

Housing Capacity Working Group - Meeting 3

June 30, 2022 1pm – 4pm

Meeting Notes

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Staff & Working Group Members

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Board of Commissioners	Ted Reid, Metro	Brock Nation, Oregon
Peggy Lynch, League of	Brian Latta, City of Dallas	Realtors
Women Voters	Emily Reiman, DevNW	Samantha Bayer, Oregon
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Friends of Oregon	Attorney	Farm Bureau
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Eugene Planning Division	County Community	Department of Environmental
Kathy Wilde, Housing Land	Development	Quality (ODEQ)
Advocates	Michael Burdick, Association	Dave Hunnicut, Oregon
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		Lucia Ramirez, ODOT

Key Insights Summary

Linking efficiency measures to housing diversity and production instead of density - Current language surrounding efficiency measures focuses primarily on increasing density, which is often is the more politicized and polarizing land use action a municipality or jurisdiction can take. Focusing on density minimizes other important factors that play a critical role in housing affordability, including diversity, mix, and reducing cost and delay. Incorporating these aspects of affordability into efficiency measures can result in more productive and actionable outcomes.

Streamlining and leveraging processes to improve housing outcomes – Exploring opportunities to streamline the Housing Capacity Analysis and UGB expansion process through simplified analytical methods and clear, straightforward efficiency measures will help smooth the process and increase

available land. Additionally, leveraging these processes to improve outcomes, such as increasing efficient or affordable housing production, is a powerful and underutilized tool in the current system.

Dedicated statewide data and best practice resources - Cities need more data along with access to a series of precedents from a variety of cities on what has worked and what has been unsuccessful to help inform policies and efficiency measures. Providing a dashboard or library with these resources could support cities. This could be particularly helpful for smaller communities that may not have the capacity or resources to acquire data.

State investment to support housing production - Current lack of state funding for supporting infrastructure and capital improvement projects places an additional burden on jurisdictions that are looking to build affordable housing. Look for ways to garner state support and subsidies for easing infrastructure costs related to housing production.

Connecting housing to economic and social opportunity – While much of the emphasis of this process has centered on housing production and affordability, there is a clear need to consider housing development in light of a variety of other factors necessary for a high quality of life, including economic opportunity, public facilities/services, and social & environmental factors. Finding resources to incentivize cities to consider these factors concurrently is important.

Meeting Notes

*Meeting Outcome – Facilitate discussion intended to solicit feedback, proposals, and ideas to address issues related to **efficiency measures** and establishment of need for a **UGB adjustment**.*

Update and Context Reminder

DLCD directed to facilitate discussion on housing capacity (through a work group), with a focus on:

- How land within UGB's can be better **utilized** to increase housing type and unit, including reduction of restrictive and outdated zoning regulations
- How the process and level of data necessary to establish the need of UGB adjustments can be streamlined, considering protection of resource lands
- How regulatory review of UGB adjustments can be streamlined, while considering the protection of resource lands
- How to fund additional capacity in cities with populations below 10,000

Work Group Charter

- 1) Advise DLCD staff on issues specific to housing capacity as implemented through Housing Capacity Analysis and related statute and administrative rule.
- 2) Provide diverse perspectives and share knowledge and experiences working with Housing Capacity Analyses and Goal 10, and constructively critique staff's direction and proposals.
- 3) Consider and integrate the diverse perspectives, knowledge and experiences from the Housing Needs Work Group and the stakeholder engagement process.

Topic 1 - Efficiency Measures and the Housing Production Strategy

Reminder – Goal 10 Process

- Housing Capacity Analysis and the Housing Production Strategy both address Goal 10
- Under the Housing Capacity Analysis, jurisdictions are required to demonstrate how they have addressed needed housing, through efficiency measures first, before considering an UGB adjustment
 - Metro cities – address anticipated housing need for 6 years
 - Non-metro cities – address anticipated housing need for 8 years
- ORS 197.296 (6)(b) – A measure that increases the likelihood that residential development will occur at a higher density. Examples include:
 - Increasing permitted density/rezoning land
 - Establishing minimum densities
 - Financial incentives/removing barriers
 - Redevelopment/infill strategies
 - Rezoning land
- Efficiency measures are the first step in addressing a capacity deficiency before a UGB adjustment

When are efficiency measures required?

- ORS 197.296 (6)(b) – When a land capacity deficiency is identified
- ORS 197.296 (7) – When future housing mix deviates from historic mix ORS 197.296 7

Must meet the following requirements:

- ORS 197.296 (8) – Must comply with land use planning goals and City must monitor anticipated versus actual outcomes and report to LCDC.
- ORS 197.296 (9) – Parameters to ensure that they are realistic and achievable:
 - Appropriate location
 - Zoned at density ranges that are likely to be achieved
 - In areas with sufficient urban services

Additional Context

- Concurrency requirement, stated in ORS 197.296, requires efficiency measures and the UGB adjustment to be adopted concurrently with HCA and be consistent with applicable statewide planning goals, including Goal 14
- The 3% Assumption from ORS 197.296 (6)(b) – implemented via HB 2001 and applies to all efficiency measures. Must assume changes will result in up to a three percent capacity in applicable lands

Efficiency Measures and Housing Supply

- Legislative direction: How land within UGBS can be better utilized to increase housing types and units, including the reduction of restrictive or outdated zoning regulations and the appropriate conversion of commercial and employment uses to residential. In addition, looking for ways to streamline the level of data necessary to establish UGB adjustments

Identified Issues

- Lack of certainty and clarity on appropriate and sufficient measures
- Focus on “density” and local political dynamics

- Concurrency requirement and sequencing challenges

What is appropriate and sufficient?

- Simplified UGB – first attempt to articulate clear efficiency measures:
 - Only a “safe harbor” under Division 038
 - Not frequently used in full
 - Some provisions are outdated and does not necessarily provide certainty
- In practice, efficiency measures are a negotiation that involve balancing meaningful actions with reasonableness
- Concurrency adds sequencing challenge – adopting multiple provisions concurrent with both the HCA and UGB adjustment

Consequence – Disparate Outcome depending on the community

- Often times, communities do well, in the case of Turner (2021) (pop: 2,000)
 - Passed land use regulations that allowed for greater diversity of housing in addition to greater density
- Other communities struggle with even minor and marginal changes
- When local political conflict arises, the current statute is not helpful to incentivize working toward a timely solution

Emphasis on Density

- Efficiency measures have been historically focused on **increasing density**, such as:
 - Reduced lot sizes
 - Increased min/max densities
 - Up-zoning to multi-family
- While increasing density is important, it has pushed the focus away from housing diversity, housing choice, and affordability. This creates significant political controversy

Sequencing – An approach from the City of Madras

- Madras was able to demonstrate efficiency measures while pursuing a UGB adjustment:
 - Allowed middle housing in all residential zones
 - Increased housing and mixed development, decreased parking requirements downtown
 - Adjusted public facilities standards and infrastructure finance to reduce costs
 - Increased guidance on the development process
 - Increased investments, partnerships, and financial incentives for housing development
- All of these actions were completed before an HCA
- How do we address the sequencing challenges that efficiency measures create?

The Housing Production Strategy

- ORS 197.290 – requirements for cities with populations above 10,000:
 - The reduction of financial and regulatory impediments to develop needed housing, including removing or easing approval standards for needed housing
 - The creation of financial and regulatory incentives for development of needed housing
 - Development of a plan to access resources available at local, regional, state, and national levels to increase the availability and affordability of needed housing

Ideas to Prompt Discussion

- Implement efficiency measures through Housing Production Strategies and check on implementation before an Urban Growth Boundary expansion.

- Refine the purpose of efficiency measures in statute beyond density, including:
 - Increasing housing diversity, choice, and affordability
 - Reducing cost and delay and enhancing development readiness
 - Efficient use and minimizing cost of infrastructure and land per household
- Provide greater clarity by defining and iterating efficiency measure options. Considerations include:
 - Expectations vary by city size
 - Cities can implement off-the-shelf options or develop their own
 - Give cities credit by clarifying middle housing and climate-related code changes as safe harbor efficiency measures
- Consider the efficiency measures outlined in the Climate Friendly Rulemaking

Discussion

Discussion Goal: How to increase clarity and certainty, better emphasize housing diversity and affordability, and address sequencing challenges.

Discussion Questions

1. Efficiency measures are an important tool for supporting housing production and affordability, but meaningful implementation can be challenging and create uncertainty. What policies or administrative changes would help provide **greater clarity and certainty** surrounding efficiency measures?
2. Efficiency measures have focused significantly on increasing “density” while de-emphasizing other important measures related to **housing diversity, production, and affordability**. What refinements to policy or implementation would help shift that focus?
3. Current statute creates a sequencing challenge in establishing a need for a UGB adjustment, because efficiency measures must be adopted concurrently and that takes time. What **adjustments to sequencing can help reduce delay**? Would implementing efficiency measures over a longer horizon via the **Housing Production Strategy** be an appropriate adjustment?

Discussion Report Out

Group 1 (Al Johnson, Jeff Adams, Jonathan Trutt, Stacie Sanders, Lucia Ramirez)

- Need data to help us understand what the effect of different measures are – which ones really move the dial
 - Oregon currently doesn’t have good data across jurisdictions (a dashboard type system) to inform decision makers about what works and what doesn’t in different areas. Each jurisdiction is on their own to figure this out and many don’t have the staff capacity to do so. Data gathering should be done at the state level and made available
- Important to have a more diverse mix of housing. What are the measures that contribute to housing diversity?
- It is a challenge to address housing needs and density for year-round residents for communities with large second home inventory. Oregon should look to other states and how they have addressed housing density, affordability, and availability in other tourist oriented seasonal communities
- Link infrastructure and housing – especially transportation

- The permit process, in general, is time consuming and cumbersome. Need to help provide more certainty

Group 2 (Emily Reiman, Dave Hunnicut, Ted Reid, Chris Faulkner)

- Market feasibility of development is important to consider when discussing efficiency measures.
- Increasing density is fine but ineffective if a jurisdiction lacks infrastructure to serve the development. There should be a service analysis requirement as part of the process
 - This could be tied into the HPS to reduce complexity
- Infrastructure planning is related to housing production
- Need to rethink metrics on how well efficiency measures are working, cities should be rewarded for making progress
- HPS is an appropriate place to house a conversation on efficiency measures
 - Efficiency doesn't currently crosswalk with housing need, these can be tied together

Group 3 (Brian Latta, Peggy Lynch, Allan Lazo, Mark Long, Ariel Nelson)

- Density does not necessarily translate to affordability, we need to be responsive to demographic data, not just land efficiency and have a qualitative focus
- Economic and demographic data is needed in addition to efficiency measures to ensure that housing need is met. Reduction of lot size does not necessarily equal housing that is affordable
- Lack of infrastructure is a significant impediment in developing significant numbers of affordable housing
 - Finding a way to fund or buy down the cost of infrastructure is important
- Smaller lot sizes do not effectively improve affordability
- DLCDC should provide more model codes to streamline the process

Group 4 (Kaarin Knudson, Matt Lawyer, Peter Gutowsky, Brock Nation)

- Clear and consistent guidelines from the State regarding UGBs would be beneficial. Provide a resource of best/worst practices and for cities to investigate
- There is a suite of approaches to efficiency measures. Local governments need safe harbors and guidance on how many of those are necessary. They need help understanding if there are a range of options that cities can pursue
 - The process is daunting especially for small communities that don't have resources. To the extent that we can have clear and objective approaches that cities can use and apply and before next HCA will be important
- Also knowing if an expansion is necessary or if more efficiency measures must be implemented is also important for cities to know. This system doesn't currently work – vacation rentals/second homes have created housing issues – all factors that can consume a housing inventory. Some clear and objective criteria is needed from DLCDC
 - More discretionary processes increase likelihood of litigation
- The current options listed in statute seem to be like the Climate-Friendly and Equitable Communities (e.g., removing density max, min ranges, etc.) cities should be encouraged to take on efficiency measures that CFEC doesn't cover
- In rural parts of counties, the big challenge is access to water and wastewater treatments. (i.e., Gates, Detroit). Jurisdictions are interested in mixed use development but lack the infrastructure to support it. Cost gross analysis might be worth looking into to make sure efficiency measures can be implemented

- Should consider doing an Economic Opportunity Analysis and HNA together, to help inform housing decisions or at least how mixed-use development can function if these efforts are done together
- Could rephrase ORS 197.297 to: “shall adopt measures that have demonstrably increased the likelihood that residential development in areas that are zoned to allow no greater than the same authorized density level within the local jurisdiction will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next 20 years.”
- Target needed housing based on demographics and socioeconomic factors. Upzoning and removing minimum lot size does not guarantee that development will occur. Financial incentives are missing
- Make sure the types of data cities are tracking are most likely to generate the needed outcomes.
 - State support to figure out how to help this is the important piece
- Look into land banking within the UGB. There is an opportunity here with land that’s been for sale, maybe there is a way the State can work with cities and bring developers in to help housing development happen

Group 5 (Mary Anne Cooper, Bill Van Vliet, Kathy Wilde, Brian Rankin)

- Efficiency measures traditionally focus too much on density, which tends to receive the most opposition
- If cities were made aware of the different ways they can meet efficiency measure requirements, it could take away some of the political contentiousness
- Efficiency measures involve more than just density, also includes unit types/mix
- Financing affordable housing is a challenge, can align financial incentives with efficiency measures
- Housing production is indirectly controlled by cities – availability of infrastructure, suitable lands, but market forces are driving the affordability issue. Need more funds to build affordable housing
 - Lack of federal funds for infrastructure makes developing affordable housing challenging
- The State could have a prescribed list of efficiency measures to expedite the process and make it easier
- It could be possible for a legislative change to no longer couple efficiency measures with UGB expansion, but it would need to be replaced with firm requirements for adoption of efficiency measures

Group 6 (Justin Peterson, Michael Burdick, Mary Kyle McCurdy, Yiping Fang)

- DLCD mentioned that Madras had some good examples of efficiency measures that were successful. DLCD could look into creating a best practice library so that local jurisdictions can note successful examples
 - Cities that successfully adopt efficiency measures could receive credit, whether through a point system or otherwise
- Ensure that the local process can support building housing smoothly without several bureaucratic hurdles
 - There’s language in local codes that are not clear nor objective
- Whether or not you zone for density; developers often don’t have incentives to build at that level because local governments often don’t have tools to adjust incentives

- There's significant overlap between Housing Capacity Analysis, Housing Production Strategy and Efficiency Measures
- Efficiency Measures aren't just about land, they are about infrastructure (including utilities, roads, schools). This is important to consider when discussing if land is being used efficiently within the UGB
 - Should address spatial concerns, put new housing close to existing schools, versus building on a parcel far away. This should be incorporated into the code
 - Proximity to transit is something that matters, there could be more of a focus on incentives that are location-specific, particularly related to efficiency regarding infrastructure
- Density is a very political term, and often inhibits further conversations. Shifting to diversity, affordability, and location could be more productive and lead to easier discussions
- Allow Standard Plans that use preapproved building plans so that only zoning review is required, and reduce infrastructure costs, would remove cost burden on developments and streamline the process
- The existing statute is duplicative, efficiency measures do have a place in the HPS
- Want to make sure efficiency measures are detached from UGB (UGB is politicized), should do the efficiency anyway, UGB should be a separate thing

Topic 2 - Establishing Need for UGB Adjustment

- Housing need projection, buildable lands inventory, and efficiency measures are the major components for establishing the need for a UGB adjustment

20-year Housing Needs Projection

- Implementation of OHNA
- Translating need to housing type with parameters on affordability and feasibility articulated by DLCD
- Ensure 20-year need intact, including after appeal

BLI

- Providing more certainty around BLI-related methodological assumption
- Leverage land swaps, remove lands unlikely to develop from UGB
- Reduce local analytic burden, acquire potential off-the-shelf BLI's and other state-provided analyses

Efficiency Measures

- Increase emphasis on diversity, production, affordability
- Greater certainty and clarity on efficiency measures
- Address sequencing challenge from concurrency (potential HPS implementation)

Discussion

Discussion Goal: Higher-level proposals for policies and administrative changes to streamline the process and level of data needed for a UGB adjustment.

Discussion Question

1. So far, we have discussed the individual components of a Housing Capacity Analysis required to establish the need for an Urban Growth Boundary adjustment and brainstormed policies that streamline the process and make it easier to complete for local jurisdictions. At a broader level, what other policies or administrative changes would help streamline the process and level of data necessary and lead to greater housing production?

Discussion Recap

- In addition to focusing on cities, we should investigate incorporating counties into the conversation. Counties should look at wetlands and natural hazard lands so that when there is a conversation around a UGB, there is a predetermined understanding of what wetland would be appropriate for UGB
- There needs to be a connection between housing need and the UGB expansion. How do we ensure the housing need is met during the UGB expansion? These two concepts need to be connected, perhaps the State can support facilitating this connection to ensure we are meeting the needs of current and future residents
- HNA has qualitative analysis and discusses housing goals but does not require discussing social and economic consequences although it should
- Most housing need is for those at 80% AMI and under. There are also infrastructure costs that need to be considered with this need, could look for subsidy support from the State with infrastructure costs. Note that placing infrastructure costs on jurisdictions will drive up price points and reduce affordability
 - Could promote cost sharing for wealthy landowners that have land that is brought into the UGB to support infrastructure costs
- According to prioritization statutes, infrastructure is cheaper to bring to flat land than it is to hillsides. Prioritization statutes direct development to exception areas, so if we want cheaper infrastructure this requires further discussion
 - This can be challenging as flat land is often designated as agricultural, owners of farmland are additionally facing issues of affordability, rising costs and the impact of climate change on food systems
- Coordination of government agencies is critical, there should be an interagency panel related to infrastructure and housing
- The current UGB expansion process puts the onus on local communities, who are already stretched thin and have little resources. The State might have the capacity to do a level of analysis that would determine where land supply is particularly a problem, so that it wouldn't just be the local communities determining whether land supply or another issue is a problem. Need more support from the state
- Dig into the priority statutes to allow non-prime farmland to move forward and not be hung up in legal hurdles while protecting significant farmland
- It is necessary to think about economic opportunities and services, availability of grocery stores, mental health facilities, transportation networks, parking, and response times for emergency services. Housing needs to be created with consideration of all of the required services necessary for a community

- The State or other higher-level institutions often have resources, information and access to data that small jurisdictions may not
- 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 a different housing mix and efficiency measures into the future is difficult to do when the requirement is 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 perception of the quality of the surrounding built environment (crime, amenities, values, environmental justice/impacts) determines what is "livable" more than what the empirical data conveys
- Amend language and regulations to better support residential infill projects and rezone single-family developments. Improve the ability to be flexible in realizing greater capacity/housing opportunities

Recap and Next Steps

- Next meeting is July 26th from 1-4 PM
- Please share additional information and feedback from the session with Sean Edging, DLCD

Meeting Adjourned at 4:00pm.