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STATE PLANNING BOARD

SALEM, OREGON



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*Executive Secretary*

January 8, 1936.

Mr. W. L. Finley, Chairman  
Committee on Wild Life  
Advisory Research Council  
Route 10  
Portland, Oregon.

Dear Mr. Finley:

The State Planning Board at its meeting in Portland, December 20, 1935, considered the subject of a rural land zoning law. Mr. Buck has suggested that a bill providing for the zoning of rural lands other than forest lands be included in one measure and is in favor of drafting a zoning bill to include zoning of rural lands for all purposes.

The Board authorized the appointment of a special committee, with Professor E. L. Potter of the Oregon State Agricultural College, as chairman, to study this subject carefully and submit recommendations to the Board at its regular meeting in March. The members of the committee are: the chairman (or representative) of each of the following divisional committees of the Board's Advisory Research Council--Agriculture (Dean Schoenfeld, chairman); Forestry (Mr. Buck, chairman); Land Classification and Use (Mr. Wilson, chairman); Recreation (Mr. Yeon, chairman); Wild Life (Mr. Finley, chairman); also the Eastern Oregon Public Lands Committee (Mr. Biggs, chairman, or his representative.) The committee is free to add to its personnel.

There has already been some correspondence on this subject. Copies of letters received from Mr. Buck and Mr. Wilson are enclosed herewith.

You are assured of the Board's cooperation in this study.

Sincerely yours,

*V. B. Stanbery*  
V. B. Stanbery  
Executive Secretary

GF:AT

Encls.

(COPY)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NORTH PACIFIC DIVISION

November 8, 1935.

Mr. V. B. Stanbery, Executive Secretary  
State Planning Board  
811 Spalding Building  
Portland, Oregon.

Dear Mr. Stanbery:

Further reference is made to my letter of November 5.

It would be very helpful indeed if the proper Divisions of the Advisory Council would draw up a rural zoning bill in the near future incorporating the forestry requirements as well as others. Measures of this kind, it seems to me, are needed for consideration by the County Planning Commissions and we should get the material into their hands well in advance of legislative sessions if these matters are to be considered and supported. Would it be possible for me to expect draft of such a bill by January 15?

Since the forestry group has dropped its forest zoning bill in favor of a general bill, we have nothing whatever to work with County Planning Commissions or other agencies, our program having been abrogated to this extent.

Very sincerely yours,

(Signed) C. J. Buck  
Regional Forester



(COPY)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NORTH PACIFIC DIVISION

November 5, 1935

Mr. V. B. Stanbery, Executive Secretary  
State Planning Board  
811 Spalding Building  
Portland, Oregon

Dear Mr. Stanbery:

Your letter of October 31 is received.

I shall acquiesce in a policy of drafting a zoning bill to include zoning of rural lands for all purposes. I hope very much at the next session of the Legislature, that the State Planning Board will be in a position to recommend a rural zoning bill caring for lands other than forest lands in the one measure. It might be well to have the Advisory Research Council prepare such a bill using the services of the chairman of the Divisions interested in developing the measure and considering Mr. Wiecking's recommendations which may indeed be well taken. It is hoped that the work done on the forest zoning bill will at least have called attention to this problem and have promoted the development of a zoning measure for Oregon.

Very truly yours,

(Signed) C. J. Buck  
Regional Forester

RE- NW

Land Classification and Use  
Legislation-Zoning

October 28, 1935

Mr. H. E. Selby, Chief,  
Land Use Planning Section, Region XI,  
Resettlement Administration,  
Mayer Building,  
Portland, Oregon.

Dear Mr. Selby:

Reference is made to E. N. Wiecking's October 24 letter on zoning, which you let me read and make copies of. I return the original herewith.

I respect highly the opinions of Messrs. Wiecking, Hendrickson, and Willard and believe their comments as expressed in Mr. Wiecking's letter should be given special study by the Land Classification and Use Committee of the Oregon Advisory Research Council, the State Planning Board, the State Forester who will be called upon to aid in zoning if the proposed Oregon bill should become a law, and the Forestry Committee of the Portland Chamber of Commerce which for a period of many years has urged effective rural zoning. To that end I am sending a copy of Mr. Wiecking's letter to each of the above-named groups and to the State Forester, all of whom I am confident approach the subject with the public interest at heart.

Very truly yours,

(signed) SINCLAIR A. WILSON, Chairman,  
Land Classification and Use Committee,  
Oregon Advisory Research Council.

cc for Mr. Stanbery



RESETTLEMENT ADMINISTRATION

Washington

October 24, 1935

Mr. H. E. Selby, Chief  
Land Use Planning Section, Region XI  
Resettlement Administration  
Mayer Building  
Portland, Oregon

Dear Mr. Selby:

Mr. Hendrickson has discussed with me the proposed forestry zoning bill for Oregon. You informed him in your letter of October 21 that it is to be introduced into the special session of the legislature now being held.

We are frankly very fearful of the consequences of a bill such as this forestry zoning bill. We feel that it is most likely to be held unconstitutional. If a law similar to this bill should be held unconstitutional it would most likely have a very detrimental effect on the whole rural zoning movement. Rural zoning has had such a favorable start that it is of the utmost importance that every step taken be very carefully considered to avoid any false move which would in any way imperil the progress it should make.

The opinions on specific points in the bill given below are, of course, those of laymen, but our doubts are sufficient so that we do not believe it desirable for us to push the bill in its present form.

Section 3 appears to us as obviously invalid as a delegation of legislative power. The definitions under 2-b and 2-c are not sufficiently specific and limiting to make section 3 a delegation of administrative authority merely, but so broad that the courts are most likely to hold it a delegation of legislative power to an administrative board. The same can be said of section 4. It is probable, also, that section 9 will be held to violate the equal protection and due process clauses of the Federal and State constitutions in that it discriminates against persons engaged in agriculture at the time of the passage of the act and the establishment of the forestry zones, as well as depriving them of established property rights. There can be no argument that a family residing in the forestry zone, securing its income wholly or substantially from agriculture, endangers the public health, safety, morals, or the general welfare or adds to the public expense more than a family securing its income from forestry, fishing, hunting, mining, or any



other occupation which is permitted in the forestry zone. The last part of this section also contains what is probably an unconstitutional delegation of legislative power.

We also doubt the advisability of having special zoning laws limited as in the present bill to authorizing forestry zones or any other single special zones. We should prefer to have a general county enabling act passed which would provide as broad powers of zoning as appear practical.

It is recommended that you urge the desirability of redrafting the bill along the lines of the model zoning law as prepared by Messrs. Bassett, Bettman, Whitten, and Williams, which can be found in Volume VII of the Harvard City Planning Studies entitled "Model Laws for Planning Cities, Counties and States". We shall be glad to assist you and the people interested in drafting such a bill and in launching a rural zoning program.

We do not wish to be misunderstood but from our studies of zoning and the experience of others we wish to avoid any pitfalls and have written you our opinion very frankly.

Very truly yours,

/s/ E. H. Wiecking, Acting Chief  
Land Use Planning Section  
Land Utilization Division

P.S. I have discussed this with Mr. Willard, and he informs me that the question of zoning regulations has been considered both from the consideration of forest zoning, and from an all inclusive zoning ordinance. It would appear that an all inclusive zoning ordinance could be just as easily set up and gotten through the legislature as to get a specific forest zoning law through. We believe fundamentally that principles of zoning for specific purposes are more questionable than zoning ordinances that would include grazing lands, forest lands, recreation areas and other types of land use.

We believe that, as a matter of practice, any group that was to have the administration of zoning for one specific purpose would hardly be in position to pass upon the justification of zoning out other areas that might be better adapted to other uses, and that an all inclusive arrangement would certainly meet with public approval to a very much greater extent than an ordinance that provided for zoning for only one purpose.

E. H. W.