

June 8, 2023

House Committee on Rules
Oregon State Capitol
900 Court Street NE
Salem, Oregon 97301

RE: HB 3414 – Opposition to -17 amendment

Dear Chair Fahey, Co-Chair Breese-Iverson and Co-Chair Kropf, and members of the House Committee on Rules:

Thank you for the opportunity to provide testimony on the -17 amendment to HB 3414. 1000 Friends of Oregon opposes this amendment.

Before discussing the content of the amendment, we note that this is a significant policy change, crafted by a narrow range of interests, in the last days of an unusual session, and posted last night for a hearing as an amendment to an unrelated bill that many of us have otherwise been very diligently working to see passed. That is not how the legislative process should work.

Moreover, because of legislation passed this session (HB 2001), DLCD is already underway to revise its rules to make it easier for cities to inventory their buildable lands, evaluate their land needs, and expand UGBs to actually meet those needs. That will be an inclusive, comprehensive, and deliberate process that will result in more effective changes, with fewer unintended consequences, than this amendment, which was crafted with none of these.

The -17 amendment, starting at Section 11, provides a landowner-driven process giving every city in Oregon a one-time opportunity to expand its urban growth boundary (UGB) while bypassing Oregon's land use laws and, in particular, Goal 14 (Urbanization) and Goal 10 (Housing). The size of the UGB expansion is scaled from 75 acres to 150 acres depending on city population, and 600 acres for Metro.

The -17 amendment includes modest conditions for these expansions that fall short of the density, affordability, and complete community development conditions that are being required today by many cities and Metro, and that are or will likely be required by bills this legislature has already passed, including the middle housing bill (HB 2001 from 2019), the Housing Needs Analysis bill (HB 2003 from 2019) and the Oregon Housing Needs Analysis bill (HB 2001 from this session).

Goal 14 and UGBs are not the reason Oregon has a housing shortage. Economists and consultants, including those working for the state, have stated many times that *there is enough land with development potential already available within our UGBs* – if we have the political courage to zone land and take other steps to provide diverse, more dense housing affordable to middle and lower income Oregonians in every neighborhood, and if we collectively face the reality of our broken system of infrastructure financing – from sidewalks to roads to transit to pipes.

Here are some particular shortfalls of the -17 amendment:

- It allows the UGB expansion if the city adopts a “concept plan” by which 30% of the housing is for those of moderate incomes – defined as up to 130% of area median income.¹ We do need more moderate income housing, but **there is no guarantee even this modest amount of moderate income housing would be realized.**
 - A concept plan is general and is not legally enforceable zoning regulations and zoning maps.
 - This modest income housing need not be built until 85% of the market rate housing is built, which could be many years after any development starts, and it need never be built.²
- It calls for “a diversity of housing types,” including middle housing. However, the -17 language does not carry this out and actually **undermines the densities that could result from the legislature’s middle housing bill (HB 2001 of 2019):**
 - The actual densities called for in the -17 are less than would result from implementation of the middle housing legislation. The -17 amendment calls for densities of 4, 8, or 15 units/acre depending on city size.³ So, for example, a city over 25,000 in population that under HB 2001 (2019) would be required to allow all middle housing types – including 4-plexes and townhomes – could zone an expansion area for only 8 units/acre and plan infrastructure for that lower density. Eight units/acre is single family housing on 5000 square foot lots. **This bill is a step backwards in housing density and diversity and continues the exclusive nature of development in many UGB expansions.**
 - The language is, again, required in a generalized concept, plan, not zoning codes.
- **The -17 undermines the OHNA legislation this legislature just passed.** That legislation (along with HB 2003 passed in 2019) requires that after a city adopts its Housing Needs Analysis, it must adopt and implement a set of Housing Production Strategies to meet

¹ In the -17 amendment, p. 15, lines 8-17, in Section 15(3). While the amendment also allows the 30% to be for rental housing for those making under 80% AMI, the option to instead provide 30% for purchase for those at 130% AMI is more likely to be chosen.

² Page 15, lines 18-20.

³ Pages 13 line 22 through page 14 line 5, in Section 15(3).

any identified gaps in housing – scaled to income levels. However, the -17 amendment says that even if a city has fallen significantly short in meeting the housing needs of those of lower and/or moderate incomes, it cannot require other affordability strategies in the expansion area unless the city also basically subsidizes that by offsetting fees, taxes, or land costs.⁴ The result, again, will be that **these expansion areas will be entitled to a pass in doing their fair share to meet the full range of housing needs.**

- **The -17 amendment continues to ignore a major barrier to more diverse and affordable housing inside UGBs: lack of funding for infrastructure.** Our communities already have a backlog of needs for new and upgraded sewers, sidewalks, and more. Adding more land for which there is no infrastructure funding, and requiring cities to subsidize some of the cost of ensuring these expansion areas have more affordable and moderate income housing, just deepens the funding hole.
- **In 2016 the legislature passed what was to be a “pilot project”** – HB 4079, whereby certain cities would be allowed a 50-acre UGB pop-out, with fewer conditions than this amendment. The point was to learn from it – what are the meaningful levers and barriers to getting housing on the ground? **We have not learned from it.** Both Bend and Redmond have expanded their UGBs by 50 acres, and in Redmond’s case it was free, publicly-owned land. But 7 years later, not a single home has been built in either. Why? It has nothing to do with the land use planning system. It takes financing and time to plan for and build infrastructure from scratch.
- **Because this amendment bypasses Goal 14 and Goal 10, which otherwise require cities to show a need for more land and that they have taken steps inside their UGB to meet the housing needs of all – it allows local governments to once again avoid rezoning land inside UGBs** – the politically more difficult, but necessary, action – to allow more housing and to remove unnecessary local barriers to development. With 70% of all housing and all residential lands zoned for detached single-family housing – the most expensive and land-consuming type of housing – we can and must build better inside our UGBs, by allowing even more housing types and more affordable housing in every neighborhood.
- **We have underused land inside our UGBs that should be converted to housing.** For example, currently, we have vast areas of underused parking lots and strip malls. We must make it easy to convert those to housing.
- **Making it easier to expand outward makes it harder to address climate change and to reduce fire risk.** Paving over more lands, adding more roads, and expanding into the wildland-urban interface will only increase these problems.

⁴ Page 15, lines 23-30.

Oregon can and must do better than the content and process of this amendment to meet the housing needs of all Oregonians at every income level, in every neighborhood.

Thank you for consideration of our comments.

A handwritten signature in black ink that reads "Mary Kyle McCurdy". The signature is fluid and cursive, with "Mary" and "Kyle" on the first line and "McCurdy" on the second line.

Mary Kyle McCurdy
Deputy Director

