

Senate Committee on Housing and Development

To: Chair Jama, Co-Chair Anderson, and members
From: Al Johnson
Re: Senate Bill 1537
Date: February 8, 2024

Senate Bill 1537 is a strong bill, urgently needed. It deserves the bipartisan support it has in its current form.

My support for the bill includes provisions allowing one-time site additions to urban growth boundaries and alternative urban growth boundary land exchanges. Whether or not you adopt them, however, please make it clear that they in no way alter existing 20-year urban land supply and needed housing capacity obligations that the Oregon Legislature and LCDC established a half-century ago.

And please, whatever you do, include language or legislative history making it unequivocally clear that you expect LCDC, DLCD, Metro, and Oregon's cities and counties to fully honor their longstanding obligations to provide, and to maintain, realistic "next-20-year" urban land supplies that, in the words of the Statewide Housing Goal, will

“. . . encourage the availability of adequate numbers of housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type, and density.”

The proposed one-time expansions will be less than a drop in the buckets of unfulfilled land supply and affordable housing capacity obligations that already exist but that LCDC and DLCD have failed to effectively enforce under the half-century-old Statewide Housing Goal and the many reinforcing statutes you have adopted over the years.

Those who tell you that it is time to move beyond Goal 10 are wrong. Goal 10 as written is fine. It is long past time to fully honor Goal 10, to reinforce it, and to supplement it, as you have been doing over the past few sessions.

When LCDC adopted the original statewide land use goals in December, 2004, it made clear that it expected local jurisdictions to establish urban growth boundaries with land supplies for at least 20 years ahead:

“Plans should designate sufficient amounts of urbanizable land to accommodate the need for further urban expansion, taking into account . . . population needs (by the year 2000).” *LCDC Urbanization Goal Guidelines*

LCDC, DLCD, and Oregon's cities and counties honored the 20-year benchmark when the first set of urban growth boundaries established. That took about five years, giving Oregon's urban areas acknowledged urban growth areas for about 20 years, through the year 2000.

Since the beginning, local jurisdictions were expected to keep their plans up to date, including UGB expansions as needed to maintain genuine 20-year residential land supplies, topping them up regularly as they drew from their accounts. This expectation is reflected in UGB acknowledgements and LCDC guidelines:

“Areas experiencing rapid growth and development should provide for a frequent review so needed revisions can be made to keep the plan up to date.” *LCDC Planning Goal Guidelines*

As the initial round of acknowledgements neared completion, the Oregon Legislature reinforced LCDC’s expectations with a statutory requirement for “periodic review.”

That helped, but periodic review foundered because of design and implementation flaws.

As a result, by the 1990s, fast-growing urban areas often had urban land supplies that had dwindled to 10, 5, and even fewer years.

In 1995, the Legislature responded by putting the 20-year supply requirement into statute and prescribing standards and procedures for defining urban housing needs and proving up on urban land supplies.

Slippage continued, in part because DLCD was allowing jurisdictions to keep starting dates that had been rendered obsolete by local footdragging, appeals, and remands.

In response, the Legislature reinforced its 1995 mandate by defining the 20 years as “the **next** 20 years.” Unfortunately, it also accepted a crippling amendment of unknown origin, specifying that “the next 20 years” would be calculated from “the date initially scheduled for completion” of a UGB update process.

No consequences were attached to missing the starting date, not even a requirement that the starting date be adjusted forward. Not surprisingly, that date turned out to be an unenforced non-deadline. As before, updated 20-year land supplies continued to be backdated checks, and accounts continued to be drawn on insufficient funds.

Bend, Eugene, and McMinnville are examples:

Bend began its urban area capacity update in 2004, with completion initially scheduled for 2008, and a 20-year planning period ending in 2028. After a remand in 2010, Bend got going again in 2013, and didn’t get its UGB approved until 2016, leaving it with a 12-year UGB. Bend finally got a 12-year UGB in 2016. It’s now 2024. Bend’s UGB is down to four years.

Today, Bend theoretically has about one-fifth of what the original Land Conservation and Development Commission, repeated backed up by this Legislature, saw as necessary to maintain affordability, equity, and market functionality for renters and would-be homeowners. In reality, it almost certainly has less.

Today, in Bend, a townhouse that sold for \$400k in 2014 has a Zillow estimate north of \$900k. That works for retired professionals like me, but not for the many Oregonians who work in Bend and need to live there instead of burning up family time and fossil fuels commuting from Redmond, Prineville, and La Pine.

Eugene missed its initial completion date of 2012, finishing in 2017. As a result, its current planning period ends in 2032, less than half of the 20 years that state land use policy says is necessary.

McMinnville currently has a BLI and HNA for a 20-year planning period beginning in 2003 and ending in 2023. That’s a UGB for the next zero years.*

Those who tell you that the land supply piece of the housing affordability and access puzzle has been proven wrong are wrong. It has not been given a chance. Too many have other priorities and prefer to ignore a history of underenforcement, misinterpretation, reluctant implementation, and sloppy bookkeeping.

If I could trade the proposed one-time site expansion language for language that once again, and effectively, enforces the original understanding and meaning of Oregon's statewide housing and urbanization goals, I would gladly do so.

At a bare minimum, SB 1537 as adopted should require a reset of the beginning date of the "next 20 years" to one year following the year any BLI, HNA, or UGB update becomes final and no longer subject to appeal.

SB 1537 should also require a revision of DLCD/LCDC's KPMs (Key Performance Standards) to reflect the agency's success or failure in keeping Oregon's scarce urban residential land supplies at or near a genuine 20 years. The agency's current housing KPM conceals more than it reveals, in marked contrast to its ag and forest land KPMs.

I wish you the best with your housing legislation this session. SB 1537 is a strong bill, and I am greatly encouraged by the level of bipartisan commitment and cooperation that the legislature has shown over the past few years. It feels like a reawakening of the spirit that led to the adoption of SB 100 and the original housing and urbanization goals over 50 years ago. Last year was the program's 50th year, and a time for looking back, albeit too often with the help of a rose-colored rear-view mirror.

Thank you for offering us a vision of an Oregon future where Metro and all of Oregon's cities and counties have genuinely met their obligations under Oregon's statewide housing goal and needed housing statutes.

Respectfully,

Al Johnson
Retired land use attorney

* See McMinnville's Goal 10 findings on its 2022 Three-Mile Area Plan:

"McMinnville's most recent acknowledged Housing Needs Analysis (HNA) and Buildable Lands Inventory was conducted in 2001 and amended in 2003. A resulting UGB amendment to meet the needs identified in the HNA was only just acknowledged in 2021. The City of McMinnville will be updating its Housing Needs Analysis and Buildable Lands Inventory in 2022 and 2023 in compliance with HB 2003 (2019 Legislative Session). These proposed amendments will be considered as part of the Buildable Lands Inventory and Housing Needs Analysis update."