

Housing Capacity Working Group - Meeting 2

May 23, 2022

Meeting Notes

(Published June 3, 2022)



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Key Insights Summary

There are significant limitations to relying heavily on past projections - Basing future market feasibility off past production poses constraints on allocating an appropriate supply of affordable housing that meets current need. Using past projections can undercut the ability to properly develop strategies for building affordable housing in the future due to shifts in affordable housing best practices, construction prices, etc. Clarifications to statute that broaden and shift planned housing mix over time and consider other relevant factors, such as second home demand, will help reduce this dynamic.

Refinements to Buildable Land Inventories (BLIs) can increase accuracy and simplicity – BLIs often have tension between a desire for accuracy as well as a desire for ease and certainty. Refinements to statute and administrative rule on BLIs, including bolstering safe harbor assumptions for methodological assumptions, could both increase the accuracy and ease of conducting a BLI. Additionally, providing state resources and support to conduct BLIs, including funding and data resources, can help jurisdictions conduct analyses regularly.

Various constraints can impede land readiness for development – There are multiple factors that can impede whether land is actually developable, many of which are not directly within the control of local governments, including ownership, speculation, parcelization, hazard/environmental constraints, and infrastructure availability. These point to needed adjustments in BLIs to account for these factors, and in certain cases, a UGB land swap could be an appropriate tool to remove land unlikely to develop from the UGB. Members also suggested that various non-land use policies need refinement to enhance land readiness for development, such as taxation, infrastructure, and state investment.

Zoning restrictions impede development of affordable housing - Single family zoning, form-based codes, and design overlays significantly inhibit the ability to efficiently develop sizeable amounts of affordable units. Much of the land that is seen as developable within a UGB is zoned solely for low-density development with lot size minimums and this hinders the diversity of land necessary for developing multiple housing options. Housing needs analyses and implementing codes need to allow for a much greater variety and flexibility of housing options that can respond to changing market conditions and household needs. Building zone changes, including for commercial lands, more deliberately into this process can help address this dynamic.

Developable land is important but not the only factor affecting affordability - Finding developable land upon which to build housing must be viewed in relation to the availability of necessary utilities, infrastructure (including non-motorized transit networks), public transit connectivity, and schools. Finding available land that properly meets these requirements can be challenging, as often the best-integrated parcels are allocated for commercial use. This could additionally indicate the need to consider land that is not residentially zoned but still developable for housing.

Increasing affordability of market-rate development – Encouraging the use of various incentives, particularly tax incentives or density bonuses, could be an effective way to develop middle housing and engage large-scale developers in addressing housing need.

Meeting Notes

Meeting Outcome – Facilitate discussion intended to solicit feedback, proposals, and ideas to address issues related to housing mix and buildable lands inventory

Update and Context Reminder

DLCD's direction from HB 5202 includes:

- 1) How land within the UGB can be used more effectively and efficiently to increase housing types and units, including the reduction of restrictive zoning regulations and the conversion of commercial and employment uses to residential use.
 - 2) How to streamline the level of data necessary to establish the need for UGB adjustments, while considering the protection of resource lands.
 - 3) How to streamline regulatory review of UGB adjustments, while considering the protection of resource lands.
 - 4) How to fund additional capacity in cities below 10,000 to plan for and work for facilitating the development of housing in their communities.
- As a reminder, the Working Group is not seeking to build consensus, but rather bring together a diverse group of participants that can advise DLCD staff on issues specific to housing capacity (as implemented through the Housing Capacity Analysis)
 - Provide a range of perspectives on working with HCAs and Goal 10 and share critiques on staff direction and proposals
 - Integrate and consider input from the Housing Needs Work Group
 - The subsequent meetings will discuss efficiency measures, UGB review process, and building capacity for cities under 10,000

Topic 1: Translating Housing Need to Housing Type and Mix

Future Housing Mix

- Goal 10: *To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed 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.*
 - Begins with a population projection and then the Housing Capacity Analysis (which includes projecting housing need, inventorying buildable lands, and accommodating housing need).
 - In addition, there is a Housing Production Strategy (which includes promoting needed housing, and reflecting, measuring, and reporting)
- A Housing Needs Projection is established by starting with a population projection and local market data, which creates the 20-year Housing Projection
- What jurisdictions are responsible to plan for in terms of housing is known as **needed housing**, which is allocated within **ORS 197.303**. This entails all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need for housing within

a UGB at a variety of price ranges and rent levels that are affordable to households within the county for a variety of incomes

- Needed housing includes
 - Attached and detached single-family housing and multi-family housing for both owner and renter occupancy
 - Government assisted housing
 - Mobile home and manufactured dwellings parks
 - Manufactured homes on individual lots planned and zoned for single-family use
 - Housing for farmworkers
- **ORS 197.303** dictates that a local government should use population projections to adopt findings that take into account the changes in the following factors since the previous HCA. These factors that affect need are:
 - Household size
 - Household demographics
 - Vacancy rates
 - Housing costs
- **ORS 197. 296** highlights that housing capacity must be rooted in data related to land within the UGB that has been collected since the last HCA. Jurisdictions must be responsive to the needs of the communities.
 - The required data metrics include:
 - Number, density, and average mix of housing types of urban residential development that have occurred
 - Trends in density and average mix of housing types of urban residential development
 - Market factors that could impact future urban residential development
 - Number, density, and average mix of housing types that have occurred on buildable lands

Identified Issues

- How is need translated into housing type?
 - The intent of Goal 10 and Implementing Statutes is to provide a range of housing options that suit residents needs and financial capabilities. Implementation often does not meet this intent, because future housing mix is heavily categorized by past development trends and is often mismatched to household needs.
- Example – Grants Pass
 - Majority of Grants Pass renters are cost burdened
 - Median housing value is not affordable to most households
 - Majority of future housing will be unaffordable to most residents
 - How do we make the planning responsive to the needs we see in the community?

Ideas to Prompt Discussion

- Clarify existing statute to broaden the housing types and characteristics that are planned for
- Clarify existing statute to consider housing feasibility that is affordable to a given income, including past production and market trends
- DLCD/LCDC to be directed to provide safe harbor feasibility assumptions through rulemaking

- Cities can continue to plan for housing types according to local policy priorities/preferences considering statutes

Discussion

Discussion Goal: How to plan for housing types and characteristics in a manner that is responsive to need and rooted in realistic conditions.

Discussion Questions

1. The current statutory framework does not sufficiently plan for housing types “commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density”. With the implementation of an OHNA, cities will receive housing needs projections including the total number of units and their affordability thresholds. **How should cities best translate these projections into housing types and characteristics** (e.g. size, accessibility, etc.) and how can that be implemented through changes to statute and administrative rule?
2. In the current framework, past production serves as the main proxy for future market feasibility. This is an important factor in rooting future projections in reality, but it also has the effect of inhibiting the ability to plan for a variety of housing types. How would you propose **clarifying feasibility in market-rate and subsidized affordable development scenarios for different housing types and characteristics?**

Discussion Report Out

Group 1 (Brock Nation, Stacie Sanders, Heather O'Donnell, Yiping Fang)

- Affordable housing developers are constrained by funding availability and zoning restrictions
- Additional detail in provided population projections could provide the necessary detail to calculated housing mix
- A Needs Analysis should not represent a fixed target but rather encourage/remind cities to remain dynamic and adjust based on demand in the process
- Ensuring that housing characterized as affordable remains affordable in response to market and median income changes is essential

Group 2 (Bill Van Vliet, Anneliese Kohler, Chris Faulkner)

- Increasing production costs are changing the type of housing that needs to be subsidized
- Affordable housing and market-level housing are inextricably linked and cannot be solved separately from each other
- Housing Capacity Analyses currently do not consider some of the social aspects of housing need
- Utilizing past projections for future housing capacity has its limitations because building affordable housing in the past will look different from what is built in the future (due to changes in affordable housing best practices, including the increased construction of townhomes and cottages)

Group 3 (Justin Peterson, Michael Burdick, Jeff Adams)

- Utilizing past projections for future housing capacity has its limitations
- Strengthening the statutory language to explicitly include middle housing types could be beneficial

- Some jurisdictions in the State have a secondary market that includes second homes, as they are tourist communities
 - This presents multiple challenges in relation to needed housing. A second home consideration in the HNA would let communities understand the real need
- Incentives could help support the construction of middle housing types along with density bonuses in low-density residentially zoned areas
- Housing planners and policymakers need to better understand the level of subsidy needed to produce affordable housing to have better planning expectations

Group 4 (Brian Rankin, Garet Prior, Jonathan Trutt)

- Meeting affordability goals is getting lost in zoning classification limitations, local codes (form-based or otherwise) and housing type
- Lack of incentives do not promote the development of affordable housing
- Housing Needs Assessments and Housing Production Strategies are not as assertive and prescriptive as they could be
- Utilizing past projections for future housing capacity has its limitations

Group 5 (Peggy Lynch, Brian Latta, Dave Hunnicut, Ted Reid)

- Historically, cities have not done a very good job addressing extremely low-income housing
- Building housing is not only an issue of land supply but availability of infrastructure and necessary utilities
- Land that has been seen as developable within the UGB is often largely zoned for single-family and tends to have topographical constraints, drainage issues, and complicated infrastructure
 - Farmland (flat, large parcel land) is often easier to develop

Group 6 (Karin Knudson, Kathy Wilde, Matt Lawyer, Mary Kyle McCurdy)

- The statutes might not be limiting factors, but rulemaking needs to be more explicit
- Restrictive zoning and lot size minimums inhibit the diversity of land use that is necessary for building affordable units
- Think more creatively about housing types that could exist within development envelope
- Be cognizant of smaller communities and the challenges and limitations in developing housing that come with them
- Need to be humble and realistic and require each county to do some surveying work based on past projections, steering production towards what is needed
- Housing cost estimations are lower than actual cost, math needs to occur to determine what is actually feasible

Group 7 (Emily Reiman, Al Johnson, Peter Gutowsky, Samantha Bayer, Brian McDowell)

- Look for ways to engage large property owners to address housing needs in innovative ways. This could be done through developing incentives for property owners to participate in addressing housing challenges
- Cities need more flexibility to address housing needs as current systems in place are onerous, time-consuming, expensive, and subject to litigation
- It's important to dig deeper into demographics and socio economics of communities. Overlay family size with affordability and unit sizes. Consider multi-generational housing needs
- Concern about inflating the cost of single-family housing if further limitations are put in place. Recognize that a state-wide approach doesn't work in all parts of the state

Topic 2: Buildable Lands Inventory (BLI)

Overview

- **ORS 197.296** states that a local government should demonstrate that its comprehensive plan or regional framework plans for sufficient buildable lands...for 20 years
 - A Buildable Lands Inventory (BLI) supports this 20-year land supply requirement. A BLI requires a jurisdiction to produce a map showing buildable lands, including vacant, partially vacant, mixed-use, and infill and redevelopment
 - The 20-year land supply requirement also includes removing constrained lands
 - After this, a jurisdiction will estimate future capacity. Development potential of lands that will exist, and assess whether the available land will be developed
 - Within a BLI, there is tension between different goals, we want BLIs to **accurately portray development capacity**, which takes analysis, time, and resources. We are also charged with increasing **ease, certainty, and flexibility** of the analysis.
- Methodological assumptions need to be made to develop a BLI (such as assessing what is partially vacant or not) and this creates significant ambiguity and nuance, and greater accuracy generally requires more complex analysis.
- Local political dynamics play a role in a BLI because they implicate a major policy decision – whether and how a city grows. This puts pressure and can increase cost/delay of BLIs.

Ideas to Prompt Discussion

- Direct DLCD/LCDC to articulate and refine additional safe harbor methodological options for BLI's through rulemaking, including for constrained lands, infill, etc.
- Clarify in statute that a 20-year planning period “resets” if a Housing Capacity Analysis is remanded
- Enable a “buyer’s remorse” option in administrative rule facilitating a UGB swap for undeveloped land unlikely to develop in the future, that shouldn’t be included in the UGB at all
- Amend statute to base whether measures to accommodate needed housing are required to have alternative metrics that do not require significant analysis

Discussion

Discussion Goal: How to address the tension between accuracy, simplicity, and certainty and the local political dynamics that affect the analysis.

Discussion Questions

1. Our legislative direction requires reconciling a few conflicting goals. On one hand, we want to ensure that BLIs **more accurately reflect development capability** and avoid including “phantom capacity”, and achieving this accuracy generally requires increasing complexity of analysis. On the other hand, we also want to **reduce local analytical burden and increase certainty** that BLIs will not be challenged. What ways would you suggest reconciling these dynamics?
2. In almost any local context, there will be pressure on the methodological assumptions of BLIs due to the policy implications of the analysis (i.e. whether a city adopts efficiency measures and

adjusts a UGB). How would you suggest **reducing local political pressure and increasing the certainty of policy outcomes?**

Group 1 (Brock Nation, Stacie Sanders, Heather O'Donnell, Yiping Fang)

- The accuracy of capacity assumptions can be challenging because the maximum allowed density may not actually play out in practice
- Analysis of partially vacant lands can create phantom capacity, because although the rules require counting partially vacant land, it often isn't likely to develop
- Planning for different housing mix and efficiency measures into the future is difficult to do based off the requirement to base capacity assumptions on past production
- There is tension between empirical analysis and politics. Physical Construction of affordable housing is only one component and developers often contend with the notion of "if we zone/build it, will they come?" The perceptions of the quality of the surrounding built environment (crime, amenities, values, environmental justice/impacts) determine what is "livable" than what is "empirical"
- Amending language and regulations to better support residential infill projects and rezone single-family developments. Improving the ability to be flexible in realizing greater capacity/housing opportunities

Group 2 (Bill Van Vliet, Anneliese Kohler, Chris Faulkner)

- Lack of post-hoc analysis of BLI's makes the process more difficult to understand as there is no way of determining whether the analysis conducted was accurate
- In addition to population projections, it could be helpful for PSU to run scenarios on rezoning to see how changes in land use regulations could affect housing development (allow more dense construction or open previously undevelopable lands)
- It may be beneficial to provide a standardized structure for how to conduct a BLI

Group 3 (Justin Peterson, Michael Burdick, Jeff Adams)

- Costs to conduct a BLI are expensive and there is a need to streamline and simplify the process
- The State should consider refining some of the land constraints, particularly wetlands
Constrained lands are not as easy to exclude like other lands that have significant slopes or floodplains
- The State should conduct BLI's for small communities that do not have the capacity to do so
- Making refinements for the UGB land swap process could be particularly valuable and help address housing needs for a community

Group 4 (Brian Rankin, Garet Prior, Ariel Nelson, Jonathan Trutt, Kaarin Knudson)

- The request for having more detailed analysis on a BLI is complicated as it takes time and money
 - Include analyzing percent of property without structure in the BLI
- Some small cities have large property owners that hold onto considerable percentages of a city's buildable land. This can be a challenge when making a BLI
- A percent affordability requirement for development could be helpful for each city to have, and this requirement would be dependent on city size and additional factors

Group 5 (Peggy Lynch, Brian Latta, Dave Hunnicut, Ted Reid)

- Tax incentives could be an effective way to develop land within the UGB
- Land swaps are a convenient tool but are often unclear and somewhat unarticulated
- BLI's often result in policy outcomes that don't produce housing

- Oregon Department of State Lands needs money to provide data on wetlands as this can be too expensive for local governments to acquire themselves

Group 6 (Kathy Wilde, Matt Lawyer, Mary Kyle McCurdy)

- Ensuring that land is actually buildable, as there are areas within the UGB that are not developable. Geological surveys often inhibit the amount of buildable land and reduces square footage
- There is land that is not currently zoned for residential but should still be seen as developable for housing and placed into a buildable lands category
- Issues of proximity to utilities and septic infrastructure, existing transportation networks, and public services need to be considered when discussing housing affordability
 - Land that is zoned commercial is typically better integrated to higher quality public transit and non-motorized transit networks
- Public participation should be integral to a BLI as it helps articulate the local level buy in. Having intentional, consistent engagement from community members could ease some of the political strife

Group 7 (Emily Reiman, Al Johnson, Peter Gutowsky, Samantha Bayer, Brian McDowell)

- Have more options to customize, accommodate a broader range of housing types.
- Make the information more readily available – reduce reliance on outside consultants for analysis – smart maps; centralize foundational information.
- Develop more tools for smaller cities with examples. The UGB land swap is a good tool
- The 20-year land supply approach doesn't work. How many communities really have a 20-year supply that addresses market factors?
- A reporting requirement for factors that were analyzed in the past that didn't work could be helpful in modifying factors for the future

Recap and Next Steps

- Subsequent meeting is from June 30th from 1-4 PM
- Please share additional information and feedback from the session with Sean Edging, DLCD

Meeting Adjourned.

Additional Comments from Working Group Members

- It is important to acknowledge there is a difference between UGB and city boundaries. In addition, small towns have single property owners that are not ready to sell but are still included in the Buildable Lands Inventory.
- There needs to be more discussion on housing need for those with lower incomes along with the existing conversation regarding market rate housing. Although increasing production of units at the 80% AMI may produce a trickle-down effect, it will not be sufficient in addressing those at 60% AMI and lower.
- The distinction between the Housing Capacity Working Group and the Housing Needs Working Group is still unclear and could benefit from future clarification in the future.
- BLI analysis is hypothetically straightforward when cities have the required information, skill, and resources to conduct spatial analysis. The standard process of analysis is similar across different cities in Oregon: remove constrained lands and estimate housing capacity. But cities

might have different choices regarding their efficiency measures. Working with spatial data might be the most difficult challenge for smaller cities.

- To ease the challenge of working with spatial data, can DLCD create a web platform to make all these "spatial data" easy to access and possibly support BLI analysis? If all the required spatial information is accessible through the online platform and easy to understand, then it should simplify the part of the analysis that decides whether there is enough land within UGB for housing development. This platform could also be useful for DLCD to double-check the accuracy of the local BLI analysis.
- The whole BLI process is already political, and it might become even more political if DLCD attempts to centralize the process by telling cities how much housing they could build on their lands. The following-up procedures might be much more complicated.