

## Department of State Lands (DSL) Appeal of Bend UGB Decision

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On May 7, 2009, in coordination with and on behalf of DSL, the Department of Justice submitted an appeal to the Department of Land Conservation and Development (DLCD) of the City of Bend's recently adopted Urban Growth Boundary (UGB) expansion.

DSL is submitting an appeal of Bend's UGB expansion because the City's process has been unacceptably compromised due to numerous procedural, technical and information/data deficiencies as well as repeated failures to comply with officially cited and applicable State of Oregon statutes, rules and statewide planning goals.

DSL staff has regularly participated in the Bend UGB expansion planning process for the past two years by attending and participating (through oral and written testimony and comment) in Technical Advisory Committee and Planning Commission meetings.

The DSL appeal focuses on four key issues for which DSL staff has repeatedly testified on and established a record of objection. These four issues have also been cited by DLCD in various official correspondences to the City and have been the subject of testimony for other participants and interested parties.

The four appeal topics are:

1. Housing Needs Projection and Residential Lands. The City has failed to demonstrate that the Bend Comprehensive Plan and the proposed expanded UGB provide sufficient buildable land to accommodate the projected housing needs for 20 years.

2. Priority of Lands for UGB Inclusion. The City's selection of lands for inclusion in an expanded UGB does not comply with the priority of land requirements of ORS 197.298. Section 11, a non-farmable site without water rights and surrounded by urban and residential uses, represents the highest priority of resource lands for UGB inclusion.

3. Required Goal 5 Inventory and Analysis. The City has failed to conduct required Goal 5 inventories and analysis in proposed UGB expansion areas and therefore is in violation of OAR 660-023-0250(3)(c). City proposed zoning assignments based upon natural resource status or condition have not been justified or substantiated.

4. City's Transportation System Cost Evaluation. The City's evaluation and analysis of transportation infrastructure costs to serve different candidate UGB expansion areas was improperly implemented and is incomplete. For example, the failure to attribute the costs to resolve the Cooley Road intersection problem to the Juniper Ridge area it serves has resulted in flawed transportation efficiency findings for this area.

DSL's Stevens Road Tract (Section 11) is a resource land site that has never been farmed or grazed, has no water rights, abuts city limits and the UGB on three sides, is nearly surrounded by committed and developed urban and residential lands, is already partially annexed into the City, and is serviceable with existing, abutting urban infrastructure with capacity to serve the site. Section 11 was consistently rated by the City, in its Goal 14 analysis, as the top ranked site for housing and infrastructure efficiency.

In coordination with and at the City's request, DSL prepared and the State Land Board adopted (in June, 2007) the Steven's Road Tract Conceptual Master Plan designed to address the City's projected land needs including needed housing opportunities. This Mixed Use development plan provides for a "full-service" mixed-use neighborhood community including diverse housing types, a village center, elementary school, neighborhood parks, employment centers/areas, mixed use neighborhood centers, substantial open space areas and a comprehensive trail system. Development of this site will create a nodal activity center for southeast Bend residents reflecting established community values and priorities.

In the opinion of DSL staff, if the City implements correct UGB expansion evaluation procedures and if resource lands are needed to satisfy the City's identified and justified land needs, then DSL's Section 11 is the top candidate site for inclusion into an expanded Bend UGB.