

*Discussion Paper for Leadership Summit 2003*

## **SECURING LAND FOR TRADED-SECTOR DEVELOPMENT**

### **Objective and 2003 Highlights**

In its 2002 land use white paper the Oregon Business Plan stated that Oregon needs to “Develop goals, policies and legal procedures to ensure that Oregon’s land use system provides an adequate short- and long-term supply of land for traded-sector industries and critical wholesale, distribution, and warehousing.”

The paper identified two challenges. Right now, in many parts of the state, there is a scarcity of land immediately ready for businesses looking for appropriate locations. The Business Plan called for an accelerated effort to develop “shovel ready” sites. The second, longer-term challenge centered on the land-use system itself. As the economy changes, so do the needs of traded-sector industries. At one time, agriculture and forest products were Oregon’s central sources of traded-sector wealth. Today, we have many traded-sector clusters, all with very specific land and location needs. Moreover, across many industries, the lines between office and industrial land uses is blurring, making traditional land use categories less useful. Without harming our existing land use system or established industries, we need to adjust it to meet changing needs.

The good news is that during the past year, the Governor, the Legislature, state agencies, and many local entities have focused substantial attention on this issue, with good results.

To address the immediate need for land,

- The Governor directed the Governor's Economic Revitalization Team (formerly Community Solutions Team), through Executive Order 03-02, to identify and prepare industrial sites “for immediate development opportunities.” GERT will have several sites certified under the new “Shovel Ready Industrial Sites Initiative” by early 2004.
- The Governor and Legislature directed ERT and the Oregon Economic and Community Development Department (OECDD) to identify 25 “opportunity” sites by December 15, 2003 that have potential for significant job creation. GERT and OECDD will be assisted by a recently created Industrial Lands Advisory Committee, comprised of business leaders from across Oregon.
- The Legislature provided OECDD with \$27.6 million to fund infrastructure development for industrial sites.
- The Legislature required GERT to work with other state agencies (including DLCD and OECDD) to coordinate and streamline state policies, programs, and procedures and provide coordinated state agency assistance to local governments.
- The Governor launched an Industrial Lands Taskforce to “evaluate concerns and proposals for developing, identifying, and protecting ... short and long-term industrial land supply.” In November, the taskforce issued a report offering a thoughtful assessment of the challenges facing Oregon, and a wide-ranging set of recommendations to improve the system. (See the appendix, which excerpts the executive summary of the Governor's task force.)

## What We Should Do Next

Great strides have been made on this initiative during the last year. Efforts by the State to identify and develop a short-term supply of industrial lands are off to a quick start. In addition to executing the recommendations of the Governor's Industrial Lands Taskforce, we need to focus increased attention on two areas from the original white paper:

- The importance of land for traded-sector companies. Traded-sector businesses – those that sell their products and services outside the state and bring in fresh dollars to Oregon – have land needs that are often distinct.
- The establishment a long-term advisory committee – comprised of public and private officials – to assess Oregon's evolving land use needs, especially those of trade-sector industries. This committee should also monitor progress on the recommendations made by the Governor's Industrial Lands Taskforce and highlight where local and regional traded-sector development barriers exist.

## Background

In 1973, the Oregon Legislature enacted Senate Bill 100, establishing Oregon's pioneering statewide land use system. Over the next several years, local governments and the state developed detailed goals and guidelines, rules, and comprehensive plans to implement this system. The new law featured:

- Strong provisions to preserve farm and forest land
- Urban growth boundaries to guide new development
- Policies for environmental protections and practices
- Supportive plans for housing and transportation investment.

As a result, Oregon's system has been widely recognized as a national leader, and has helped to secure and define the state's quality of life. In recent years, many other states, under the banner of "smart growth," have adopted elements of the Oregon system.

SB 100, based on a vision of the world at it appeared in 1973, was a powerful force to help protect the state's major traded sector industries at the time – agriculture and forestry – by ensuring that a sufficient supply of land would be available for their continued operation. Under Goal 9 of SB 100, local plans also were required to include short- and long-term supplies of land for industrial and economic development.

In the past few years, it has become more apparent that our land use planning system has important ramifications for shaping, growing or limiting our economy. For example, high technology is the state's largest industry, but its needs are not specifically recognized or provided for in state land use laws. High tech is not alone in this regard. A recent study suggests that most local governments responsible for implementing land use plans do not have a good understanding of the land requirements for today's industrial and commercial traded-sector businesses, including warehousing and distribution. As a result, many local comprehensive plans fall short in addressing several important needs of these industries.

There are other dimensions to this challenge:

- Some communities are reaching or have reached the original planning horizons of many of the land use plans adopted in the late 1970s and early 1980s. In many

jurisdictions, and particularly in the Portland metropolitan area, the inventory of undeveloped, available, “shovel ready” industrial land inside the existing urban growth boundary is dwindling or so sparse that opportunities to locate or grow new businesses are limited.

- Communities reviewing their 20-year land supplies for housing and industry are neglecting the need for land to serve the requirements of traded-sector industries and their suppliers, especially short-term land supplies. As a result, some employers have had to abandon plans to locate or expand in such places as the west Portland metro area. This threatens to impede the development of some of Oregon’s new and emerging traded-sector industry clusters, including high technology businesses and related warehousing and distribution enterprises.
- Not all industrial or commercial sites within the state are equally well suited for every new kind of economic activity. Some firms may require sites with particular characteristics, including “cluster” proximity to other firms in related industries. Land use planning must take this into account.

### **Updated Recommendations**

To make Oregon's land use system more responsive to and supportive of economic and community development needs, we should do the following:

1. ***Execute the recommendations of the Governor’s Industrial Lands Taskforce.***
2. ***Continue to provide funds for public infrastructure improvements to industrial sites in a timely way so economic development opportunities can be captured. Insure the provision of short-term industrial land supplies for traded-sector industries and supporting businesses in warehousing and distribution.*** The Legislature needs to continue to ensure that Oregon has the necessary resources to locate, preserve, and provide infrastructure improvements for traded-sector sites. The Governor’s Economic Revitalization Team (ERT), in conjunction with other state agencies, is making good progress on identifying land for traded-sector industries. Work to preserve these lands should continue.
3. ***Continue to ensure that economic development priorities and needs are represented in the development of administrative-level land use policies and rules, and in review of projects with major economic importance, particularly those that create quality traded-sector jobs.*** Governor Kulongoski has made this an administrative priority. Working with the Land Conservation and Development Commission, the Governor has helped to fast-track industrial sites across the state. ERT is working cooperatively with several agencies, including OECD and DLCD to certify several “shovel-ready” sites by early 2004. The Governor and state agencies should continue to make land for traded-sector development a priority and institutionalize the certification process for traded-sector industrial land.
4. ***Establish an advisory committee – comprised of Oregonians from a wide range of interests and disciplines – that will address the state’s long-term land use needs and opportunities, especially those of traded-sector industries.*** Under Goal 9 of SB 100, local plans are required to include short- and long-term supplies of land for industrial and economic development. Though economic goals are imbedded in SB 100, we do not know what traded-sector land will look like in 10 or 20 years. We

need an independent body – outside any one agency – that can routinely assess the needs of traded-sector industries and ensure that we keep our land use system’s economic goals up-to-date. In addition, this group should:

- Monitor progress on the recommendations made by the Governor’s Industrial Lands Taskforce.
- Encourage the Legislature to fund immediate opportunities for development of land for traded-sector industries.
- Highlight where local and regional traded-sector development barriers exist.
- Monitor land use administrative and procedural reviews and appeals in order to identify any significant sources of unwarranted project delay.

## Appendix

# Executive Summary

## POSITIONING OREGON FOR PROSPERITY

### REPORT OF THE GOVERNOR'S INDUSTRIAL LANDS TASK FORCE

October 2003

Oregon's economy outpaced that of the nation in the 1990s. For the last several years, however, the economy has stalled. The reasons are many, and all are the subject of discussion. One potential problem, however, has been a recurring topic of discussion for the last three years: the adequacy of the supply of land for industrial users.

In February 2003 Governor Kulongoski established the Industrial Lands Task Force to address a widely held perception that many of the fastest-growing and economically critical areas of the state have not maintained an adequate supply of industrial lands to meet the needs of a growing and prosperous state. After five public hearings where over 250 citizens testified and hours of deliberations, the Task Force has concluded that our land use and infrastructure financing systems, as applied, have not consistently met this need.

The testimony received by the Task Force repeatedly emphasized that the industrial lands issue is intertwined with many other issues. Thus, merely providing a supply of industrial lands will not ensure that the Oregon economy recovers or that industry will expand or move here. Such factors as adequate housing, schools, water, sewers, transportation, and many other quality-of-life issues may have at least as great an impact on how successful Oregon will be in revitalizing its economy.

While fully recognizing this reality, the Task Force concluded that it would best serve the purposes of the Executive Order by narrowing its focus to these key questions:

- What is "industrial land"?
- Is there a shortage of industrial land?
- What should be done to ensure an adequate supply of industrial land?

#### ***What Is Industrial Land?***

The Task Force determined that a lack of consistent and agreed-upon definitions of basic terms will hamper any debate and agreement about policy changes.

Everyone has an intuitive sense of what "industrial" is, but the Task Force found that there was no universal definition that all agreed on. The current behavior of the market reflects a melding or blurring of the boundaries between commercial/office and industrial uses. This means that many of the traditional definitions of "industrial" embodied in zoning ordinances are obsolete. The Task Force developed a working definition of "industrial" sufficient for Task Force purposes, but more work will be needed to develop an adequate definition for land use planners to use in rewriting zoning ordinances.

The Task Force also found that "industrial land" is not a homogeneous commodity and it must be analyzed with market needs clearly in mind. One implication is that industrial land inventories and projections of need should not be based solely on a simple ratio of jobs to acres, which is the traditional method used by many land use planners. Rather, the inventory must be defined in terms of what types of industry a city, county, or region can realistically attract and what kinds of land they need by location, size, price, physical characteristics, and services.

The Task Force heard considerable testimony that the inventories of industrial land that local governments rely on are flawed because much of the identified land is not really "available." "Available" to the Task Force means land that is on the market at competitive prices. But this is not the way comprehensive plans define "buildable," which many industrial sitters and developers assume to be the same as "available." For example, most local plan inventories will show the

undeveloped part of a large site in the inventory of “buildable” land based on the assumption that in the next 20 years the owner will build on it. That is appropriate in the context of Oregon land use laws, but hypothetical availability is of no use to industries seeking sites today or tomorrow. If the state is going to base land use plans on inventories of these lands, it needs to provide guidance on how to handle this difficult issue.

The Task Force recommends that all of the above definitional issues be resolved by the Land Conservation and Development Commission (LCDC) in the next six to 12 months. Pursuant to ORS 197.638, LCDC should obtain the assistance of the Oregon Economic and Community Development Department (OECD) to assist it to clarify and resolve these issues.

### ***Is There a Shortage of Industrial Land?***

The Task Force concluded that there is a significant lack of certain types of project-ready

industrial land<sup>1</sup> in certain parts of the state. This conclusion is supported by the findings of the Portland-area Regional Industrial Lands Study (RILS), the HB3557 committee report, testimony received at Task Force hearings, and the direct experience of Task Force members. The Task Force also concluded that many jurisdictions lack a 20-year supply of industrial land.

However, the Task Force also concluded that the short- and long-term shortage issue is not universal around the state. Some areas, such as Klamath Falls and Medford, seem to have the short-term and long-term supply issue under control. Other areas, however, such as Portland metro, Salem-Keizer, Eugene-Springfield, Bend, and Pendleton, appear to have short- and in many cases long-term (20-year) supply shortages. And they have shortages of parcels of the right size, configuration, or location suited to certain uses.

### ***What Should Be Done to Ensure an Adequate Supply of Industrial Land?***

The Task Force has concluded that there are several causes of these problems and that some of the causes are more important in some locations than others. After reviewing all the issues identified during testimony and in other reports, the Task Force divided the issues into two groups<sup>2</sup>:

#### **Critical Issues**

1. State Land Use Program
2. Attitudes of State and Local Officials and General State Reputation
3. Responsibility of the Public and Private Entities in Maintaining an Inventory of Industrial Land
4. Infrastructure Financing

#### **Secondary Issues**

1. Conversion of Industrial Land to Other Uses
2. Old Mill Sites
3. Brownfields
4. Wetlands

The Task Force believes that a first step local jurisdictions can take with respect to industrial land supply is to do what state law allows and requires them to do: have a 20-year supply of buildable lands inside their Urban Growth Boundaries (UGBs).

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<sup>1</sup> “Project-ready” means land that can be made ready for construction to begin within six months, which means that some basic infrastructure must already be to the site, and that planning, zoning, and most environmental, infrastructure, and public comment issues must already be resolved so that all building permits can reasonably be obtained within six months. This is the term that most closely meets what the Task Force means by providing a short-term supply of industrial land.

<sup>2</sup> This Executive Summary does not provide a summary of each of the specific findings for each of these categories; details are in the full report.

The entire state's economy suffers when certain communities fail to meet their obligations to provide a full inventory of such lands. While this will not necessarily solve the need for project-ready sites, the Task Force believes it must nonetheless be the state's highest priority to (a) identify the key communities critical to the state's economic recovery where a 20-year supply is not available and then (b) take one or more of the following actions to resolve the problem.

The Task Force identified one problem that is not subject to easy resolution and that cuts across all the issues identified: attitude. The Task Force heard much testimony that Oregon has a reputation nationally of not being "open for business." Oregon is "out of the game" on industrial development, according to some. This is partly because there is inadequate project-ready land available in the right places at the right prices. Many of those testifying believe that many local and state governments are not very helpful to applicants in getting through the permitting process. To much industry today, "slow" is the same as "no" when it comes to permitting. The Task Force makes specific recommendations for overcoming this perception, but clearly resolving it is a key to the success of all the recommendations that follow.

Virtually all of the recommendations that follow involve the Department of Land Conservation and Development (DLCDD) and the Governor's Economic Revitalization Team (GERT).<sup>3</sup> The Task Force recommends that the directors of these two agencies review the Task Force's recommended lead agency and then determine the best overall strategy for dividing up the work, especially the work defined for the next six to 12 months. The agency that the Task Force recommends should take responsibility for each action is noted. Where more than one agency is listed, a lead agency is recommended.

### ***What to Do Immediately***

#### **a. Verify Industrial Land Inventories in Key Communities**

The inventories are the foundation on which local comprehensive plans are based. OECDD, GERT, and DLCDD (lead), together with the team recommended in (c) below, should quickly evaluate the adequacy of these inventories in key locations and then take appropriate action to correct them if they are in error.

#### **b. Create an Agricultural Lands Team**

A team of experts, led by the Department of Agriculture, should assist local governments in identifying which agricultural lands could be added to the UGB in key communities without significantly harming the agricultural industry or that are not part of what is considered by agriculture to be the "commercial agricultural base."

#### **c. Create an Urban Lands Team**

The state should make available a small team of experts drawn from state agencies (and perhaps some outside consultants), managed through DLCDD and GERT (lead), to provide direct assistance to solve the industrial lands problem in a limited number of communities or regions that OECDD identifies as being critical to the overall economic health of the state. If the issue blocking provision of land is lack of an adequate inventory of industrial land and the need is to write or process a UGB amendment or to update a zoning ordinance, the state team should provide this assistance directly to willing local governments.

#### **d. Create Local and State Permitting Teams**

Even if land is available for industrial use, there may be complex permitting issues. Local governments should create "one-stop" permitting teams to manage all local permitting, similar to what Klamath Falls and Hillsboro have done. The state, through GERT, should provide similar assistance where state and federal issues exist. The Task Force concluded that unless such help is available, many prospective industrial developments will go elsewhere.

#### **e. Complete the Metro UGB Expansion**

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<sup>3</sup> GERT used to be known as the Community Solutions Office. The name was changed by the 2003 Legislature.

Metro recently added 1,900 acres of industrial land into the UGB, but estimates a need for about 2,700 additional acres. Metro should complete this process within nine months and DLCD/LCDC should conduct an expedited review process for it.

#### f. GERT Funding

The Task Force highly recommends that the Legislature fully fund GERT and make it a permanent part of the way the state addresses intergovernmental development issues.

#### g. Site Certification

As provided for in the Governor's Executive Order establishing the Task Force, OECDD should expedite the creation of its certified project-ready lands inventory. This will help overcome the perception that there is no project-ready land available in the state.

#### h. Immediate Opportunity Funds

The Legislature, the Oregon Department of Transportation (ODOT), and OECDD should do everything possible to increase allocations to these funds, and the agencies should put a high-level official in charge of administering them. These funds would be used to solve infrastructure problems for identified "bird in the hand" industrial development opportunities that will create jobs in the near-term.

#### i. Virtual Permitting

GERT (lead), DLCD, and the Department of Consumer and Business Services (DCBS) should continue to support and spread the word about the "virtual permitting" process being implemented in Jackson and Josephine counties. This process allows a landowner or developer to obtain all the conditional use permits, siting permits, and actual building permits needed to construct a hypothetical building on the site

### ***What to Do over the Next Year***

#### a. Consider "Time-out" Rule Making

If the fast-track efforts described above do not quickly resolve the 20-year land supply issue, LCDC should consider adopting an emergency rule to allow amendments to UGBs to increase the supply of industrial land. This provision should apply only to a few identified jurisdictions and only for a very short period of time. The goal would be to resolve the major supply issues quickly while avoiding issues that arise from "super-siting."

#### b. Regulatory Streamlining

The Governor's regulatory streamlining Executive Order, being managed by DCBS, can handle many of the issues related to shortening the time needed to get through the regulatory processes at the state level. Similar programs may be needed in local jurisdictions, for the Task Force heard from developers that most roadblocks are experienced at the local level, not the state level.

#### c. Alternative Financing

OECDD should examine alternative financing vehicles that can resolve the issue of requiring immediate payback on infrastructure loans. If this requires legislation, then appropriate proposals should be prepared for the next legislative session.

#### d. Division of State Lands (DSL) Industrial Fund

The State Lands Board and DSL (lead) should examine their Asset Management Plan to determine whether greater investment in industrial lands projects would provide an adequate return to the Common School Fund to meet its constitutional obligations. If so, then the State Lands Board should make funds available for industrial lands projects.

### ***What to Do During the 2003-2005 Biennium***

#### **a. Update Industrial Land Inventories More Often**

LCDC should require all jurisdictions over a certain size, not just Metro, to update their industrial land inventory and make appropriate adjustments every five to seven years so that the chance of again facing a severe shortage of industrial land is minimized.

#### **b. Resolve Issues Related to Updating Comprehensive Plans**

A significant reason for the lack of short- and long-term supplies of industrial lands is local governments not keeping their plans up to date. The reasons for this are complex, and blame can be placed at the state as well as the local level. The net result is that some jurisdictions have an inadequate supply of project-ready industrial land to meet the varying needs of potential users, and some have an inadequate long-term supply as defined by state law. Goal 9 is a very powerful vehicle to resolve the industrial lands issue, but it appears that it is neglected, both by local governments and the state. LCDC (lead) and local governments need to examine what is causing this failure and either recommend legislation, create incentives, or make appropriate rule changes to resolve it.

#### **c. Reexamine the State's Role in Providing Industrial Lands**

An issue of great importance is for the state to decide whether providing an adequate supply of industrial lands is something to leave to the private market to resolve or is something government has a major role in resolving. In much of the rest of the country and the world, government plays a larger role than in Oregon through direct development of sites and funding infrastructure. In principle, port districts and other public entities in Oregon should be able to fill in where the private market is not able to do the job. In the past, the private market has provided most of the project-ready industrial land in the state, but high carrying costs and difficulties with acquiring sites appear to have diminished

its role, especially in the Portland metro area. Compounding the problem, public resources are less available to acquire, develop, and hold industrial sites. The Task Force recommends that the Legislature seriously consider expanding the role of the public sector in providing project-ready and long-term supplies of lands, and providing well-funded financial and other mechanisms for the state to assist private industry in providing such lands where needed. To determine the needs of the private industrial developers, OECDD (lead), GERT, and DLCD should consult with these developers to determine what is needed to enable them to participate in solving the shortage of project-ready lands. This recommendation is not intended to put the state in competition with private developers but rather to deal with the realities of the market.