

Joint Meeting of Advisory Committee and ERT Directors

October 5, 2004

State Lands Building, Rm 201

775 Summer St, NE

Salem, OR

Attending

Committee Members:

Betty Atteberry – co-chair

Ray Naff – co-chair

Jon Chandler

Dan Cooper

Tom Gallagher

Linda Ludwig

Steve Pfeiffer

Mark Whitlow

Staff: Gabrielle Schiffer, ERT

State Agency Directors:

Ann Hanus, DLS

Bob Repine, OHCS

Cory Streisinger, DCBS

Lane Shetterly, DLCD

Bruce Warner, ODOT

Others:

Lauri Aunan, DEQ

Ann Beier, DLCD

Shawn Cleave, Senate Republicans

Mike Collmeyer, 1000 Friends

MerrieSue Carlson, ERT

Cheri Davis, ERT

Mark Ellsworth, GO

Liz Frankel, League of Women Voters

Kirk Jarvis, DSL

Jim Johnson, ODA

Jim Just, 1000 Friends

Harlan Levy, OR Realtors

John Lilly, DSL

Peggy Lynch

Lynn Partin, OHCS

SUMMARY NOTES

Report from Public Appeals Process Work Group

Steve Pfeiffer, chair of the Public Appeals Process Work Group, began the topic presentation by describing the work group's process. He went on to say that the work group focused on local land use decisions and their effect on economic development/. In addition, the member of the work group were in general agreement that the existing public appeals process, even when appeals are unsuccessful, results in costly and time consuming delays, which translates to lost economic opportunity.

Steve told the directors and committee that the ideas/potential solutions to simplify and expedite the public appeals process presented in the white paper has the general consensus of the work group. It does not have the consensus of the interested stakeholders who attended the meetings of the work group.

Highlights of the discussion of the potential solutions are as follows:

- The Land Use Board of Appeals (LUBA) was originally created to expedite the land use appeals process. The complexity of the land use system feeds the appeals process. The nineteen statewide planning goals, which range from citizen involvement to urbanization, from transportation to economic development and from energy conservation to coastal shorelands, ensure that everything has the potential of getting funneled through the state's land use system.

- The system we have in place right now defers policy making to the judiciary.
- An increasing number of discretionary decisions by local government are being defined as land use decisions. Limiting or better defining what is and is not a land use decision could reduce the number of appeals.
- Many local government decisions involve not whether use is allowed but what it looks, such as site or design review. It may be possible to reduce appeals through LUBA and the Court of Appeals from such decisions by limiting review of such decisions to the city or county level.
- Often local options/choices and discretion complicate the development process and increase the opportunity for appeals. Local governments should be encouraged to streamline their codes.
- Eliminating the need for dual filings would be beneficial, but we need to more clearly identify where dual filings occur.
- Requiring the Court of Appeals to hear appeals from the Land Conservation and Development Commission (LCDC) on a fast track now used for LUBA appeals would reduce caseload at the Court of Appeals, which might help speed up the system.
- Before moving forward with the idea of establishing LUBA as “magistrates” under the Court of Appeals, the idea should be discussed with the Court of Appeals.
- Right now, our system makes no differentiation made between siting an Intel or siting a Walmart.
- Since the system is so interconnected that its difficult to isolate any one element, a policy decision rather than a technical fix might produce better results. For instance, the group could support a policy decision which ensures that public participation is widest at the planning stage where use is decided and narrowest at the implementation stage.