

**HOUSE COMMITTEE ON LAND USE**

**April 06, 2005 Hearing Room 50**

**1:30 P.M. Tapes 56 - 57**

**MEMBERS PRESENT:        Rep. Bill Garrard, Chair**

**Rep. Gordon Anderson, Vice-Chair**

**Rep. Mitch Greenlick, Vice-Chair**

**Rep. Robert Ackerman**

**Rep. Mary Nolan**

**Rep. Patti Smith**

**Rep. Mac Sumner**

**STAFF PRESENT:        Sam Litke, Committee Administrator**

**Lindsay Luckey, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 3117 – Public Hearing and Work Session**

**HB 2985 - Public Hearing**

**HB 2963 - Public Hearing**

**HB 3401 - Public Hearing**

**HB 3349 - Public Hearing and Work Session**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
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**TAPE 56, A**

002	Chair Garrard	Calls the meeting to order at 2:04 p.m. and opens a public hearing on HB 3117.
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**HB 3117 – PUBLIC HEARING**

010	Rep. Dalto	HD 21. Introduces Undersheriff Greg Olson.
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015	Sam Litke	Committee Administrator. Introduces HB 3117.
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020	Rep. Dalto	Explains that law enforcement is not a permitted use under exclusive farm use (EFU) zoning. Describes a situation in Marion County in which the sheriff's department currently must apply for conditional use permits periodically. Notes changes to the bill from last session.
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055	Rep. Ackerman	Asks if the property in question is currently under a conditional use permit.
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	Rep. Dalto	Responds affirmatively and adds their desire to make the usage permanent.
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	Rep. Ackerman	Asks how often the conditional use permit must be renewed.
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	Greg Olson	Undersheriff, Marion County. Responds that it must be renewed every 6 months in a calendar year and outlines other actions taken in conjunction.
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072	Rep. P. Smith	Asks what costs are involved in the renewal process.
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	Olson	States that it is around \$1500.
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	Rep. Dalto	Concludes that during the 2003 session there were objections to this bill and reports that he knows of no objections this session.
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083	Don Schellenberg	Oregon Farm Bureau. Confirms testimony of Rep. Dalto and reports that with the narrowing of the bill from the 2003 session, the Farm Bureau has no problem supporting the bill.
	Chair Garrard	Closes the public hearing on HB 3117 and opens a work session on HB 3117.

#### **HB 3117 – WORK SESSION**

085	Rep. Anderson	<b>MOTION: Moves HB 3117 to the floor with a DO PASS recommendation.</b>
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**VOTE: 6-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 - Greenlick**

	Chair Garrard	<b>The motion CARRIES.</b>
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**REP. DALTO will lead discussion on the floor.**

(NOTE: Please see work session below for Rep. Greenlick's vote.)

	Chair Garrard	Closes the work session on HB 3117 and opens a public hearing on HB 2985.
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#### **HB 2985 – PUBLIC HEARING**

	Sam Litke	Committee Administrator. Introduces HB 2985.
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	Rep. Greenlick	Asks if he would be permitted to vote on HB 3117.
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	Chair Garrard	Closes the public hearing on HB 2985 and opens a work session on HB 3117 for the purpose of allowing Rep. Greenlick to vote.
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#### **HB 3117- WORK SESSION**

130	Rep. Ackerman	<b>MOTION: Moves to SUSPEND the rules for the purpose of allowing Rep. Greenlick to BE RECORDED as voting AYE on HB 3117.</b>
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**VOTE: 7-0-0**

**Chair Garrard      Hearing no objection, declares the motion CARRIED.**

Chair Garrard      Closes the work session on HB 3117 and reopens the public hearing on HB 2985.

**HB 2985 – PUBLIC HEARING**

- 136      Rep. Chuck Burley      HD 54. Introduces John Hummel and submits information and maps on the Juniper Ridge and The Cascades Regional Educational Center **(EXHIBIT A)**. References Page 7 of **(EXHIBIT A)** and explains what land would be brought into the urban growth boundary (UGB) for the purpose of developing the planned educational centers.
- 182      John Hummel      Member, Bend City Council. Describes work focused on utilizing land owned by the city to bring living wage jobs to Bend. Outlines industries' interest in siting near educational facilities.
- 215      Rep. Burley      Adds that they have discussed this issue with the Department of Land Conservation and Development (DLCD) which is in the process of amending Goal 14. States that this process may not be timely enough for their project.
- 231      Bob Rindy      Department of Land Conservation of Development (DLCD). Confirms that the Land Conservation and Development Commission (LCDC) is in the process of amending Goal 14 to include, among other things, planning for schools. Gives April 28th as the anticipated date for adopting amendments to Goal 14. Reports that there are plans to further streamline the UGB process in the fall.
- 260      Chair Garrard      Asks Rep. Burley if he wants the committee to vote on this bill today.
- Rep. Burley      Responds that the public hearing will be sufficient.
- 266      Rep. Sumner      Asks Rep. Burley what possible fiscal impact there could be.
- Rep. Burley      Responds he does not know what fiscal impact there could be.
- Rep. Ackerman

In reference to defining the types of education institutions that would be allowed to site in this bill, asks if they are contemplating public institutions or public and private institutions.

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| Hummel         | Responds that they have purposely left the bill non-specific to allow for public and private and outlines some possibilities.  |   |
| Rep. Burley    | Discusses group meetings held and reports the decision made to work with the Oregon university system as their project progresses.                                     |   |
| Rep. Ackerman  | Notes his concern is with definitions in the bill, and recommends adding “private” to avoid confusion in the case of possible appeals.                                 |   |
| Rep. Burley    | Comments it is a point well taken.   |   |
| Rep. Greenlick | Wants to know if Goal 14 was not amended, what the process would have been to gain an exception.   |   |
| Hummel         | Responds that their concerns were time and certainty.  |   |
| Rindy          | Adds that a main component of the exceptions process is to require jurisdictions to look at alternative sites which can be time consuming, cause delays or litigation. |   |
| 347            | Rep. Anderson  | Comments that he approves of the concept and welcomes a time when industrial lands can be expanded as easily. |
|                | Chair Garrard  | Closes the public hearing on HB 2985 and opens public hearing on HB 2963.                                     |

### **HB 2963 – PUBLIC HEARING**

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|     | Sam Litke     | Committee Administrator. Introduces HB 2963.   |
| 374 | Tom Gallagher | Urban Developer’s Coalition. States that HB 2963 as written is a placeholder bill for the industrial lands task force set up by the committee in February. Reports on the work done by the task force and submits a first draft of proposed content for HB 2963 <b>(EXHIBIT B)</b> . |

**TAPE 57, A**

003	Gallagher	Discusses the purpose of the proposed content ( <b>EXHIBIT B, Page 1</b> ). Notes new ideas discussed including development of regional economic planning in the land use system. States there are two different parts of the bill, the first would move the concept of large market ready industrial sites into the normal Goal 9 planning process.
058	Gallagher	Outlines the second part of the bill which includes the “bird in the hand” concept which would expedite the process when there is a project ready to go, by skipping the needs analysis and the prioritization of land that is brought into the UGB. Discusses local jurisdictions’ role in the process. Outlines the issues which are not covered in this bill. Proposes they bring back a draft from Legislative Council in about 10 days.
119	Rep. Greenlick	Asks how this bill relates to the governor’s desire to have 25 “shovel ready” industrial sites and how it relates to the 20-year industrial land supply inside an UGB.
125	Gallagher	Responds that they are not doing anything new to the land use process in first part of bill, as there is currently a requirement to have a buildable supply of land available but it has never been a focal point. Outlines the problems with current 20 year supply of land.
	Rep. Greenlick	Asks if this would count in the 20-year land supply.
	Gallagher	Responds affirmatively.
	Rep. Greenlick	Asks about the governor’s 25 sites.
	Gallagher	Discusses the sites and outlines problems.
	Chair Garrard	Asks if those signed up to testify would still like to in light of the changes to the bill.
174	Rep. Nolan	Requests that since they expect the bill to be completely replaced, that there is 24 hours notice before the amendments are brought before the committee.
180	C.K. Patterson	Resident, Wilsonville. Submits and summarizes written testimony raising concerns about HB 2963 ( <b>EXHIBIT C</b> ).

260 Charlotte Lehan Mayor, Wilsonville. Submits written testimony in opposition to HB 2963 (**EXHIBIT D**). Raises concern about expanding the UGB for industrial uses and the effects on cities. Summarizes written testimony.

384 Bob Rindy Department of Land Conservation and Development (DLCD). Introduces Steven Santos from DLCD Economic Development Team. Relays their participation in the ongoing discussion on creating more “shovel ready” sites for industry in the forms of HB 3557 (1999) and HB 2011 (2003).

**TAPE 56, B**

004 Rindy Reports there is more work to be done on the proposal of content from the work group. Also notes interest groups that should be a part of the discussion. Outlines the two main aims of the bill.

049 Chair Garrard Remarks on the concerns raised by Mayor Leman and asks how this bill will effect cities who do not want any more industrial sites.

Rindy Responds that their intent is to allow local governments to choose.

078 Art Schlack Association of Oregon Counties. Reports his participation in discussions on industrial lands and notes the merit involved in having the discussions. Outlines concerns with the proposed material and relays the cities’ and counties’ wishes to have the more control. Notes possible implications between the “bird in the hand” concept and Measure 37 (2004). Relays Linda Ludwig, League of Oregon Cities, shares many of the concerns he has outlined. Discusses the possibility of a significant fiscal impact.

139 Chair Garrard Comments he would like to hear HB 2963 on April 20th.

144 Rep. Jerry Krummel HD 26. Notes his intention to speak generally in anticipation of the actual amendments. States he agrees that land use laws need to be more friendly to businesses as well as residents but raises the concern that there would be no check on the Oregon Economic and Community Development Department (OECDD). Raises the unclear definition of “rural”.

185 Chair Garrard Closes the public hearing on HB 2963 and opens a public hearing on HB 3401.

## **HB 3401 – PUBLIC HEARING**

194	Sam Litke	Committee Administrator. Explains provisions of HB 3401.
	Rep. Krummel	HD 26. Explains that he introduced the bill at the request of a constituent, and discusses the details and broader effects of the bill. Expresses openness to working with other interests.
234	Rep. Nolan	Asks Rep. Krummel how many properties this bill will effect.
	Rep. Krummel	Responds that he doesn't know but that his intent is to help his constituent build a replacement dwelling for either a family member or caretaker to live in.
	Rep. Nolan	Asks what the status of the new building would be when the person with the rights to build it, sells it.
	Rep. Krummel	Responds that he assumes they could sell it. Speculates that she is asking if the property would be subject to subdivision and responds that he doesn't believe they would.
	Rep. Nolan	Notes that she does not see anything in HB 3401 which limits the ability to build a replacement building just one time. Asks if there is anything that would prevent someone from building a replacement dwelling more than one time. Asks if it is his intent to be one time, if he would consider amendments clarifying this point.
283	Rep. Krummel	Responds that there is nothing in the bill that would say just one dwelling, but adds that the bill only permits a relative or spouse of the farm operator to occupy the building. Adds he does not understand why a farm operator can not build more dwellings on their farm land for their family if he desires.
	Rep. Nolan	Responds that it is one of the big issues that they are dealing with.
300	Rep. P. Smith	Explains that the problem is that in these types of zoning, people use the dwellings for rentals. Asks if Rep. Krummel would be willing to amend to add a restriction to prevent renting.
	Rep. Krummel	Agrees to add the restriction as long as it does not still prohibit the person from using their property.



	Rep. Ackerman	Gives a hypothetical situation in which the elderly person occupying the dwelling dies, and asks what the status of the dwelling is, suggesting a non-conforming use.
	Rep. Krummel	Responds that he does not know but speculates that if someone were to move in they would need to be assisting with the farming activities.
	Rep. Ackerman	Continues with the hypothetical example, asking if the elderly person died, and the entire property was conveyed to a 3rd party, how the 3rd party would know the statute.
	Rep. Krummel	Responds that without dividing property, he does not know how the house could be conveyed without the entire parcel being conveyed.
356	Rep. Ackerman	Elaborates on his concern, suggesting a covenant that would protect subsequent purchasers.
	Chair Garrard	Asks Dave Hunnicutt and Ron Eber to join the panel.
	Dave Hunnicutt	Oregonians in Action. Reports that HB 3401 mixes accessory dwellings and hardship dwellings and only applies in forest and mixed farm and forest lands and does not apply in exclusive farm use (EFU). Discusses the hardship dwelling provision in HB 3401 (B) lines 12-13.

## **TAPE 57, B**

	Hunnicutt	Outlines distinctions between hardship dwellings and accessory dwellings. In the hypothetical situation discussed above, adds that the property would be sold as a parcel with two dwellings, not a non-conforming use. Continues that HB 3401 would authorize an accessory dwelling in a forest zone and removes the requirement of hardship dwelling statutes that the dwelling be converted back to some sort of non-residential use. Notes discussions for amendments which would narrow the bill.
035	Rep. Greenlick	States that this bill says if you build a replacement dwelling, it is okay to leave the old one there. Comments that the bill seems to take a backwards approach to allowing the desired use.
	Rep. Krummel	Agrees that it may seem backward but notes that when one can not achieve desired goals through the county, they turn to the legislature.

	Rep. Greenlick	Restates the problem they are trying to solve and asks why they are not trying to address that.
090	Ron Eber	Farm and forest specialist, Department of Land Conservation and Development (DLCD). Reports that the way the bill is drafted, it makes the situation more confusing by mixing replacement, accessory and hardship dwellings. Notes intention to work with Rep. Krummel and Dave Hunnicutt to address the problem more succinctly.
100	Don Schellenberg	Oregon Farm Bureau. Submits and reads from written testimony making suggestions for amendments to HB 3401 ( <b>EXHIBIT E</b> ). Issues support for the concept and asks for support of the bill with the discussed criteria removed.
	Chair Garrard	Directs Rep. Krummel to work out amendments and bring HB 3401 back for reconsideration. Closes the public hearing on HB 3401 and opens the public hearing on HB 3349.

### **HB 3349 – PUBLIC HEARING**

120	Sam Litke	Committee Administrator. Introduces HB 3349.
140	Don Schellenberg	Oregon Farm Bureau. Submits and read written testimony in support of HB 3349 ( <b>EXHIBIT F</b> ). Notes the concept is fairly simple and may have been unnecessarily complicated in Legislative Counsel.
171	Rep. Greenlick	Understands his testimony to say that if because of a Measure 37 (2004) claim a county says an area is no longer EFU (exclusive farm use) to benefit one landowner, then the other land owners want to continue to benefit by still getting a tax exemption that treats it as if it is an EFU property and asks if this is correct.
	Schellenberg	Responds that the qualification is under the auspice of the revenue rules. States that the revenue rules say that you must be in a qualified EFU zone and a property becomes disqualified as an EFU for farm use assessment purposes if a county allows a use that the state does not allow. Describes the result is that the Measure 37 claimant is allowed to do what they want to do and those in the surrounding area must file annually to continue receiving farm use assessment, because the zone has been disqualified.
194	Rep. Greenlick	

States that the qualification was put into place because you can not do anything in an EFU zone except farm and now the evaluation based on farming is not true anymore and asks if this is correct.

Schellenberg                      Corrects Rep. Greenlick's explanation by noting that it would not allow you to do other things in the zone, it only deals with whether or not one automatically receives farm use assessment.

215                      Rep. Nolan                      Asks if Schellenberg is suggesting a situation in which one property owner files a Measure 37 claim in EFU land and the bill seeks to protect the surrounding owners from having to file an annual application.

Schellenberg                      Responds that she is correct except that the claimant, if it does not change the use of the land, they would still continue to receive farm use assessment also.

Rep. Nolan                      Asks if the claimant owner has been granted the privilege to do something other than farm, shouldn't the owner verify every year if they are farming. Notes her understanding that the other property owners are still under the EFU restriction.

Rep. Greenlick                      Asks if they are in fact still under the EFU restriction.

Rep. Nolan                      Responds if they have not filed a claim releasing them from EFU restriction and confirms this with Hunnicutt.

Hunnicutt                      Confirms that she is correct and elaborates.

255                      Rep. P. Smith                      Asks why a Measure 37 claim would disqualify the whole district.

Dave Hunnicutt                      Responds that while he supports the bill, he does not agree that Measure 37 would result in a disqualifying event. Adds that this would make clear what he believes is the law anyway.

Rep. P. Smith                      Notes this is her concern and suggests that this may be addressed when discussing larger concept of Measure 37.

Hunnicutt                      Comments that there is a consensus and it is a good idea.

292                      Eber

Agrees with Hunnicutt. Discusses some confusion about text of what defines a zone and adds his support of the bill.

Schellenberg Adds to Rep. P. Smith's comment that there is uncertainty of passing other Measure 37 bills and urges passage of HB 3349.

315 Rep. Ackerman Asks what happens when the waiver on the EFU assessment property is granted, and the single family dwelling is allowed, asks if the tax rate changes to a single family or if it will always remain in the EFU category.

Schellenberg Responds it would be effected when the land use changes, not when the application is made.

Rep. Ackerman Asks if this bill would apply equally to the "lot of record, tract of record situation".

Hunnicutt Responds that because this issue is a statutory change, that action would not trigger a disqualifying event.

Chair Garrard Closes the public hearing on HB 3349 and opens a work session on HB 3349.

### **HB 3349 – WORK SESSION**

350 Rep. Nolan **MOTION: Moves HB 3349 to the floor with a DO PASS recommendation.**

**VOTE: 6-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 - Greenlick**

**Chair Garrard The motion CARRIES.**

**REP. NOLAN will lead discussion on the floor.**

Chair Garrard Adjourns the meeting at 3:50 p.m.

## **EXHIBIT SUMMARY**

- A. **HB 2985, informational packet and map, Rep. Chuck Burley, 6 pp**
- B. **HB 2963, proposal for content, Tom Gallagher, 5 pp**
- C. **HB 2963, written testimony, C.K. Patterson, 3 pp**
- D. **HB 2963, written testimony, Mayor Charlotte Leman, 2 pp**
- E. **HB 3401, written testimony, Don Schellenberg, 1 p**
- F. **HB 3349, written testimony, Don Schellenberg, 2 pp**