



TO: Columbia River Gorge Commission
FROM: Michael Lang, Friends of the Columbia Gorge
RE: Gorge 2020 priorities regarding land use topics
DATE: April 14, 2020

Thank you for the opportunity to comment on the Gorge 2020 land use topics. Friends of the Columbia Gorge (Friends) is a nonprofit conservation organization with approximately 6,500 members dedicated to the protection and enhancement of the scenic, natural, cultural and recreation resources of the Columbia River Gorge area. Friends supports livable, well-planned communities within the National Scenic Area.

Land Use Issues

- **Mining and Quarries:** The National Scenic Area Act, under section 6.d.(9), does not require the Commission to permit mining within the scenic area. The Management Plan already prohibits mining in certain land use designations, such as GMA Open Space and GMA Agriculture Special.
 - Prohibit new mining and quarry operations in the General Management Area (GMA) except for specific projects, similar to the Special Management Area (SMA) policies and guidelines. Prohibit the expansion of existing quarries.
 - Eliminate the pre-1991 language for mining development on page II-7-8. This language has been superseded by the existing use guidelines on page II-7-9 of the Management Plan.
 - Clarify the definition for mining (exploration, development and production of mineral resources) to explicitly include hauling of mineral resources.
- **Commercial Uses:** Prohibit the proliferation of commercial uses in rural areas that are not zoned commercial or rural center. Such uses include construction businesses, travelers' accommodations, processing plants, and businesses that host large events or cater to large crowds.
- **Cideries:** Cideries are an industrial use. Industrial uses are prohibited within the National Scenic Area outside of urban areas.
- **Short-term Rental (STR):** The Commission should not allow STRs within the scenic area. **This is an equity issue.** STRs deplete the availability of existing long term housing and

also increase the costs of existing housing for families. There is already a deficit of affordable housing in the Columbia River Gorge. The City of Hood River and Hood River County passed ordinances restricting STRs to owner-occupied dwellings after determining that STRs negatively impacted the quality of life for residents, reduced housing availability and increased housing costs.

- Friends recommends that the Commission table discussions of allowing STRs until a thorough analysis is conducted of the potential impacts.
- After this analysis is conducted, the Commission should not adopt any plan revision or amendment that is weaker than Hood River County, the City of Hood River or any other local jurisdictions.
- **Additional Dwelling Units (ADU):** While ADUs are suitable for urban areas and provide affordable housing, they have no place within rural lands in the National Scenic Area. **ADUs not allowed on rural lands throughout Oregon, except in under very narrow circumstances.** (See attached comments by Oregon DLCD on Senate Bill 88) ADUs would double the density on rural lands, harm scenic and natural resources, strain public infrastructure, introduce the risks of human-caused fires, burden emergency responders and change the rural character of the Columbia Gorge.
 - The Commission should table discussions until a thorough evaluation of the impacts is completed.
 - The analysis should include impacts to agriculture; forestry; scenic, natural, cultural and recreation resources; infrastructure, services, emergency response and fire danger.
 - The Commission should not adopt any revision or amendment to the Management Plan that is less restrictive than state or local laws.
- **Land Use Designations:** Change the zoning of lands that were acquired by public agencies to open space or recreation, based on the land use designation policies for these zones. For example, when the Forest Service acquired land zoned as Forest or Agriculture from private owners **the use of the land changed to resource protection and enhancement.** The zoning should be changed to reflect the changes in use.
- **Cluster Developments:** Prohibit cluster developments with bonus lots and dwellings on lands zoned for agriculture and forest uses. Define the term “cluster.” Clarify that all criteria must be met to approve a cluster development.
 - Friends supports the staff conclusion that it “does not see the value in keeping this provision because it is rarely used and there is little opportunity left for these types of land divisions.”

Addition land use topics raised in scoping that need to be addressed:

- **Geohazards:** The Columbia River Gorge is very geologically active. Inventory, protect and avoid siting development in geohazard areas.
- **Cumulative Effects:** Revise the glossary definition to include consideration of reasonably foreseeable actions and effects.
- **Railroad Expansion:** Require scenic area-wide master plans for rail expansion. Clarify that new rail development, including new tracks, are not allowed in open space and public recreation zones. Require Gorge-wide cumulative effects analysis for rail expansion projects. Require river access improvements to be provided with rail expansion projects.
- **Coal Trains:** Currently, coal trains with open topped coal cars pollute gorge lands and waters with tremendous amounts of coal. Adopt policies and guidelines prohibiting coal pollution in the Columbia Gorge. Pursue enforcement and civil penalties for violators.
- **Climate Change:** The Management Plan is devoid of standards addressing climate change. Review and revise land use policies and guidelines to build climate resilience. Restrict or prohibit conversions from forest to agriculture. Limit new rural develop in resource land and encourage development in the urban areas. Increase stream buffers using best available science.
- **Accessory Structures:**
 - Tighten guidelines to ensure that residential accessory structures are not uses as dwellings. Refer to recent amendments to Multnomah County’s ordinance.
 - Delete the following language from the 1,500 square-foot limitation for residential accessory structures: “to the maximum extent practicable”.
 - Close the size-limitation loophole for accessory structures. Currently, accessory structures are considered additions if connected to a dwelling by a narrow covered walkway. Therefore they are no longer subject to the size limitations for accessory structures.



Oregon

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Date January 31, 2019

TO: The Honorable Michael Dembrow, Chair
Senate Committee on Environment and Natural Resources

FROM: Sadie Carney, Policy Analyst
Department of Land Conservation and Development

RE: Senate Bill 88



Senate Bill 88 would allow counties, at their discretion, to allow accessory dwelling units (ADUs) on land zoned for rural residential use. An existing administrative rule, OAR 660-004-0040(8)(f), limits lots and parcels in rural residential areas to one permanent single-family dwelling except in a narrow circumstance for a second unit accessory to a pre-1945 home. If enacted, DLCDC would be required to perform rulemaking to amend this rule to be consistent with law.

ADU approvals granted under this bill would not be allowed in areas of critical state concern, in areas with groundwater restrictions, or in areas designated as urban reserves.¹ The bill includes criteria for approval of the use.

Current land use policy limits rural development in order to promote rural areas that maintain rural, resource based industries such as farming and forestry free from conflicts. Limiting rural residential use also helps promote the viability of urban areas by increasing the predictability of development-location decisions; this supports coherent provision of public facilities, emergency services, and planning for housing needs.

Approval of ADUs in rural residential areas would increase the density of development and population in rural areas. Increased rural population leads to increased conflicts with farm and forest uses, higher risk of human-caused forest fires (28,007 acres of forest was consumed by human caused fires in 2018, 36.5% of the total acres burned²), more pressure on local water quality (and drinking water supply in some areas), and higher vehicle miles traveled relative to the same development occurring in an urban area.

¹ The jurisdictions with acknowledged urban reserves are Central Point, Eagle Point, Madras, Medford, Metro, Newberg, Ontario, Pendleton, Phoenix, Redmond, Sandy, and Talent

² Oregon Department of Forestry, 2018 Fire Season Update. House Interim Committee on Agriculture and Natural Resources, December 14, 2018.

This bill would require the Land Conservation and Development Commission to develop rules that classify lands within a fire protection district as low, moderate, or high fire risk. This important land classification could also have benefits that serve our landowners, rural residents, counties and state agencies unrelated to ADUs. The department suggests that limiting the applicable land classification standard to areas “within”, or “served by” a fire protection district would be less effective than creating a fire risk standard that can be uniformly applied to land throughout the state. For that reason, the department recommends eliminating the “fire protection district” qualification (Section 2(j) and Section 3).

If enacted, this bill would require counties to update their comprehensive plans if they chose to permit ADUs on rural residential development. It would also require participating counties to adopt the fire risk standards as a guidance document in making land use decisions.

As a final point, DLCD would like to remind committee members of the added concerns Measure 49 brings to permitting new forms of residential development. Under Ballot Measure 49, once a residential use or type of development has been permitted, Measure 49 places restrictions on limiting that use thereafter. If either state or local government enacts a new land use regulation that restricts a previously permitted use and can be perceived to reduce the fair market value of a property, landowners subject to the change have a right to compensation. A conservative expansion of residential development rights may be advisable.

Thank you for this opportunity to provide you with information about SB 88. If committee members have questions about this testimony, I may be reached at 503-373-0036 or via email at sadie.carney@state.or.us