

Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

Memorandum

DATE: April 24, 2015
TO: Deschutes County Board of Commissioners
FROM: Nick Lelack, Director
Peter Gutowsky, Planning Manager
RE: HB 2229 / Agricultural Lands / Letter to DLCD

BACKGROUND

Staff received direction from the Board of County Commissioners (BOCC) on November 24, 2014 to explore HB 2229, also known as the Big Look Bill, as it relates to correcting mapping errors of farm and forestlands.¹ Three developments have occurred over the last several months that complicate implementing HB 2229: a January 8, 2015 Department of Land Conservation and Development (DLCD) letter, a conversation with former Community Development Director John Anderson (1978-85), and recent remarks by Jim Rue, DLCD Director during a meeting in Bend on April 17 with city and county officials.

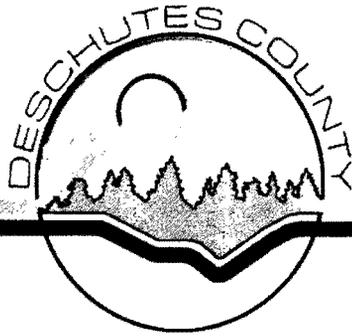
DIRECTION

Staff seeks direction from the BOCC to initiate a letter to Director Rue respectfully requesting rulemaking for HB 2229.

Attachment:

Draft LCDC Rulemaking Letter

¹ ORS 215.788(1) https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors215.html



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Date

Mr. Jim Rue, Director
Oregon Department of Land Conservation and Development
635 Capitol St. NE, Suite 150
Salem, OR 97301

Re: HB 2229 / LCDC Rulemaking

Dear Mr. Rue:

Thank you for visiting Deschutes County on April 17, 2015 to discuss among other items, non-resource lands and the challenges with implementing House Bill (HB) 2229. The Board of County Commissioners, following a recommendation from the Planning Commission, respectfully request the Land Conversation and Development Commission (LCDC) initiate rulemaking to implement the legislation and clarify processes for:

1. Updating farmlands and forestlands for land use planning;
2. Phasing;
3. Regional approaches to resolving land use problems;
4. Non-resource lands containing ecologically significant natural areas or resources;
5. Carrying capacity of the lands; and,
6. Significantly adverse effects.

HB 2229, Section 2(b)(B) directs LCDC to adopt rules that,

Consider the variation in conditions and needs in different regions of the state and encourage regional approaches to resolving land use problems.

Since the law took effect, Deschutes County has continually expressed interest in implementing HB 2229, also known as the "Big Look Bill," as evidenced by its participation in a 2010 Association of Counties panel discussion with state agency officials and subsequent conversations with the Department of Land Conservation and Development (DLCD). Most recently, Deschutes County requested input on a phased approach and clarification of key issues relating to five pre-platted subdivisions with farm and forestland designations. Rob Hallyburton, DLCD Community Services Division Manager wrote in a letter on January 8, 2015,

While we do not find that the county must review all land in the county, we would be most inclined to approve a work program that includes some major region defined by geographic characteristics rather than by property or subdivision boundaries. Additionally, the county may not pre-determine specific areas for review, as subsection 5(3) requires the county to provide an opportunity for all farm and forest land to be considered. If the county receives a request to review an area that is not included in the original proposal, the county must review it. As explained above, we believe that this area must be a geographic area of the county and not individual properties or subdivisions.

Quality Services Performed with Pride

Considering other aspects of HB 2229 not related to your question, the department has been unable to determine the nature and scope of the mapping error the county intends to address. It is not apparent why the areas the county has shared with the department were incorrectly zoned at acknowledgment, and this is a fundamental aspect of the bill. If the county chooses to move forward with a work program, the county will need to demonstrate that the HB 2229 process is an appropriate vehicle for addressing the county's needs.

Based on Mr. Hallyburton's letter, there remain differences of opinion whether HB 2229 is targeted exclusively to properties with mapping errors or if it also applies to updating farm and forestland designations based on changed circumstances. Without administrative rules, undertaking a work plan is fraught with legal uncertainty. It is also extremely difficult to gauge staffing resources and timelines.

Thank you for considering this request.

Sincerely,

TBD