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February 15, 2017

Helping to shape the use of our natural resources to protect the quality of life in Yamhill County.

House Committee on Agriculture and Natural Resources
State Capitol
Salem, OR 97301

Re: HB 2144

Dear Chair Clem and Committee members:

Friends of Yamhill County (FYC) works to protect natural resources through the implementation of land use planning goals, policies, and laws that maintain and improve the present and future quality of life in Yamhill County. We oppose HB 2144 as introduced.

While we do not oppose attempts to define “lawful use” within the context of the non-conforming use statute, subsection 5(e)(B) goes well beyond existing law by stating that a use can be considered lawful if it *would have* complied with applicable law but the owner never bothered to get those permits. This explicit authorization for after-the-fact approval is wrong-headed and dangerous.

Moreover, the other sections of the statute set up the 10-year look back in recognition that it is difficult to build a factual record of what occurred more than 10 or 20 years ago. This provision would negate that, creating a cumbersome burden on planners or opponents to show what laws and regulations were in place (and that should have been complied with and permits obtained for, but were not) for a use that was initiated decades ago.

A use that has been operating without legally required permits and that does not comply with current law should not qualify as a “lawful” use by showing that it could have qualified for permits at some point in the past.

If the portions of subsection 5(e) that follow subsection (A) were removed we could support the bill. The subsection would then read in its entirety:

“For the purposes of this subsection, the use of a building, a structure or land is a lawful use if the owner obtained all permits and approvals required by law at the time the use commenced.”

Sincerely,

Sid Friedman
Friends of Yamhill County