



American Planning Association
Oregon Chapter

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Making Great Communities Happen

Monday, March 13, 2017

Representative Alissa Keny-Guyer, Chair
House Committee on Human Services and Housing
Oregon State Legislature
900 Court Street
Salem, OR 97301

RE: Oregon Chapter of the American Planning Association testimony to the House Committee on Human Services and Housing regarding HB 3012, HB 2937, HB 2938, and HB 2456.

Dear Chair Keny-Guyer and members of the Committee,

The Oregon Chapter of the American Planning Association (OAPA) is an independent, statewide, not-for-profit educational organization with 850 members that provides leadership in the development of vital communities by advocating excellence in community planning, promoting education and citizen empowerment, and providing the tools and support necessary to meet the challenges of growth and change.

OAPA has reviewed **HB 3012, HB 2937, HB 2938, and HB 2456 that would all add housing—ADUs, recreational vehicles, or affordable housing—to land in unincorporated areas (outside of cities) and are opposed to the bills as written** and have the following concerns¹ with the bills as drafted:

- Each of the bills (especially HB 3012, which would allow a County to designate an existing “historic” dwelling built before 1950 to be an “accessory dwelling unit” and allow the property owner to build a new dwelling unit) adds housing outside of incorporated cities at densities that may conflict with Goal 14 and the Supreme Court Case (*1000 Friends of Oregon vs. Land Conservation and Development Commission and Curry County*, 724 P.2d 268, 301 Or.App. 447 at 447 (1986)) that determined minimum lot size of at least two acres.
- Additional density in rural areas may overburden existing infrastructure and public services (such as police, fire, roads, emergency services, etc.).
- Additional density in rural areas could negatively impact water quality with an increase in septic systems.
- Affordable housing in rural areas can increase transportation costs for low income residents as they are much farther away from schools, shopping, employment, and

¹ The issues listed in this letter were originally identified by the Association of Oregon County Planning Directors. We agree with their assessment of the issues and believe the issues they raised has implications for all four of the bills included in this testimony. That memorandum is attached.

other services.

- The additional housing may be used for short-term rental, instead of long-term housing, both of which can increase the possibility of conflicts between residents and farmers and foresters using commonly accepted practices for farming and forestry.

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We respectfully ask that the Committee amend the bills to address the issues listed above and consider:

- Limit the number of dwelling units (ADU, RV, or affordable housing (excluding already allowable farm worker housing) to one unit.
- Require the additional dwelling unit (ADU, RV, or affordable housing) be located on the same lot or parcel as the primary dwelling.
- Require the additional dwelling unit (ADU, RV, or affordable housing) and the parcel be in compliance with all DEQ's on-site wastewater standards.
- Require a recorded deed restriction (if applicable, may not be necessary with the placement of an RV as allowed in HB 2938) that acknowledges resources uses in the vicinity, and an agreement to comply with adopted standards.
- Require the additional dwelling unit (ADU, RV, or affordable housing) to use the existing well (or share a well).

OAPA also asks that the bills explicitly authorize Counties to regulate the zones in which additional dwelling units (ADU, RV, or affordable housing) are allowed, along with siting standards, dwelling unit size, restricting short-term rentals, and owner-occupied requirements for one of the dwellings.

Thank you again for the opportunity to testify on these bills.

Sincerely,



Jeannine Rustad, JD, President
Oregon Chapter of the American Planning Association



MEMO

TO: Mark Nystrom, AOC

FROM: Associate of Oregon County Planning Directors
Angie Brewer, AOCPCD President

DATE: February 17, 2017

RE: Rural Accessory Dwelling Units (ADU'S)

The Association of Oregon County Planning Directors (AOCPCD) understands legislation to allow ADU's in rural areas outside of Urban Growth Boundaries will be considered by the 2017 Oregon Legislature. AOCPCD has developed a list of questions and potential benefits and impacts, a recommendation, and conceptual development standards to inform the discussion.

Questions

It is necessary to answer at least the following questions in order for AOCPCD to provide informed comments on specific legislative proposals pertaining to rural ADU's.

- Problem Statement: What concern or problems are rural ADU's intended to solve or address?
- Local Control: Will counties be granted local control in deciding whether or not to permit ADU's, the zones in which they are permitted and prohibited, and the regulations governing their development?
- Zoning: In what zones will rural ADU's be allowed and how (outright permitted, permitted subject to standards, conditional use permits)?
- Farm and Forest Zones: Will ADU's be allowed in resource (farm and forest) zones? If allowed, how will ADU's be regulated on properties that have a primary dwelling, farm help dwelling(s), and/or a temporary care dwelling?
- Short-Term Rentals: Will ADU's be permitted or prohibited from being used for short term rentals (Air BnB, VRBO).
- Limitations or Standards: If rural ADUs are mandatory, will they be subject to limitations or standards imposed by the state or counties?

Potential Benefits of Rural ADUs

An abundance of literature and experiences from communities across the country demonstrates the value of ADUs in urban areas. Many of those positives are applicable to rural Oregon. This section highlights some potential benefits:

- Increases housing stock.
- Increases rental units.
- Provides multigenerational living opportunities.
- Provides the potential to increase the affordability of housing, such as:
 - Property owners are able to purchase or maintain a home with rental income from the ADU or from the primary dwelling if living in the ADU.
 - ADUs are smaller than the primary dwelling, resulting in lower rental, maintenance, and utility costs.
- Provides opportunities for revitalization allowing some growth in areas that have lost population.
- Provides an incentive to legalize existing, unpermitted second dwelling units in counties across the state.
- Does not require public financial resources or property to increase housing supply.

Potential Concerns and Impacts of Rural ADUs

- Creates potential to overburden infrastructure and public services (police, fire, emergency services, road, utilities, schools, etc.).
- Increases the number of septic systems negatively impacting groundwater quality and, impacts (reduces) the availability of replacement areas. Smaller lots may not have adequate room to accommodate a replacement system. Existing septic systems may need to be upgraded or replaced per DEQ rules.
- Rural properties often lack convenient access to amenities, grocery stores, other resources, and medical facilities. Public transportation is lacking and not easily accessible, if at all.
- Creates increased density in rural zones, which is not consistent with the intent of the low density rural zones, particularly if located at the minimum setback of a property line near a home on an adjacent property.
- May change the character of rural neighborhoods and communities.
- May not be used for rural affordable housing, but rather for short term vacation rentals (i.e., AirBnB, VRBO, etc.), defeating a potential intended purpose of the legislation.
- The existence of a rental, or the ability to add a rental unit to the property increases the monetary value of the property. In turn, in order to recoup costs, the property owner may need to charge more rent for the ADU, which may negate intent of providing more affordable housing options. In addition the value of the property increases thus potentially reducing its ultimate affordability.
- EFU may be impacted; a farmer may farm less of their property because they would be able to supplement their income with rental income of the ADU.
- Additional dwellings create additional impacts and conflicts with farming and forest practice uses, and wildlife habitat and management, allowed within the resource zones.

AOCPD Recommendation

The AOC PD recommends making ADU's permissive, thereby allowing counties the latitude of deciding whether or not to permit them, the zones in which they are permitted and prohibited, and all regulations governing their development (the same as ADU's in cities).

If the Legislature mandates accessory dwelling units, the AOC PD recommends that counties be authorized to determine standards or limitations listed below or, at a minimum, included in the legislation.

- Limit the number of ADU's to one (1) that can be placed on a lot of record.
- Require the ADU be located on the same lot or parcel as the primary dwelling.
- Require the ADU and the parcel be in compliance with DEQ's on-site wastewater standards. Require that the ADU is hooked up to the existing septic system, which may require expanding the system, etc. For land that is within a Groundwater Management Area or other designation where groundwater quality is known to have problems, require proof that the septic system is pumped regularly (usually every 5 years depending upon the system and the soil absorption, etc. OSU Extension and DEQ have recommended pumping intervals).
- A deed restriction shall be recorded acknowledging resource uses in the vicinity, if applicable, and an agreement to comply with the adopted standards.
- Require the ADU to utilize the existing well (or a shared well). The intent is to prevent drilling a second, "exempt" well but to maintain flexibility so that a landowner could drill a new well to be shared by the two homes, the primary and the ADU.
- Authorize counties to:
 - Determine the zones in which ADUs are allowed and prohibited.
 - Establish siting standards addressing the layout and design of existing or proposed improvements including, but not limited to buildings, structures, setbacks, access, parking, circulation, outdoor storage, landscaping areas, proximity to the primary dwelling, and other design elements.
 - Establish ADU size limits.
 - Require a deed restriction or restrictive covenant limiting the ADU to be rented for not less than 30 consecutive days if the state or local legislative intent is to increase housing stock and/or to provide affordable housing. This would make it clear that a short-term vacation rental would be prohibited.
 - Require a deed restriction be recorded acknowledging that the primary dwelling unit or the accessory dwelling unit be owner occupied.

Potential Conceptual Rural ADU Development Standards

In addition to the standards and limitations listed above, the AOC PD recommends consideration of the following conceptual development standards be considered for inclusion in legislation, Oregon Administrative Rules, or local County codes to implement the state or local legislative intent (to be determined). Development standards may also help garner consensus on legislation or rules from various interest groups.

1. Only allow ADU's in Rural Communities, Urban Unincorporated Communities, Rural Service areas, and Destination Resorts. These areas are typically more dense, often are served by urban services (e.g. sewer, water, transit, etc.), and may provide additional transportation choices and/or recreational opportunities.
2. Shall comply with local transportation and access standards.
3. Require an annual review of the permit/use, with or without a fee. The purpose of the annual review is to document compliance with permit conditions, especially to document water use (meter data which should also be shared with OWRD) and proof of septic system maintenance (with specific intervals for pumping, e.g. every 5 years).
4. If allowed in EFU zones, limit the number of dwelling types that are allowed. Currently, there are several types of dwellings allowed: primary dwelling, farm help dwelling, temporary care or medical hardship dwelling, and an ADU.

Thank you for your consideration of this information, we look forward to working with you on this issue. If the AOC PD can provide any additional information or participate in the legislative or rulemaking process, please contact the AOC PD President, Angie Brewer, at angieb@co.wasco.or.us or (541) 506-2566.