



TO: Members of the Oregon House's Housing & Homeless Committee
From: Cassidy Bolger, Oregon Smart Growth Board Member
Date: March 23, 2023
Re: Testimony in support of HB 3414

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Oregon Smart Growth (OSG) is a coalition of developers, investors and allied professionals committed to the feasible development of walkable, livable communities that are environmentally, socially, and economically sustainable.

OSG appreciates the State's laser focus on increasing housing production across Oregon, as a critical strategy to address our housing affordability crisis, reduce homelessness, and enhance Oregon's economic prosperity.

We strongly support the goal of HB 3414. Many local land-use and building requirements support laudable goals, such as climate resilience, renewable energy, and transportation choices. Too often, however, these local requirements—often intended to enhance overall livability of a community—are overly prescriptive, complicated to implement, stack on top of each other, and have the unintended result of making it far more difficult to build places for people to live.

HB 3414 removes a local jurisdiction's ability to deny a variance request from land use requirements for new housing except for health, safety, habitability, and FAR/height/density. This addresses a major contributor to housing underproduction—these requirements increase the cost and time required to build new housing.

Oregon Smart Growth members have many examples where a variance provision like this would have been effective to make projects viable, or add additional housing units to projects:

- A variance would have enabled construction of an additional 12 ground floor market rate and Inclusionary Housing units in a project in Portland's Central City. These units would have faced a private plaza instead of the street. Since ground floor residential is prohibited even facing a private plaza or internal courtyard in "active use" areas, the units were lost.
- On two projects, local Inclusionary Housing rules requiring "reasonably equivalent" affordable and market rate units prevented a pre-build of a consolidated affordable unit building, impacting more than 400 units. Because the affordable units would be built first, the project could not guarantee the affordable units would be "reasonably equivalent" to market rate housing (i.e., in terms of finishes and other largely cosmetic issues) which would be constructed on the same site in later years.
- A 200-unit project did not move forward due to required street placement and width standards, which, when combined with site configuration requirements, made development infeasible.

As you consider HB 3414, we would encourage you to ensure this bill works as intended to produce an adequate supply of housing for Oregonians. An exemption in the -1 Amendments, for example, would prohibit a variance that would have added the 12 units in the example above.

Oregon Smart Growth offers these suggestions for amendments:

- **Extend the variance option to cover all development and housing regulations, including those enacted through administrative rules. These types of rules are typically adopted with little public process and can often be more restrictive than the regulation they intend to implement.** For example, in Portland many of the more restrictive regulations related to Inclusionary Housing—regulations that go beyond the required percentage of affordable units in a project or affordability level—are contained in the Portland Housing Bureau’s administrative rules. Since this bill provides only for variances from “land use regulations” it is not clear that these rules would be covered; it is critical that they are.
- **Clarify that land “zoned for residential uses” includes all land where the zoning allows residential use,** including mixed use and commercial districts where housing is allowed.

Specific to the -1 Amendments:

- Clarify the exemption for mandatory affordability requirements. Oregon Smart Growth supports affordable housing, but this amendment appears broad enough to preclude any variance related to an inclusionary housing program, including provisions such as reasonable equivalency, detailed above – that are preventing or delaying the creation of these units.
 - OSG suggests limiting the exemption for mandatory affordability requirements to only the percentage of units (or bedrooms) and affordability level required under such a program. Specify that all other provisions of a mandatory affordability program are subject to the variance option.
- Reject or clarify the exemption for ground floor commercial requirements. If the goal of this bill is more housing, this bill should not be precluding housing on any floor of a building. As noted above, overly broad active ground floor use requirements have reduced the number of units in some projects.
 - If this exemption must be retained, OSG suggests amending the exemption to only cover ground floor commercial along right-of-way frontages, which would address the courtyard and plaza issue above.

We appreciate your work and welcome the opportunity to provide assistance or support. Oregon Smart Growth is represented by BethAnne Darby from Strategies 360 for its state affairs. BethAnne can be reached at BethAnneD@Strategies360.com.

Thank you.