



May 9, 2023

Chair Julie Fahey
Vice-Chairs Kropf and Breece-Iverson
Members of the House Rules Committee

Re: HB 3414

Chair Fahey, Members of the Committee:

Washington County is the second largest county, by population, with over 600,000 people residing within the County. Since 1990, the county's population has nearly doubled in size, most recently our population has grown at a rate equivalent to 19 people moving in every day. This growth has made us one of the most rapidly growing and most diverse county in the state.

Rapid growth comes with significant efforts to find housing for all members of the community, from planning for growth to work by our land use and transportation department to create development codes that meet all requirements of state law to our housing departments working to develop and maintain affordable housing units and providing supporting services. As a county we know the need to balance compliance with the law and working with developers to see units built. And Washington County is home to one of the largest areas of urban unincorporated land that requires the county to plan, permit and implement development in.

In responding to new requirements for our development code, Washington County has created clear and objective standards for housing development in the urban unincorporated area (UUA) but have faced litigation since adoption related to how those standards comply with other areas of state land use planning laws. As a result of the Goal 5 (habitat protection) conflicts with those standards, we are now under a moratorium from permitting new housing units across the county until our Goal 5 work is re-done and our clear and objective standards are in compliance with those updates.

Where we do not have Goal 5 conflicts, we implement the clear and objective standards on all housing reviews, and work with developers to find a path forward for their development. We have created the structure within our codes and processes that can do small variances to the standards within specific circumstances and allowances with minimal process to delay the permitting. However, when the variances needed are significant, we undertake the processes that are called for under the code and the state land use laws. We take the time and discretion needed to balance all of the identified requirements of best-practice planning and compliance with state and federal regulations and laws.

The proposed changes to the variance process in the -6 amendments will undermine the careful balancing of needs and likely increase the litigation that we face when we work to comply with all the laws that guide our planning code. That litigation will likely have a cumulative effect on delays for permitting as well as significant increased costs to run a functional planning program.

In addition to these high-level concerns, the -6 amendments do not account for the fact that some standards are not set directly by the county. Watershed protections, habitat conservation, and other natural resource requirements are the result of water permitting, the Endangered Species Act and other regulations that we cannot ignore. Recently, the Federal Emergency Management Agency (FEMA) has proffered rules related to development within floodways and riparian areas throughout Oregon in order for communities to remain eligible for the National Flood Insurance Program (NFIP). These rules are not yet on the books, but will have very specific limits on where development can and cannot occur, and we will need to remain in compliance with these rules.

Finally, variance do not just impact the developer of the property seeking the variance but the adjacent properties that may be needed to be developed or re-developed.

While there is need to find a path forward, the full implications of fundamentally shift in variance policies needs to be better balanced to focus on the issues that need to be addressed to truly find a workable solution to these issues. We welcome that continued conversation before any amendment or bill moves forward.

At this time, we continue to oppose HB 3414 and the -6 amendments.

Sincerely,

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