



PLANNING DEPARTMENT

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Representative Dexter, Chair
Representative Gamba, Co-Vice Chair
Representative Helfrich, Co-Vice Chair
House Committee on Housing and Homelessness
Oregon State Legislature
Salem, OR 97301

Subject: House Bill 3197

Dear Chair Dexter, Co-Vice Chair Gamba, Co-Vice Chair Helfrich, and Members of the Committee;

Thank you for the opportunity to provide written comment on House Bill 3197.

This bill is a necessary revision to correct an unintended consequence of a revision to ORS 197.307 in 2017. Historically, this section of the revised statute directed housing standards for lands within urban growth boundaries. The revision functioned to make the language applicable to all lands in Oregon. Specifically, the Courts have determined, it requires all land use criteria and standards related to housing be clear and objective.

Impacts

On the face of it, this would appear to prioritize housing and be a win for Oregonians. However, the impact to rural jurisdictions of this unintended revision creates a significant conflict between Goal 10 (Housing) and at least nine other Statewide Land Use Planning Goals, including:

- (Goal 3: Agricultural Lands) One of the foundational elements of the Statewide Land Use Planning Program is to protect agricultural land from conversion to urban uses like residential development. OAR 660-033-0120 details uses authorized on agricultural lands. Non-farm dwellings can be approved, but are subject to ORS 215.284 which requires an analysis demonstrating the proposed non-farm housing will not force a significant change or increase in cost of nearby farm or forest practices. This discretionary criteria that requires an in depth evaluation of the site and neighboring properties is in direct conflict to the clear and objective standards rule. This analysis necessarily must be discretionary, as different types of agricultural activities have different thresholds of impact. To eliminate this ability would essentially undermine one of the foundational elements of the Oregon Statewide Land Use Planning Program.
- (Goal 4: Forest Lands) Similar to conflicts with agricultural lands, there are siting requirements for new dwellings to ensure compatibility with nearby forestry operations. This also includes discretionary analysis to ensure protection of forestry resources.

- (Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces) Goal 5 protects more than a dozen resources including sensitive species, water and waterways, energy and mineral resources, and cultural and archeological sites. Many of these are also more broadly protected by federal regulation that we administer through a variety of tools that include resource setbacks and overlay zones. Some are required to be clear and objective by rule and other regulations are allowed to be discretionary provided the level of protection for the resource meets or exceeds the intended level determined by the local government's analysis. Having recently completed extensive updates to our Goal 5 rules, Wasco County can affirm that our discretionary criteria offers more opportunity for housing than were we forced to adopt clear and objective standards.
- (Goal 6: Air, Water, and Land Resource Quality) One of our discretionary criteria by which we evaluate conditional uses, like residential development in some zones, is to analyze the carrying capacity of air, water and land resources. In a drought prone region, this analysis further supports Goals 3-5 and 7. However, because it is site specific and difficult to define how adverse impacts may look from site to site, requiring clear and objective standards would likely result in less opportunities for housing.

These are just a few examples of the significant conflicts presented by not revising this bill to eliminate rural lands from the clear and objective standard. The complexity of rural land use planning, our reliance on resource subject experts for site based analysis, and the foundation of rural planning to safeguard resources including farm and forest lands is incompatible with urban housing strategies.

In addition, not providing this necessary remedy would require many jurisdictions, including Wasco County, to have to go through a significant Comprehensive Plan revision and Land Use and Development Ordinance Revision. Considering Wasco County recently completed a five year process to update our Comprehensive Plan, we can confidently estimate the cost to be hundreds of thousands of dollars and the time required to make necessary revisions several years. In the interim, to protect our citizens from litigation resulting from the conflict of this statute with many of our Statewide Land Use Planning Goals it is likely Wasco County would declare an emergency moratorium on any housing development impacted by discretionary standards. It also means the diversion of resources intended to complete necessary work on natural hazards, transportation, and housing improvements to our plans.

Wasco County is working on many strategies to ensure for equitable and affordable access to housing for all residents. House Bill 3197 (2023) safeguards our ability to provide for rural housing without creating an inherent conflict with our duty to protect many resources Oregonians and the residents of Wasco County value.

Thank you for your time and consideration.

Sincerely,



Kelly Howsley Glover, PhD
Wasco County Planning Director

