resource designation. Appropriate rural and open space uses would be authorized in new land use designations with lot sizes between 10 and 40 acres.<sup>4</sup></p>	To be determined. If the results of the Pilot Project are successful, staff would be able to evaluate its applicability to Deschutes County and the resources and timeline required for implementation.

<sup>1</sup> [http://www.oregon.gov/LCD/docs/rulemaking/072909/item8\\_policy\\_agenda\\_report.pdf](http://www.oregon.gov/LCD/docs/rulemaking/072909/item8_policy_agenda_report.pdf). Page 10.

<sup>2</sup> <http://www.soregionalpilot.org/>

<sup>3</sup> [http://www.oregon.gov/LCD/docs/meetings/lcdc/052214/02Item\\_3\\_SORPP.pdf](http://www.oregon.gov/LCD/docs/meetings/lcdc/052214/02Item_3_SORPP.pdf)

<sup>4</sup> [http://www.co.douglas.or.us/planning/Plan\\_docs/ff/PilotProgramUpdate14.pdf](http://www.co.douglas.or.us/planning/Plan_docs/ff/PilotProgramUpdate14.pdf)

Options	Summary	Timeline
<i>Property Owners initiate Goal 3 or Goal 4 Exception</i>	<p>The following five rural subdivisions are currently zoned Exclusive Farm Use (EFU) or Forest Use (F2):</p> <ul style="list-style-type: none"> <li>• Haner Park (F2)</li> <li>• Meadow Crest Acres (EFU)</li> <li>• Section 36 (F2)</li> <li>• Skyline Subdivision (F2)</li> <li>• Squaw Creek Canyon Recreation Estates 1<sup>st</sup> Addition (EFU and F2)</li> </ul> <p>A Goal 3 or 4 committed exception could be explored to demonstrate that the respective properties are no longer capable of being used for agricultural or forest uses due to housing, roads, infrastructure and other improvements.</p>	To be determined. Property owners could band together and initiate a Goal 3 or 4 exception to re-designate and rezone their properties to rural residential
<i>Initiate Non-Resource Lands Program</i>	<p>A non-resource lands program would enable property owners, on a case-by-case basis, to initiate a Comprehensive Plan amendment and zone change to re-designate their EFU property to a “Non-Resource” zone.</p> <p>Engage the community to draft eligibility criteria and non-resource zoning. Amend County comprehensive plan and zoning ordinance incorporating policies and standards for now plan designation and zone.</p> <p>Upon adoption, property owners on a case-by case basis would be able to initiate Comprehensive Plan and zone change amendment.</p>	12-18 months.
<i>Initiate HB 2229, taking a sub-regional or county-wide approach</i>	<p>Develop a work plan in coordination with the Planning Commission, BOCC, and DLCD. State law requires LCDC to approve the work plan. If the work plan is approved, the County must provide an opportunity for all farm and forest land to be considered in any regional or county-wide approach.</p>	24 to 48 months. Requires significant resources to substantiate agricultural and forest designations, transportation and wildlife impacts, among others.