



American Planning Association
Oregon Chapter

Creating Great Communities for All

March 1, 2021

Senator Lee Beyer, Chair
Senator Lynn Findley, Vice-Chair
Senator Michael Dembrow
Senator Art Robinson
Senator Kathleen Taylor
Senate Committee On Energy and Environment
Salem, OR 97301

RE: Testimony from the Oregon Chapter of the American Planning Association in Opposition to SB 16

Dear Chair Beyer, Vice Chair Findley, and Senators Dembrow, Robinson, and Taylor:

This letter provides testimony from the Oregon Chapter of the American Planning Association (OAPA) in opposition to SB 16. OAPA is an independent, statewide, not-for-profit educational organization of more than 800 planners from across the state who work for cities, counties, special districts, state agencies, tribes, community-based organizations, universities, and private firms. OAPA provides leadership in the development of vital communities by advocating excellence in community planning, promoting education and resident empowerment, and providing the tools and support necessary to meet the challenges of growth and change. OAPA supports sustainable communities and works to enhance the quality of life for current and future generations by helping to create and stabilize places that are equitable, healthy, and resilient and provide ongoing economic, environmental, and social benefits.

While OAPA supports efforts to address the housing crisis in Oregon, as described in our 2021 Legislative Priorities, we believe that the non-urban housing provided for in SB 16 is not an effective approach to deliver affordable housing. As proposed, the bill would allow each county in the Eastern Oregon Border Economic Development Region to rezone up to 200 acres of land designated Exclusive Farm Use (EFU) for housing on parcels of land that are one to two acres in size, with one house allowed per parcel. New housing developed on these otherwise-unimproved parcels is extremely unlikely to be affordable to most Oregon families facing housing insecurity.

There is no justification included in the bill for why the Legislature needs to take this action. There is no demonstration of need for low-density rural housing that will be met through SB 16, and it is clear that any economic development and job creation will be short lived if it is only focused on development of housing on lots of one to two acres in size. There are nine (9) counties in the Eastern Oregon Border Economic Development region. If 200 acres in each county were developed as proposed in SB 16, that would take over 1,800 acres out of production, with only 900 housing units to show.

SB 16 also does not directly support economic development in the Eastern Oregon Border Economic Development Region, which was created through the passage of HB 2012 in 2017. In 2019, SB 2 was passed to support regional economic opportunities analyses and an opportunity to rezone up to 50



acres of resource land for use as employment lands. The creation of two-acre rural residential lots does not advance these ends. Further, the City of Ontario was awarded a Housing Planning and Housing Production Strategy grant in 2020, which could lead to UGB expansion and the creation of new housing lands. Finally, current laws allow a county to rezone certain resource lands and create 10-acre residential lots, which could be done without new legislation.

One of OAPA's 2021 Legislative Priorities is to "Advocate for Oregon's planning program," which includes opposing efforts to weaken that program. This bill would do just that. It includes some elements that are all too frequent in proposed legislation these days. It starts with "Notwithstanding any land use planning goal related to urbanization or agricultural lands" and ends with "The opinion developed by the review board is not a land use decision and is not subject to appeal."

The first phrase seeks to carve out an exception to the state's land use planning program that is not justified. Lands in the border region are not less valuable so as to be converted into rural subdivisions and partitions for no reason other than to be seen to "throw a bone" to that area. It provides no reason why cities cannot serve any housing needs sought to be provided or why that housing should exist outside urban growth boundaries. If there were such reasons, they could be justified through the existing exceptions process.

The second phrase, again an all-too-common invocation in recent legislative proposals, proceeds from the notion that legislation can cut off any legal challenge to an otherwise questionable act. Article I, section 10 of the Oregon Constitution says otherwise. Past efforts to bypass the Oregon Land Use Board of Appeals provided for direct appeals to the Oregon Court of Appeals or Supreme Court. We believe this effort to bypass state law, bypass the Oregon land use planning system, and bypass a resident's right to assure that government acts within the law would not be countenanced by the courts.

SB 16 does nothing to support the region's efforts for housing affordability, economic growth, and job creation. Rather, this bill is aimed at taking farmland out of protection for short-term private benefits while socializing the long-term costs. The bill is bad policy, bad practice, probably unconstitutional, and should never see the light of day. OAPA strongly recommends this bill be tabled.

Thank you for your time and attention to our testimony.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Aaron Ray'.

Aaron Ray, AICP, President
Board of Directors

A handwritten signature in blue ink, appearing to read 'Eunice Kim'.

Eunice Kim, AICP, Chair
Legislative and Policy Affairs Committee