



March 21, 2018

City of Hood River Planning Commission
211 2nd Street
Hood River, OR 97301
planning@cityofhoodriver.com

VIA ELECTRONIC MAIL

Re: Housing Obligations for the City of Hood River Relating to the Westside Area Concept Plan

To the City of Hood River Planning Commission:

This letter is submitted by Housing Land Advocates (HLA). HLA is a non-profit organization that advocates for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians.

Beginning in 2015, HLA began a project to review post-acknowledgement plan amendments (PAPAs) across Oregon when those amendments either have insufficient Statewide Planning Goal 10 (Goal 10) findings or the Goal 10 findings do not support adoption of the amendment. Over the course of the project, HLA has reviewed more than 800 PAPAs. The three goals of the project are: (1) to protect and promote affordable housing by reminding local governments of their Goal 10 obligations and, when necessary, preserving error in the record for appeal to the Land Use Board of Appeals; (2) to raise awareness of Goal 10 requirements; and (3) to determine whether a PAPA's adoption would implicate the federal Fair Housing Act (FHA) by discriminating against protected classes because the decision would have a disparate impact. For example, if the city's new zoning approach in a PAPA creates or furthers an exclusionary outcome for a protected class, such as effectively prohibiting a certain racial group from being able to access housing, that impact could violate the FHA regardless of whether the exclusionary outcome was intentional.¹

Because of our expertise in communities' housing obligations when amending comprehensive plans, HLA offers the following commentary to the City of Hood River in an

¹ See *Texas Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, 576 U.S. ___, 125 S. Ct. 2507, 192 L. Ed. 2d 514 (2015).

effort to ensure that the city is aware of and fulfills its housing obligations under state and federal law when adopting the Westside Area Concept Plan (WACP). HLA also wants to help the city achieve its well-stated goals and objective in its recently adopted Housing Needs Analysis (HNA).

I. Project Area Background

In 2016, the WACP project was initiated to address land use and infrastructure funding with an intention to facilitate the development of much-needed affordable housing in Hood River. The project area consists of approximately 450 acres, with over half of that land being vacant or partially vacant within residential zones. Close to 300 acres are within the city limits, and all of the project area is within the city's Urban Growth Boundary (UGB).

Although the region is roughly 30% Hispanic and 66% White, Hood River's neighborhoods do not always reflect the region's racial make-up.² The existing population in the northern half of the project area is predominantly Hispanic, making up 60% of that area's population. The southern half more accurately reflects the region's balance of racial groups.³ Conversely, some existing neighborhoods that are more developed than the project area are overwhelmingly White, notwithstanding the region's population being almost one-third Hispanic.⁴ The city needs to be aware of the obligation it faces to ensure that the project area continues to provide housing in an equitable manner, and that the city's management of urban lands does not promote land use policies that could result in a disparate impact to any protected class.

II. City of Hood River Housing Needs: Existing and Future

A. Existing Needs

The City of Hood River's Housing Needs Analysis determined that the existing management of land within the city's UGB was not addressing fundamental housing problems. Hood River is a uniquely regulated community because of the imposition of development restrictions under both Oregon's Land Use program and as a result of the federal Columbia River

² See *Detailed Profile for 97031 Zip Code (Hood River, OR)* (March 13, 2018), <http://www.city-data.com/zips/97031.html>.

³ Smaller areas within the project area such as the southwestern-most area and the neighborhood immediately northwest of the intersection of May Street and Rand Road are between 90 and 95 percent White.

⁴ A number of areas east of 13th Street and north of May Street are between 90 and 100 percent White.

Gorge National Scenic Area Act. Because of these regulatory programs and the area's limited housing supply and high demand, housing has become unattainable for many. The Regional Multiple Listing Service Data for 2017 estimates the average home price in Hood River is over \$500,000.

The HNA explains that the city has a current deficit of affordable housing for existing residents. The city's housing stock is deficient for persons making less than \$25,000 per year by roughly 200 units, and is deficient for middle-income earners (\$35,000 – \$100,000) by about 550 units. Anecdotal evidence from employers and employees in Hood River indicated severe difficulty in finding any housing, much less affordable housing. Many employers have testified that professionals like nurses and teachers cannot find housing that is within their price range. The farmworker community testified that low- and moderately-priced housing in Hood River is all but impossible to find. In 2015, nearly one-third of Hood River's households were unable to afford their current housing (*i.e.* cost burdened), with roughly 40 percent of renters unable to afford their housing costs.⁵ The WACP is the opportunity to address these needs.

B. Future Needs

The 2015 HNA projected that the urban area will have to accommodate an annual growth rate of 2%, gaining an additional 4,528 people by 2035 which requires 1,985 new dwelling units. In the 2017 EcoNorthwest analysis, those estimates were adjusted consistent with PSU's Population Forecast Program, and projected that land within the UGB would need to accommodate a 1.4% growth rate, resulting in the need for 1,337 dwelling units for 3,050 new people in 2035.⁶ The WACP needs to address both the existing housing needs of the community, and these projected needs. Further, the WACP needs to take into account the growing impact of short-term rentals and second homes consuming residential land that would otherwise be available for primary homes of people who work in the area.

III. Obligations to Accommodate Housing Needs

A. Statutory Requirements

ORS 197.296(10) requires cities such as Hood River to take meaningful steps to address housing needs when legislatively modifying comprehensive plans in a manner that relates to

⁵ Liburdy Memo to City of Hood River Planning Commission, March 12, 2018, at 3.

⁶ Although PSU's Population forecast recommends a 1.4% growth rate, Hood River's population growth rate has been remarkably consistent since 1990, maintaining an average growth of 2% per year.

buildable lands for residential uses. Cities with populations of less than 25,000 are required to determine estimated housing needs over 20 years, inventory buildable lands within the UGB to accommodate estimated housing needs, and most importantly, adopt measures necessary to accommodate the estimated housing needs of the community. ORS 197.296(10)(b)(A) – (C).⁷

B. Goal 10 Requirements

The adoption of the WACP will constitute an amendment of a comprehensive plan, and therefore the WACP must comply with the Statewide Planning Goals. ORS 197.175(2)(a).⁸ Goal 10 requires:

⁷ ORS 197.296(10) provides:

- “(a) The provisions of this subsection apply to local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of less than 25,000.
- “(b) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use, a city shall, according to rules of the commission:
 - “(A) Determine the estimated housing needs within the jurisdiction for the next 20 years;
 - “(B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and
 - “(C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.
- “(c) For the purpose of the inventory described in this subsection, ‘buildable lands’ includes those lands described in subsection (4)(a) of this section.”

⁸ Plan map and text amendments as well as zoning map and text amendments are all subject to the “PAPA process.” ORS 197.610 states in relevant part:

“Before a local government adopts a change, including additions or deletions, to an acknowledged comprehensive plan *or land use regulation*, the local government shall submit the proposed change to the Direction of the Department of Land Conservation and Development. * * * ”

This means that zoning ordinance text and map amendments are subject to the PAPA process.

“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.” OAR 660-015-0000(10).

Therefore, any change in residential zoning via the WACP should be accompanied by an analysis that addresses Goal 10 because the land within the WACP could be zoned for a variety of purposes, including housing of various types and densities. Because the WACP implicates zoning and planning that could impact buildable lands for specific types of housing, the staff report must sufficiently address how the city intends to meaningfully address both the existing housing deficit for certain income groups, and also the additional forecasted housing needs over the 20-year planning period.

C. Satisfying ORS 197.296(10) and Goal 10 Requirements

To satisfy these residential planning requirements, the city should adopt a version of the WACP that creates meaningful opportunities to develop housing units that accommodate the most vulnerable populations in the community. The required analysis in the staff report for the WACP should be based on the most recent Buildable Lands Inventory (BLI), the 2015 HNA, and revisions to that HNA included in Appendix C of the Concept Plan Report (2017).

The BLI and HNA need to be used in combination to show that the planning jurisdiction presently has and will continue to have sufficient buildable lands for all types of housing needed to support the growing population through the planning period. Alternatively, the staff report needs to show that the proposed changes are serving to bring the jurisdiction closer to meeting its Goal 10 obligations by addressing needs identified in the HNA that are not presently provided for in the BLI.

It is important to note that just because a planning proposal creates general additional housing capacity, that proposal does not necessarily comply with Goal 10—the jurisdiction still must show that it is addressing specific needed residential types (*i.e.*, multifamily vs. single family). The jurisdiction must demonstrate that its actions do not leave it with less than adequate residential land supplies in the types, locations, and affordability ranges affected.⁹

⁹ See *Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731 (1999) (rezoning residential land for industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); see also *Home Builders Assn. of Lane County v. City of Eugene*, 41 Or LUBA 370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations).

Of significant concern is the assumption within the HNA that the General Commercial (C-2) zone will be developed with a major portion of new affordable housing in the city. The HNA notes that the C-2 zone allows multifamily housing as a permitted use, but assumes that over 40% of the needed housing for multi-family units will be accommodated within the C-2 zone over the planning period through 2035. The HNA explains that without robust residential development in the C-2 zone, the city will continue to have a deficit of land for multi-family development. This ambitious projection of building 40% of multi-family units in the C-2 zone does not align with prior development activity in Hood River. Between 2000 and 2014, roughly 22% of new multi-family units were developed in the C-2 zone.¹⁰ Absent enticing incentives, the likelihood of future multi-family housing development in the C-2 zone at twice the historical rate is small. In light of the on-the-ground realities surrounding Hood River's real estate market and the relatively minimal role C-2 land has played in accommodating multi-family housing, we support the following HNA recommendations. In the HNA, additional opportunities are identified to rezone land from R-1 and R-2, as well as publicly-owned land, to R-3 with the imposition of minimum density standards greater than 11 units per acre and increased height limitations. The city should look closely at these opportunities.

A well-thought-out WACP can lead to development of the necessary variety of housing units in the community over the planning period, if the plan acknowledges the market's impact on housing options and affordability. The city faces a heightened obligation due to the unique regulatory constraints on growth and existing market dynamics to ensure that the city's zoning policies and plans do not have a disparate impact on protected classes. Merely allowing multi-family structures in zones that, due to the market, will be dominated by either single-family or commercial uses would be inconsistent with the city's statutory and Goal 10 obligations to plan for a variety of housing, including housing that is attainable for low-income community members.

IV. Conclusion

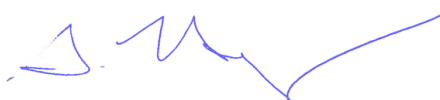
Hood River is on the right path by evaluating the possible implications the WACP will have on housing availability for all of its community members and identifying creative solutions that can address existing and predicted housing problems. The city can meaningfully address the needs of the community by increasing minimum density standards, allowing more missing middle units (duplex, triplex, and zero-lot line units) in all zones, and zoning land in a manner that meaningfully addresses the existing and projected need for multi-family units in light of the Hood River real estate market. The city can avoid any disparate impacts resulting from the WACP by taking into consideration the need to ensure fair and equitable housing options for all income-levels and protected classes, and by passing plan language that creates meaningful standards that implement fair housing approaches.

¹⁰ HNA at 12.

By adopting a WACP that ensures the availability of land for multi-family and affordable housing, the City of Hood River can continue to be one of the best places to live and at the same time, an equitable place. Great cities are cities that are inclusive in their housing policies, and strive to find solutions that accommodate all of its community members.

Please include this letter in the record and add HLA to the notice list: Housing Land Advocates, 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Thank you.

Sincerely,



Scott Hilgenberg, Board Member
Housing Land Advocates