

# THE SPOKE REPORT:

A SUMMARY OF FINDINGS FOR THE OREGON LAND USE STORIES PROJECT



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## Executive Summary

The Oregon Land Use Stories project grew out of the polarized political climate created by the passing of Measure 37 (M37).<sup>1</sup> As planning students, we heard much about how M37 would negatively impact planning and livability in Oregon, but heard little about the meaning behind the measure's passing. Our project focused on using story as a planning tool to better understand the meaning of M37 and the future of land use in Oregon, while making the conversation accessible to citizens. In crafting our master's level project, we sought to get back to the root of what land use planning in Oregon was all about – creating and preserving those things that people value about the places they live.

We spent months preparing for our journey around the state, speaking with professors, planners and local officials to help us understand M37 and the historical context of land use planning in Oregon. We traveled by bicycle through 20 counties and interviewed over 100 citizens, including planners, elected officials, ranchers, farmers, and members of the development community. We rounded out the perspectives we heard around the state with those of legislators, state agencies and planners involved with the original implementation of the system.

Our project used story as a means to engage citizens in a conversation about land use. By framing a process in which people were encouraged to share their stories, we were able to get at the values that lay beneath the positions that often surface at public meetings. We have also used storytelling to share our findings through our interactive website ([www.landusestorie.org](http://www.landusestorie.org)), during formal presentations and in an 11-page article that appeared in the November/December issue of Oregon Planners Journal. We believe storytelling is an important tool for making the planning process accessible to citizens.

Though Oregon is composed of a diverse set of landscapes, political views and needs, we discovered a deep commitment to stewardship of communities and land through planning. The clear consensus that we heard around the state, however, is that a comprehensive review of the 34-year-old land use system is overdue and critically needed to improve the system, give voice to citizen concerns and ensure ongoing support for planning. The following report provides a summary of perspectives from the people we spoke with and includes recommendations for addressing the structural issues and underlying sentiments that led to the passage of M37.

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<sup>1</sup> According to the Oregon Department of Land Conservation and Development, “Measure 37 is a state law that was enacted in November of 2004. Generally, the law allows owners of property to demand compensation from state and/or local government for statutes and rules that restrict a person’s use of real property and reduce its value. Instead of paying money, government may allow the claimant to use the property for a use that the claimant could have carried out when he or she acquired the property. A decision to allow a claimant to use the property in spite of statutes or rules that would otherwise restrict or prohibit that use is commonly known as a Measure 37 waiver.” The measure was recently altered with the passage of Measure 49. For more information on Measures 37 and 49, go to: <http://www.oregon.gov/LCD/MEASURE37/index.shtml>

## What We Did

It is important at the onset to outline our approach to this project as well as the limitations in terms of how our results should be applied. We employed an open-ended approach to researching this topic. What this means is that we did not set out with a set of questions, such as “Do you think the land use system needs a review,” to ask each person that we interviewed. Instead, we allowed our enquiry to evolve with our journey. In the development stages of the project, the questions that we wondered about were “What does the passing of Measure 37 mean?” and “What does Measure 37 signify in terms of how people around the state feel about planning?” As we started with our interviews, we found that our attention shifted away from the ballot initiative and towards the state land use system at which it was aimed. What was remarkable to us was that out of this open-ended process, several important themes emerged.

We can place these themes into three categories. There are a few sentiments that were shared by nearly everyone with whom we spoke, from all across the state. These ideas are perhaps the most relevant and important outcome of our research. The second group of comments are ones that we heard enough times for us to feel that there might be a common truth behind them. We heard these themes time and again, but not everyone said them. Finally, we have the countless comments that were only said by a couple of people. We have omitted these from the report for the sake of brevity and also because it is the common feelings shared by Oregonians that we feel it is relevant to highlight.

The number of people with whom we were able to speak was limited by both our financial and human resources. As such, the citizen comments outlined in the following section are not the result of a complete citizen involvement campaign and are not intended to guide policy decisions. As one interviewee said to us, our efforts are a “point of departure for a much more in-depth discussion that Oregonians have to have.”

On the other hand, our research was comprehensive in scope. We targeted our interviews to be with people who could speak to the concerns and interests of citizens in the area. It was for this reason that we sought out people who operated “where the rubber hits the road” with regards to land use and land use planning, including county planning directors, elected county commissioners and representatives of state agencies. We sought out a wide range of perspectives from people impacted by land use in a variety of ways. In addition to enquiring into the details of land use planning in present day Oregon, we spoke with numerous people knowledgeable about the historical evolution of the system.

We have broken our interviewees into the following categories, with the number of people with whom we spoke listed in parenthesis. A partial list of our interviewees is found in the Appendix.

- Measure 37 claimants (7)
- Neighbors of Measure 37 claims (10)
- Resource landowners (17)
- Non-resource landowners (23)
- Public sector planners (23)
- Elected officials (11)
- Land-use “experts” or people working with land use organizations (16)

## What We Heard

What follows is a summary of the comments that we heard, with the first section identifying two sentiments that seemed to be shared by everyone with whom we spoke while the second section contains comments that we heard repeatedly, though not from everyone.

### **No matter where we were or whom we spoke with, we found that...**

- People are supportive of a review of the state land use system and want to be a part of the review process. Citizens, planners and elected officials agree that it would be valuable to assess how the system has evolved over time and is currently implemented.
- Citizens have an incredible commitment to their place. People across the state were willing to take time to discuss the impacts of land use on their communities. This is a critical point that indicates citizens possess the energy and interest to participate in a review of the system.

### **We heard time and again that...**

#### **About the land use system**

- The statewide planning goals and the values they seek to protect are still important and as relevant as they ever were.<sup>2</sup>
- The same growth and development pressures that existed back in the 1970's and prompted the creation of the system are still present today.
- Policies aimed at addressing Willamette Valley problems should not be applied to other areas across the state that face different issues or have different approaches to solving them.
- The system does not allow enough local autonomy or flexibility. Whether or not the system is "one size fits all" in reality, this perception is widespread and needs attention.
- Complying with state regulations sometimes prevents localities from doing actual planning.
- Measure 37 did not solve the underlying problems that exist with the land use system, but for some, it was better than nothing. Measure 49 will not solve these problems either.

#### **Certain aspects of the system particularly frustrate landowners**

- The system has become so complicated and legalistic that you need to hire a lawyer to know what you are permitted to do with your land.
- Codes and regulations are not written in a language that is accessible to the layperson.
- There is unproductive land that is designated as high value farm or forest land. Though this classification may be designed to prevent development outside of urbanized areas, the designation of marginal land as "high value" is confusing and frustrating to landowners.

#### **There are issues relating back to the original implementation of the system**

- Some people's land was improperly zoned in the early days of the system when counties lacked the resources or expertise to properly allocate land use designations.

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<sup>2</sup> There are 19 statewide planning goals that are the foundation of the land use system. These goals cover topics such as citizen involvement, resource lands, environmental protection, urban development and housing. Local plans are required to comply with these 19 goals, which serve as an over-arching structure to guide local decision-making. For more information go to: <http://www.oregon.gov/LCD/goals.shtml>

- Tensions still exist among some people who lost value/development rights when the zoning was implemented and who were never compensated.

### **Other notable comments**

- The state is unresponsive to the needs of rural towns, including issues such as education. We feel that this impacts support for any state agency or program.
- There is an expectation that regulations are important and necessary but also a feeling that local people need to be involved in developing the regulations that impact their existence.
- Oregon's landscape is an important part of why people choose to live where they do.
- Failure to address the underlying meaning of Measure 37 will result in more ballot initiatives that divert the state's attention to side issues and impede the task of planning for the future.

### **Recommendations**

The primary flaw voiced to us concerning Oregon's land use planning system is that it has not been comprehensively reviewed in the 30 plus years since its original inception. We routinely heard from a wide variety of people that the passing of Measure 37 and Measure 7 before it is symptomatic of a state system that lacks an adequate venue for citizens, local officials, landowners, etc. to provide feedback and voice concerns.

While many question whether consensus can be reached between the diverse interests of the state, we found one clear message upon which all with whom we spoke agreed; that the assignment set before the Big Look Task Force to review the system and engage the citizens of Oregon in a conversation about land use is long overdue. Those who are frustrated by the system welcome the opportunity for change. The planners that implement the system believe that many of the issues that frustrate citizens can be addressed. Finally, even the system's greatest champions understand that the failure to address mounting tensions threatens the system as a whole and the values that it seeks to protect.

The hundred plus interviews we collected, combined with countless informal conversations, was a valuable first step in the process of evaluating Oregon's land use system. People consistently expressed their appreciation for our efforts to understand these issues and engage the public. Based upon the overwhelming consensus that we heard regarding the need for a comprehensive review of the system that engages citizens statewide, we recommend that the legislature allocate funding for a thorough, statewide public involvement process to update Oregon's land use system. We also recommend that a mechanism be put in place whereby the Department of Land Conservation & Development (DLCD) is provided with funding and a mandate to periodically conduct a comprehensive review of the system that includes public input.

This past summer, Oregonians thoughtfully articulated what they value about their communities and the land. These recommendations are important steps to ensure that the land use system is effectively able to achieve its goals and protect those values.

## Appendix: A sample from our interview list

*In addition to this partial list of professionals and officials, we interviewed 40 landowners, including 17 people who were Measure 37 claimants or neighbored a Measure 37 claim.*

### Land-use “experts”

- Lane Shetterly - Director, *Department of Land Conservation and Development*
- Dave Hunnicut - President, *Oregonians in Action*
- Bob Stacey - Executive Director, *1000 Friends of Oregon*
- Tim Knopp - Vice President, *Central Oregon Homebuilders Association*
- Arnold Cogan - first State Planning Director appointed by Gov. Tom McCall
- Jim Johnson – Land Use and Water Planning Director, *Oregon Department of Agriculture*
- Sy Adler - Professor, *Nobad A. Toulan School of Urban Studies and Planning, Portland State University*
- Dan Postrel - Agency Affairs Director, *Oregon Department of Forestry*
- Ed Sullivan - Attorney, *Garvey Schubert Barer*
- Antone Minthorn – Board of Trustees, *Confederated Tribes of the Umatilla Indian Reservation*
- Steve Clark - *Big Look Task Force Member*
- Nikki Whitty - *Big Look Task Force Member*

### Public sector planners

- Lance Bailey - Planning Director, *Wallowa County*
- Katherine Morrow - Planning Director, *Deschutes County*
- Todd Cornett - Planning Director, *Wasco County*
- Doug McLain - Planning Director, *Clackamas County*
- Michael Benedict - Planner Director, *Hood River County*
- Carla McLane - Planning Director, *Morrow County*
- Alwin Turiel - Planning Director, *Klamath County*
- Robert Scott - Planning Director, *City of Medford*
- Gil Kelley - Planning Director, *City of Portland*

### Elected Officials

- Ron Rivers - County Commissioner, *Hood River County*
- Dennis CW Smith - County Commissioner, *Jackson County*
- John Griffith - County Commissioner, *Coos County*
- Laura Pryor - Former Judge, *Gilliam County*
- Scott Cooper – Judge, *Crook County*
- Bruce Abernethy - Mayor, *City of Bend*
- Brian Clem - State legislator
- Jackie Dingfelder - State legislator