

Oregon Siting Process Made Prison Location Successful

By P. Barton DeLacy*

Tougher sentencing, demanded by voters nationwide, has resulted in a prison building binge for both youth and adult facilities. But, notwithstanding popular support for "tough on crime" legislation, administrators know that local acceptance of new facilities evaporates when they are sited in one's backyard. But recent experience in Oregon suggests that prison siting is much less a corrections issue than a land use one. Parallel siting efforts, for both youth and adult facilities, demonstrate how local opposition to prisons can be overcome when land use principles, particularly highest and best use analysis, are applied to the task. Ignore such tenets, then citizen opposition and delays can be expected, raising costs and threatening system failure.

Legislature Funds Prison Building

Oregon voters passed an initiative in November 1994, mandating corrections reform with minimum sentencing for minors and "three strikes" provisions for adults. This compelled the state legislature to fund construction of both youth and adult facilities throughout the state.

New facilities were to be sited and built within two to three years. Yet, it was unlikely any site would be found without some controversy and aggrieved parties. A "super siting" authority was authorized to override the land use planning process, which included some community consensus. It was intended to locate such obnoxious uses as landfills and garbage dumps, nuclear waste repositories, and prisons. The key point is that super-siting should not be used to ignore land use planning procedures.

Many of the siting criteria for juvenile and adult facilities were similar, except in size and scope. The Oregon Youth Authority was charged with finding at least five sites for relatively small, 100-bed facilities. The **Oregon Department of Corrections** was given expanded responsibilities to house a growing adult prison population. The most controversial facility it was required to build was an 1,100 bed women's prison and adult intake center. While the juvenile facilities have already opened, the DOC, with the same timetable, is months away from breaking ground.

Troubles in Siting a Women's Prison

The women's prison and intake center, was targeted for the Portland metropolitan area, specifically within the three Portland-area counties.

The DOC looked at about 180 sites and large sites of at least 100 acres were screened. Not surprisingly, many of these parcels were in agricultural use lying on the edge of urban development, many in bucolic settings. The more remote alternatives would have higher infrastructure costs and commensurably higher operating costs for transportation. The urban sites were more expensive, but fully serviced by municipal utilities and roads.

The Siting Authority was given a matrix of considerations. These included, but are not limited to:

- cost of the land and infrastructure,
- suitability of the site for the proposed improvements,
- proximity of neighborhoods, schools, concerns that the site lie beyond flood plains, wetlands, and,
- accommodating a building footprint of 1,500 to 1,800 feet square.

Missing from this screening process was an attempt to sell the prison as a multimillion dollar investment for a disadvantaged local economy.

While the Portland area has boomed the last five years, many outlying towns within the tri-county region languish with high unemployment and few new jobs. The siting of a large adult prison near to densely populated areas required a political solution carefully balancing local and statewide needs. In fact, a number of sites were dismissed for either political or physical reasons without real due diligence or careful consideration of relative cost issues.

A 180-acre former mental hospital site, located west of Wilsonville, in the path of that city's rapid growth, was "nominated" by the Siting Authority for the women's prison and intake center. Wilsonville is a fast growing suburb, is home to a growing cluster of high-tech firms and, to date, jobs have far outpaced housing units.

The hospital site was master-planned for 2,500 housing units and slated to absorb much of the unmet demand for housing in Wilsonville. The siting of the prison here has many problems: it would take this land out of housing, could cripple the job generating capability of its city, would require the possible construction of a water treatment facility, is adjacent to school grounds and within sight of newly constructed single family subdivisions. The placement of a prison here will effectively remove this land and surrounding acreage from the supply of future urbanizable land available for housing. Housing, not a prison or mental hospital, is now the highest and best use of this acreage.

The hospital property meets the mandatory criteria for size and location, but the analysis of its

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Oregon Youth Authority Has Success

The **Oregon Youth Authority** was created by the 1995 legislature to consolidate activities from both corrections and children's services agencies.

The OYA, perhaps because it was a new organization, had to perform within certain time and budget constraints but could design procedures, free of the bureaucratic intrigue which plagues older agencies. The DOC, however, was given an ample planning budget, but had little incentive to be creative.

The OYA laid its ground work carefully, soliciting interest from outlying communities. Municipalities were asked to submit their "best site," ideally from an existing inventory of state or county owned land. Privately owned sites were also offered. Ultimately 24 cities submitted bids and competed for 10 site visits (two in each of the five regions) by the appointed siting authority.

Public testimony at hearings in each location was spirited and always mixed, yet some degree of community support was assured by the screening process. In most every case, a prison was sought to ameliorate crowded local jails and to promote economic development. At each of the five selected sites, the corrections facility, it could be argued, represented the highest and best use of the land.

The siting budget had caps on what could be spent. Thus, fully serviced sites within municipal jurisdictions were often found competitive with lower-cost farmland, once the costs to extend utilities were factored in. After two years, the five planned youth facilities are opening, under budget and on time.

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actual development costs have just begun. The population must, therefore, be absorbed elsewhere on valued farm land. The fate of the Wilsonville prison site remains unknown. The DOC faces unified opposition from city and county governments and citizen groups. Development costs alone may make the project unfeasible. At least one outlying community, Scappoose, Ore., has asked to be considered as an alternative. That city has a large site where such a prison would be the highest and best use — on land that otherwise would be mined for gravel.

Applying Highest and Best Use

An informed application of a "highest and best use" analysis might have pointed the DOC to alternate locations where development would be better received, cheaper to accomplish and a stimulus to the local economy. Highest and best use analysis evaluates existing land use for the sub-

ject property and seeks to determine if proposed uses would prove more profitable. The siting of a prison on a particular site should be compared with alternative uses in order to understand the true cost of the land, even if it is already government owned.

Highest and best use is defined by the **Appraisal Institute** in Chicago as: "The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability."

Implied in this definition is that highest and best use takes into account the contribution of a specific use to the community and community development goals as well as the benefits of that use to individual property owners. Hence, in certain situations the highest and best use of the land may be for parks, greenbelts, preservation, conservation, wildlife habitat ... or even a prison.

Once a credible evaluation is made and choices ranked by defined criteria, then super-siting can be invoked to short-circuit appeals. Super-siting is discredited when it is used, as appears the case in Wilsonville, to disregard land use planning entirely. By not considering the cost/benefit of several viable alternatives, the DOC left itself open to legitimate charges of being careless with the taxpayer dollar.

Rather than focusing on the negative impacts a prison will have, it should not be forgotten that the necessary transportation and utility linkages might be viewed as a positive attribute. The placement of the prison or intake center might actually stimulate completion of these important improvements and help spur important economic growth.

Prison siting poses tough land use questions, often requiring a super-siting authority to override local opposition. Ranking sites on a cost/benefit basis can lead to consensus building without invoking coercive measures. Given this climate, a highest and best use analysis should be applied to guide decision makers in the screening process. Screening committees should include real estate experts to assure that economic perspectives are not lost in pursuit of this controversial public service.

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