



# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

June 5, 2013

**TO:** The Honorable Chris Garrett, Chair  
House Rules Committee

**FROM:** Bob Rindy, Department of Land Conservation and Development

**RE:** HB 3536, Deschutes Basin Heritage Guest Ranch



Without taking a position on the bill, this department wishes to provide the committee with concerns regarding HB 3536. This bill is written to benefit one property in central Oregon, providing land use authorizations not accorded other properties in the region or the state.

HB 3536 amends portions of a state law enacted in 2009 that limits resorts and large-scale development in the Metolius River Basin Area of Statewide Critical Concern.<sup>1</sup> That 2009 legislation allowed two owners of tracts in the Metolius basin to transfer resort development rights to property outside the basin. However, such transfer is authorized to occur only under certain criteria<sup>2</sup> and only on lands other than agricultural lands.

In 2009, a substantial amount of detailed deliberation went into development of the management plan for the Metolius Basin and the related authorization for transferable development rights. The department suggests that, in order to revisit that legislation (as this bill does), a similar effort involving all stakeholders should occur and care should be taken to ensure that all parties understand the limits and opportunities established by the legislation, the reasons for such, and the impact of proposed revisions. This bill has not had the benefit of full collaboration.

HB 3536 would authorize the development of a substantial rural residential resort community, including a variety of additional commercial and recreation uses, subject only to broad standards in the bill. Specifically, the legislation authorizes 480 new residences, plus additional (unlimited) overnight lodgings<sup>3</sup>, and 100 motor coach spaces. The bill also allows conference facilities, restaurants, and unspecified commercial retail uses as well as recreational uses. While recreational facilities are allowed, they are not required; current law requires substantial investment in recreational facilities in order to gain the benefits of laws authorizing destination resorts.

<sup>1</sup> Chapter 636 Oregon Laws 2009.

<sup>2</sup> Under current law, a transferred development opportunity from the Metolius Basin must meet specific criteria, including the following: must be located on 200 or fewer acres; may not include more than 240 residential units; must have as its primary purpose the provision of overnight lodging units; the owner of the property must spend at least \$1.5 million on off-site resource enhancement or restoration projects on nearby public lands that will be used by individuals from the community; at least 50 percent of the tract on which the community is located must be dedicated to permanent open space; development must meet the plan and zoning standards of the county, including those for streets, services and utilities.

<sup>3</sup> Including cabins, condominiums and townhouses or units in fractional ownership.

---

The measure leaves little or no ability for local governments and citizens to address local issues and concerns as the uses are approved. Under this bill, all local codes and comprehensive plans, as well as state statutes, planning goals, and rules which would otherwise apply to this development are waived (Section 3 of the bill). That is a sweeping waiver of many important state land use policies established by the legislature, state agencies, and local land use authorities. The need for such an exemption is not indicated. Because of this, the development authorized in the bill would be allowed notwithstanding adverse effects on natural resources, transportation systems, water systems, neighboring uses, farming operations in the vicinity, and other concerns addressed in the local land use plan.

State law currently allows destination resorts in many areas and many counties have used those provisions, especially Deschutes County, which recently revised its destination resort code. Also, as previously indicated, state law provides for owners in the Metolius area to transfer development rights to other properties. It is unclear why HB 3536 is necessary, in that existing provisions could be applied to authorize a reasonable transfer of development rights with appropriate consideration of the impacts of such development in particular areas.

Thank you for this opportunity to provide you with information about HB 3536. 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](mailto:bob.rindy@state.or.us).

Cc: Representative Huffman  
Richard Whitman