



April 19, 2023

House Committee on Rules
Representative Julie Fahey, Chair
Representative Vikki Breese-Iverson, Vice-Chair
Representative Jason Kropf, Vice-Chair

Subject: House Bill 3197

Dear Chair Fahey, Vice Chairs Breese-Iverson and Kropf, 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. Recent court decisions have functioned to make the language applicable to all lands in Oregon, which is a significant departure from the guiding principles of rural land use planning in Oregon.

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) 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 requires an in depth evaluation of the site and neighboring properties that 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.
- (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. Because we often rely on subject experts for site specific analysis, protections are necessarily discretionary. Revising Goal 5 is challenging enough, due to a high risk of appeal, but asking rural jurisdictions to develop clear and objective standards for protections which are dependent on expert discretion may have the impact of being more restrictive than if discretionary standards are allowed.

- (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.

I appreciate the suggestion for compromise in recommending that rural residential and unincorporated communities should fall under the clear and objective requirement, allowing for more housing opportunity while safeguarding farm and forest lands. However, our Goal 5, 6, and 7 (Natural Hazards) protections have long been predicated on our ability to administer site specific analysis utilizing subject expert input. While we prioritize housing in rural residential lands, we should still be able to allow subject experts the ability to make recommendations for improving siting and development in a way that is consistent with resource protections and ensures resiliency with respect to natural hazards like wildfire.

I understand the perspective that not amending this rule would have the impact of increasing rural housing opportunities. That assumes there are significant barriers to rural housing in the land use program. Having been engaged in regional and statewide conversations on housing for the past eight years, it is apparent that the most significant barriers to rural housing in Wasco County are financing, skilled labor, and infrastructure. Clear and objective standards won't address those issues.

The true impact of not supporting this remedy is litigation and forcing all counties to undergo costly revisions to their land use plans. Wasco County recently completed a five year process to update our Comprehensive Plan and is in year three of updating our Development Ordinance. We can confidently estimate the cost to try and design clear and objective standards to be hundreds of thousands of dollars and the time required to make necessary revisions five to ten years. This is time and money Wasco County has already committed to improving housing options, creating solutions for rural houselessness, addressing natural hazards, and tackling the enormous issue of rural infrastructure which is the single largest impediment to rural housing in Wasco County, and likely many other jurisdictions in Oregon. If House Bill 3197 is not adopted as introduced, it will serve to divert our limited resources towards plan amendments that will not have a net benefit or increase to housing.

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.