



Oregon

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TO: The Honorable Brian Clem, Chair
House Committee on Land Use

FROM: Bob Rindy,
Department of Land Conservation and Development

RE: DLCD Comments regarding HB 3384



The Department of Land Conservation and Development is currently not taking a position on this bill, but is providing the following information to the committee since this agency is named in the bill. The bill would authorize the department to issue local permits, in lieu of the current city or county permit authority, where such permits pertain to establishment of facilities to serve or support veterans on land to be donated to a public body or nonprofit organization.

The bill authorizes new rules for this purpose. The department has never had authority to consider or issue local land use permits. As such, there are currently no administrative rules in effect that establish procedures and standards for such permits. In order to exercise the authority provided by the bill, the department would need to first adopt a series of new – probably quite complex and controversial – administrative rules in order to support this new function. It is estimated that this exercise would require at least six to nine months at substantial cost.

While the bill indicates that the statewide planning goals adopted by the Land Conservation and Development Commission (LCDC) would provide standards for this agency's review of veterans' facilities, the committee should be aware that the goals were created as standards for review of local comprehensive plans, not for review of specific land use requests in individual jurisdictions. Many pertinent local policies (for example, local streets and public facilities plans) that are necessary for consideration of development applications reside only in local plans, not in the statewide goals. As such, new LCDC rules would be required to interpret statewide goals for a purpose that was not contemplated when those goals were adopted. The department would anticipate that "interpreting" the goals for this purpose would be very problematic, from a practical and a legal standpoint.

The committee has not requested a fiscal impact statement for this bill, so cost estimates have not been prepared at this point. This new department role would likely require new funds that are not currently in the department's budget or budget request, including funds for rulemaking and other activities in support of a permit process. We anticipate that the department may also incur legal expenses in creating and implementing this new state process. While local governments have the authority to require applicant fees to support local permit applications, this department does not have the authority to require such fees.

As a policy matter, this bill would provide an unprecedented authority for the department. The land use program was established as a state-local partnership, with local planning guided by LCDC

planning goals that are intended to guide local land use plans and codes. An overarching principle of the statewide land use system is expressed in the preamble to 1973 Senate Bill 100, now codified as ORS 197.005(2):

“Cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.”

Finally, it is our understanding that this proposal is at the request of a particular property owner in Wilsonville. However, as drafted the bill would apply within any urban reserve or urban growth boundary; it is not limited in its application to any particular jurisdiction or area of the state.

Thank you for this opportunity to provide you with information about HB 3384. If committee members have questions about this testimony, I may be reached at 503-373-0050 Ext 229, or through email at bob.rindy@state.or.us.