From:	Richard DeWolf
To:	JWMNR Exhibits
Subject:	HB 2007
Date:	Tuesday, June 20, 2017 3:39:58 PM
Attachments:	Proposed Amendments HB2007-Ways and Means.pdf

Hello,

I am writing as a remodeler, employer of 60 people, property owner (commercial and residential), HBA member and concerned citizen. I urge you to vote "no" on HB 2007, and if you are unable to do that, accept it with the proposed amendments by Restore Oregon that I included in an attachment. These have been well vetted by the Portland Coalition for Historic Resources and feedback from Restore Oregon members across the state. An explanation as to why it is an inappropriate bill is in the cover letter.

Please, and thank you.

Richard De Wolf
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RESTORE OREGON
SAVING HISTORIC PLACES

June 13, 2017

Joint Ways and Means Committee
Oregon State Legislature.
Salem, Oregon 97301

Re: HB 2007

With a view toward aligning the interests of affordable housing, density, and historic preservation, I am writing to share with you some suggestions for improving/strengthening HB 2007. The attached draft of amendments addresses concerns raised by members of the Portland Coalition for Historic Resources and feedback from Restore Oregon members across the state, while still increasing density and affordable housing, particularly in historic districts. It was drafted by well-known land use attorney Carrie Richter of the Bateman Seidel firm.

One of the major complaints about HB 2007, as most recently articulated in the -4 amendments, was that the amendments did nothing to curb demolitions and, in fact, the density incentives proposed in HB 2007 would likely increase demolitions. Therefore, our proposed amendments require that cities over 25,000 (this would include most Portland metro cities except for Wilsonville and Sherwood) or counties over 300,000 (this would include Portland Metro, Lane and Marion counties) must adopt regulations prohibiting demolitions of structurally sound, habitable housing. The threshold for determining that soundness is taken from the City of San Francisco's standards - http://sf-planning.org/sites/default/files/FileCenter/Documents/3884-ResDemTempSoundness.pdf.

There are two situations where this proposed draft would allow for the demolition of housing deemed to be structurally sound: (1) where the proposed development would provide 5 or more housing units, *at least half of which would be affordable,* and that number of units is otherwise permitted in the zone; or (2) where the owner seeking to demolish the home will reside in the newly constructed home for a period of at least 5 years.

With regard to encouraging density, in areas not designated historic either locally or nationally, our proposed draft keeps much of what HB 2007 already proposes – i.e., a single ADU or duplex would be allowed in all single family residential zones subject to local government adopted siting and design standards. Maintaining the limitation on demolition, as identified above, will *focus this additional density onto vacant land or where houses are suitable for demolition* because they are not sound, rather than allowing site selection based solely on developer interest.

With regard to resources subject to historic designation, the proposed draft deletes what was proposed in "Section 10" entirely because: (1) treating newly created historic districts differently than existing districts lacks any policy-based rationale; (2) creating a dual-tiered system will be difficult for local governments to implement considering the costly and time-consuming development of new procedures and processes; and most importantly; (3) the proposed exemptions for demolition review were too broad and bore no relation to historic preservation objectives, nor to ensuring the provision of housing that will be truly affordable.

In its place, our proposed amendments provide *more robust density incentives in historic districts in return for retaining all Goal 5 rules for "protection" through demolition review and historic design review*. This reflects current rules in Portland for increased density incentives in historic districts, but may constitute significant increases in allowed density in other jurisdictions. First, ADUs are permitted up to 1 per every 1,000 square feet of site area. These ADUs may be located through the internal conversion of an existing structure or through an expansion or addition, or as detached, free-standing structures, so long as the alterations or new construction goes through historic design review to be deemed compatible. The same is true with duplexes – they can be located within an existing structure or require some amount of new construction, subject to historic design review.

Removing another barrier to the cost of internal conversions necessary to encourage additional density, this draft adds a new section instructing the Department of Consumer and Business Services to amend the applicable regulations to *allow the internal conversion of up to four dwelling units to be subject to the residential rather than the commercial building code*.

Finally, with regard to the limitations on local governments' ability to reduce the density beyond what is provided for in the base zone, the proposed draft adds an exception that will apply only in areas zoned (1) for a minimum of 40 units per acre or more; or (2) zoned with a maximum allowed base Floor Area Ratio at or above 3:1. This exception would only apply in the City of Portland as is necessary to preserve some ability to provide high-quality design in the areas zoned for the highest density urban development.

We would be happy to confer by phone or in person if you have any questions about these amendments. We believe this gets us to a much better place of curbing the demolition epidemic, supporting affordability, adding density across the board, and protecting historic resources.

Sincerely,

Peggy Moretti
Executive Director

cc: Portland Coalition for Historic Resources; United Neighborhoods for Reform; Stop Demolishing Portland; PreservationWorks; Lower Columbia Preservation Society

PROPOSED AMENDMENTS TO
DASH 4 AMENDMENTS TO HOUSE BILL 2007

Note: after preparing this document, we received and reviewed the -6 amendments. It did not substantively change from -4 and does not alter our significant concerns and recommendations below.

On page 1 of the printed corrected A-engrossed bill, line 2, after "ORS" insert "197.178,".

In line 9, delete "two" and insert "three".

In line 12, delete "a city or a county" and insert "a city with a population greater than 5,000 or a county with a population greater than 25,000".

On page 2, delete lines 17 through 30 and insert:

"SECTION 2. (1) The Department of Land Conservation and Development shall study housing development, including but not limited to affordable housing, in cities and counties. The study must:

"(a) Identify a sample of cities and counties throughout this state that represent a variety of population sizes, housing types and levels of housing affordability;

"(b) For each city or county included in the sample described in paragraph (a) of this subsection, determine the approximate timeline between submission of a complete application for a housing development and issuance of a certificate of occupancy for the housing development based on a sample of applications submitted to the city or county;

"(c) Identify barriers to reducing the timeline described in paragraph (b) of this subsection for each city or county included in the sample described in paragraph (a) of this subsection; and

"(d) Prepare a comparative analysis of all timelines determined under paragraph (b) of this subsection.

"(2) The department shall report the findings of the study to an interim committee of the Legislative Assembly related to land use no later than September 1, 2018.".

On page 3, delete lines 3 through 10 and insert:

"(b)(A) A county may not deny an application for a housing development located within the urban growth boundary if:

"(i) The development complies with clear and objective standards contained in the comprehensive plan, including but not limited to clear and objective design standards, or land use regulations of the county; and

"(ii) The county would have approved the application but for a finding that the development is inconsistent with any discretionary design review criteria imposed by the county.

"(B) This paragraph does not apply to:

"(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

"(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

"(c) A county may not reduce the density of an application for a housing development if:

"(A) The density applied for is at or below the authorized density level under the local land use regulations; and

"(B) At least 75 percent of the density applied for is reserved for housing.

"(d) Notwithstanding paragraph (c) of this subsection, a county may reduce the density of an application for a housing development if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

"(e) As used in this subsection:

"(A) 'Authorized density level' means the maximum number of lots or dwelling units or the maximum floor area ratio and height that is permitted under local land use regulations.

"(B) 'Habitability' means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.".

On page 5, delete lines 33 through 40 and insert:

"(b)(A) A city may not deny an application for a housing development located within the urban growth boundary if:

"(i) The development complies with clear and objective standards contained in the comprehensive plan, including but not limited to clear and objective design standards, or land use regulations of the city; and

"(ii) The city would have approved the application but for a finding that the development is inconsistent with any discretionary design review criteria imposed by the city.

"(B) This paragraph does not apply to:

"(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

"(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

"(c) A city may not reduce the density of an application for a housing development if:

"(A) The density applied for is at or below the authorized density level under the local land use regulations; and

"(B) At least 75 percent of the density applied for is reserved for housing.

"(d) Notwithstanding paragraph (c) of this subsection, a city may reduce the density of an application for a housing development if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

"(e) As used in this subsection:

"(A) 'Authorized density level' means the maximum number of lots or dwelling units or the maximum floor area ratio and height that is permitted under local land use regulations.

"(B) 'Habitability' means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.".

On page 7, line 41, delete "particular".

In line 42, before the period insert "that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low

incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a".

On page 8, lines 3 through 6, restore the bracketed material and delete the boldfaced material.

In lines 27 through 33, restore the bracketed material and delete the boldfaced material.

In between lines 39-40 insert:

"(c) An application or permit for residential development within cities of more than 500,000 on sites zoned for a minimum of 40 units per acre or zoned with a maximum allowed base Floor Area Ratio at or above 3:1.

On page 10, delete lines 15 through 21 and insert:

"(5) A city with a population greater than 25,000 or a county with a population greater than 300,000 must adopt zoning regulations that prohibit the demolition of sound habitable housing, except for in cases where the replacement structure(s):

"(a) Will include the provision of five or more dwelling units, as otherwise permitted under existing zoning, and that at least half of these units will be affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater, and the development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential as not affordable housing for a period of 60 years from the date of the certificate of occupancy; or

"(b) Will be owned and occupied by the owner of the house subject to demolition for a period of five years after construction.

"(c) This subsection does not apply to any building or the contributing structures in a district or collection of structures, which have been individually or collectively designated as historic with regional or local significance by jurisdictions complying with rules implementing a statewide land use planning goal providing for historic resource protections.

"(d) In cases where a local government approves a request for demolition, a permit for demolition will not be issued until a permit for a new building on the site has been issued.

"(e) As used in this subsection, "demolition" means:

"(A) Any work on a residential structure that requires a local government-issued demolition permit;

"(B) A major alteration of a residential structure that proposes the removal of more than 50% of the sum of the front façade and rear façade, and also proposes the removal of more than 65% of the sum of all exterior walls, measured in lineal feet at the foundation level; or

"(C) A major alteration of a residential structure that proposes the removal of more than 50% of the vertical envelope elements and more than 50% of the horizontal elements of the existing building, as measured in square feet of actual surface area.

"(f) As used in this section, "sound habitable housing" shall be determined based on a Soundness Report produced by a licensed design or construction professional that concludes:

"(A) the cost to upgrade construction deficiencies that affect habitability, excluding deferred maintenance, is less than 50% of the replacement cost; or

"(B) in cases where the 50% threshold in subsection (A) cannot be satisfied, the costs calculated for the 50% upgrade, and also adding in the cost of any necessary habitability repairs attributable to lack of maintenance, is less than 75% of the replacement cost.

"(6) A city with a population greater than 2,500 or a county with a population greater than 15,000 may not adopt or enforce an ordinance, rule or regulation prohibiting the development of a non-historically designated property to allow:

"(a) a single accessory dwelling unit in any area zoned for single-family dwellings that is located within an urban growth boundary; or

"(b) a duplex in any area zoned for single-family dwellings. '(c) This subsection does not prohibit a city or county from adopting or enforcing standards, conditions or procedures regulating the siting or design of duplexes or accessory dwelling units.

"(7) A city with a population greater than 2,500 or a county with a population greater than 15,000 may not adopt or enforce an ordinance, rule or regulation prohibiting the development of a historically designated property to accommodate:

"(a) accessory dwelling units located entirely within the interior of an existing structure up to a maximum of one per 1,000 square feet of site area in any area zoned for single-family dwellings, unless otherwise permitted by applicable zoning, and that is located within an urban growth boundary;

"(b) accessory dwelling units that are detached or require alteration of the exterior walls of an existing structure up to a maximum of one per 1,000 square feet of site area in any area zoned for single-family dwellings, unless otherwise permitted by applicable zoning, and that complies with all applicable historic or resource design review criteria, standards and guidelines;

"(c) a duplex located entirely within the interior of an existing structure in any area zoned for single-family dwellings that is located within an urban growth boundary;

"(d) a duplex in any area zoned for single-family dwellings that will be newly constructed or requires alteration of the exterior walls of any existing structure and otherwise complies with all applicable historic resource design review criteria, standards, and guidelines and is located within an urban growth boundary.

"(8) As used in subsections (6) and (7):

"(A) Unless otherwise limited, 'Accessory dwelling unit' means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single family residential dwelling.

"(B) 'Duplex' means a residential structure containing two dwelling units."

"(C) 'Historically designated property' means any building or the contributing structures in a district or collection of structures, which have been individually or collectively designated as historic with regional or local significance by jurisdictions complying with rules implementing a statewide land use planning goal providing for historic resource protections.

In line 40, delete "and".

Delete line 41 and insert:

"(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

"(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.".

On page 11, line 33, delete "and".

Delete line 34 and insert:

"(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

"(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone."

"SECTION 11. ORS 197.178 is amended to read:

"197.178. (1) Local governments with comprehensive plans or functional plans that are identified in ORS 197.296 (1) shall compile and report annually to the Department of Land Conservation and Development the following information for all applications received under ORS 227.175 for residential permits and residential zone changes:

"(a) The **total** number of applications received for residential development, *[including the net residential density proposed in the application and the maximum allowed net residential density for the subject zone]* **and the number of applications approved;**

"[(b) The number of applications approved, including the approved net density; and]

"[(c) The date each application was received and the date it was approved or denied.]

"(b) The total number of complete applications received for development of housing containing one or more housing units that are sold or rented below market rate as part of a local, state or federal housing assistance program, and the number of applications approved; and

"(c) For each complete application received:

"(A) The date the application was received;

"(B) The date the application was approved or denied;

"(C) The net residential density proposed in the application;

"(D) The maximum allowed net residential density for the subject zone; and

"(E) If approved, the approved net residential density.

"(2) The report required by this section may be submitted electronically.".

In line 8, delete "10" and insert "12".

On page 13, line 30, delete "11" and insert "13".

On page 15, delete lines 19 through 22 and insert:

"SECTION 14. Sections 1 and 10 of this 2017 Act and the amendments to ORS 197.178, 197.303, 197.307, 197.312, 215.416, 215.427, 215.441, 227.175, 227.178 and 227.500 by sections 3 to 9 and 11 to 13 of this 2017 Act apply to:

"(1) Permit applications submitted for review on or after the effective date of this 2017 Act.

In line 23, delete "14" and insert "15".

SECTION 15. A new section shall be added to the miscellaneous provisions of ORS 455, between ORS 455.410 to .450, to read:

(1) The Department of Consumer and Business Services shall amend the Oregon Residential Specialty Code as necessary to encourage the internal conversion of existing dwellings into multiple dwelling units. These amendment may include, but are not limited to. the following:

(a) Section 202. Internal Conversion. The adaptive reuse of an existing dwelling into multiple dwelling units.

(b) Section 310.5.2. Internal Conversion of Existing Dwellings. Dwellings converted into up to four dwelling units are permitted to comply with the residential code provided the dwelling being converted was constructed prior to January 1, 2017.