



American Planning Association
Oregon Chapter

Creating Great Communities for All

September 15, 2023

RE: Testimony from the Oregon Chapter of the American Planning Association (OAPA) regarding recommendations for housing production.

Dear Governor Kotek.

We at OAPA thank you for the opportunity to provide our recommendations on housing production strategies. OAPA is a nonprofit professional membership organization of over 800 planners, working together to create sustainable and vibrant Oregon communities through professional development, advocacy for sound planning, providing resources to meet the challenges of growth and change, and embracing and promoting diversity, inclusion and equity.

Achieving and maintaining an adequate supply of safe, affordable, and stable housing in communities across Oregon is one of OAPA's top priorities, and is central to our vision of creating great communities for all. We offer these recommendations in the spirit of building a regulatory framework that facilitates housing production by leveraging our land use system to deliver effective, equitable, and forward-thinking solutions to the current housing crisis.

OAPA does not support legislation that would weaken Oregon's land use system. While we recognize improvements may be needed, our land use system– the first of its kind in the country– has worked well for Oregonians for over 50 years.

Oregon has an opportunity once again to show the rest of the nation that we can rise to meet the challenge ahead and do it the Oregon way. Yes, we must solve the housing shortage, particularly for our most vulnerable community members, but we can do so while also protecting what has always been cherished in our state; productive farms and forest lands, clean air and water, vibrant diverse neighborhoods and a strong diversified economy resulting from all of these things. This is the Oregon that has been carefully cultivated and ought not be compromised. Where housing is placed and what kind of housing it will be is every bit as important as the numbers of units needed. We must do more than produce housing, we must create human habitats and communities where Oregonians will thrive and be resilient from the worsening effects of climate change. People and nature can coexist in a mutually beneficial way, which is why we do not support ideas that would degrade one over the other (e.g. suspending local tree codes).

Successfully addressing housing also means incorporating other OAPA top priorities to confront climate change and to advance equitable engagement and outcomes in planning and land use decision-making. OAPA can support efforts that foster climate change mitigation and community resilience to climate change impacts. OAPA can support changes that foster public engagement in decision-making and account for equitable outcomes for all Oregonians including those underserved populations. OAPA will oppose changes that adversely impact climate change mitigation and resilience or that lessen public engagement.

We understand that the B-Engrossed version HB 3414 (2023) is the likely starting point for proposed legislation in the next legislative session; therefore, our comments begin with addressing the concepts therein. We would also like to address some of the recommendations of the Governor's Housing Production Advisory Council (HPAC) and the League of Oregon Cities (LOC).

HB 3414 B-Engrossed

Proposed Housing Accountability Production Office:

OAPA supports creating the Housing Accountability Production Office (HAPO). We appreciate the focus of this new office on providing both technical assistance to local governments and resources to housing developers to support the development of housing in Oregon. The B-Engrossed version of HB 3414 provides much-needed clarity on the process for reporting and investigating violations, and ensuring that 'jurisdiction shopping' does not become an issue between HAPO, the Land Use Board of Appeals, or the Department of Land Conservation and Development.

Adjustment Concept (proposed mandatory deviations from standards with some exceptions):

OAPA remains opposed to this concept as it is written. We do not believe that adjustment is the best tool to facilitate the creation of additional housing units. As defined, the concept now encompasses any "deviation from an existing land use regulation".

The exceptions to mandatory adjustments listed in HB 3414 do not give adequate consideration to all of the statewide planning goals, nor to resources protected through land use regulations by cities and counties. Moreover, the adjustment language still shifts the burden of proving that an adjustment should not be granted to the local government, instead of requiring applicants to demonstrate that an adjustment will result in a public benefit. We also note that, as written, the adjustment concept introduces a lack of clarity. Due to the automatic adjustment language and process, only those with sufficient legal or procedural know-how will be able to access these carve outs. We note the intention is for adjustments to only be

granted when needed to make certain housing development occur or become more feasible. However, the adjustment language does not provide guidance on how to assess whether the adjustment is a necessary modification. The adjustment provision could be used as a way to increase the size and price of a particular housing project rather than producing additional units.

Instead of the relative blanket approach to adjustments with unclear outcomes, we alternatively suggest a targeted list of the specific types of standards that have created barriers to housing (specifically, barriers to affordable housing). This targeted approach could focus on things like excessive parking requirements, which are detrimental not only to creating more housing, but contribute to a whole host of other social and environmental problems. That is why CFEC and its implementing rules are so important to creating resilient human habitats.

Limited UGB Expansion:

OAPA remains opposed to UGB expansions that would occur outside of the existing process. While OAPA remains open to the idea that there may be a need for an expedited process in some cases, existing UGBs generally contain enough land to build needed housing. What is often lacking, however, is the infrastructure needed to develop areas within UGBs. Cities need additional capital to install roads and other crucial infrastructure to make development viable. Other un- or underdeveloped areas within UGBs would be better served by providing incentives for adding infill housing and building middle housing.

The UGB is one of the best tools for ensuring the right balance is maintained. The UGB must contain a twenty-year supply of land for jobs, housing, industry, and open space. The idea is to efficiently accommodate growth within the UGB and to ensure protection of natural resources. UGBs and comprehensive planning not only contain and guide local development, they also contain costs. By planning for land uses and future development, communities are able to spend less money building and maintaining roads, water and power infrastructure, and less to provide emergency services like firefighting or emergency medical services. The people living there, in turn, pay less for utilities, enjoy lower transportation costs, and generally live closer to where they work, closer to stores and services, and closer to the wide open spaces beyond the UGB where they can hike, bike, visit a working farm, or take a scenic drive. Conversely, unchecked, and unplanned sprawl creates undue costs, socially (more traffic and long commutes), economically (inefficient and more expensive infrastructure and loss of resource lands) and environmentally (more carbon emissions and loss of habitat and carbon sinks).

Expansion of an UGB is a first step in the urbanization of rural lands.

Expansions should be in the context of a community's needed housing as well as the economic development and job opportunities that come with population growth.

A next step, once an expansion is approved, is developing a community plan. Where, how much, and what type and density of housing; and where and how much supporting commercial and employment? How will schools and other institutions address new populations? What public infrastructure is needed and will it be financed? How will parks and existing natural resources be integrated into the new part of the community? How will the transportation system be developed to ensure safe and accessible walking, biking, transit and driving options?

A key element of the planning process is to engage the public and other stakeholders, including populations often underrepresented in the decision making process. Engagement and community planning is necessary to ensure that new housing will be successful for the community's new residents and, crucially, provide critical community services and key amenities in an equitable and effective manner.

Although limited expansions may be necessary in select cases, OAPA suggests an initial focus on UGB expansions that have already been approved and for which planning has been done or is on-going. The State can engage in assisting local communities and the development communities in such elements as the structuring of development agreements and the financing of public infrastructure. Below are three examples of already planned UGB expansions areas, including links, that are illustrative of UGB housing opportunities and challenges.

[Gresham - Pleasant Valley Plan District](#)

In December 1998 Metro approved a 1,532-acre UGB expansion located east of Gresham and Portland and south of Gresham.

In the mid-2000's Gresham, Metro, the City of Portland, the City of Happy Valley, Clackamas and Multnomah counties developed a Pleasant Valley Concept Plan. The concept plan envisioned a complete walkable, transit supportive community with a diversity of housing types and densities, neighborhood and town center commercial areas, employment areas, schools, a network of parks while integrating Kelly and Mitchell Creeks. The concept plan envisioned a population of 15,000 (5,000 homes) as well as 5,000 jobs.

In 2004 Gresham adopted a refined concept plan including zoning and development codes, public facility and park plans, parks plan and a transportation system plans. The city also initiated and approved annexation of a portion of the lands.

Currently Gresham has embarked on a Pleasant Valley Plan Update. As

described on the project website: "However, almost two decades after the plan's adoption, much of what was envisioned for Pleasant Valley, including a variety of housing and employment opportunities, has not been realized.

Because of this mismatch between the original vision and the development reality over the last 20 years, the City is refreshing the Pleasant Valley Plan. This project will focus on engaging community members and developing updated land use and economic analyses to refresh the plan.

The City wishes to understand how the community's aspirations and expectations for Pleasant Valley have changed during the past two decades. This work will ensure the plan aligns with current priorities and can support the development of a range of housing and business options and uphold the original vision of Pleasant Valley as a complete community."

The provided link includes a land use audit, infrastructure memo and market study done this year.

Beaverton - Cooper Mountain Community Plan

This 1,232-acre UGB expansion was approved by Metro in 2018. The plan area is located along Beaverton's southwestern city limits and the City is engaged in planning for the area's development.

A Cooper Mountain preferred approach has been developed. As described on its website it "will establish a long-term vision for the area's growth and development to support welcoming, walkable neighborhoods that honor the unique landscape and ensure a legacy of natural resource protection and connection."

Key features of the plan include:

- About 5,000 homes, including a mix of single-detached homes; middle housing, such as duplexes, triplexes, quadplexes, townhouses and cottage clusters; and multi-dwellings.
- Multiple locations for shops and neighborhood services.
- A road network that provides adequate access while limiting creek crossings to protect natural resources and wildlife corridors

The latest version of the plan was presented to the City Council in July of this year. The current schedule anticipates the City Council considering Cooper Mountain regulations for approval in late spring of 2024.

The project's goals listed below summarize critical reasons for the community planning of UGB expansion areas:

- Create equitable outcomes for residents, including historically underserved and underrepresented communities.
- Provide new housing in a variety of housing types and for all income levels.

- Preserve, incorporate, connect, and enhance natural resources.
- Improve community resilience to climate change and natural hazards.
- Provide public facilities and infrastructure needed for safe, healthy communities.
- Provide safe, convenient access to important destinations while supporting transportation options, including walking and biking.
- Provide opportunities for viable commercial uses, including places to work and places to buy goods and services.
- Identify feasible, responsible funding strategies to turn the vision into a reality.

Hillsboro - Witch Hazel Village South Community Plan

This 150-acre area is located in Washington County adjacent to the southern edge of the City of Hillsboro. It was brought into the UGB by Metro in December 2018. Community Plan and Comprehensive Plan amendments have been completed and were adopted by the City Council in November, 2022.

The Plan anticipated approximately 845 housing units “spread over 39 acres of Residential Medium Density land and 33 acres of Residential Low Density land” with “a variety of housing types, including single detached, duplexes, multiplexes, courtyard apartments, townhomes, and more – all built to be durable, attractive and energy efficient.

Other elements of the plan include:

- A transportation network that identifies major roadway alignments and plans for a high level of connectivity for multi-modal use throughout the study area and providing connection to existing and future roadways outside the study area.
- Stormwater management approaches that help to protect streams and riparian corridors and integrate channel restoration, flow control facilities, and low-impact development measures.
- Two neighborhood parks to ensure park access within a half mile of all neighborhoods and along with greenway and trail connections.
- Water and sanitary sewer pipe sizing and locations within major roadways to provide efficient and logical extension of services to the area.
- An implementation plan that summarizes preliminary cost estimates for infrastructure and provides a funding strategy and phasing plan.

This is an example of an UGB expansion area planned solely for housing development. Here is a [link](#) to its community plan that provides detailed information on how this expansion area’s plan integrates into adjacent community plans including the South Hillsboro Community Plan Area. South Hillsboro is a 1,063-acre area brought into the UGB in 2014. It is anticipated

to include:

- Approximately 8,000 residences of diverse types, architectural styles, and price ranges, designed to help meet the needs of the City's growing workforce, ultimately providing housing for nearly 20,000 residents.
- Mixed-Use Town and Village Centers providing a range of shopping, services, and gathering venues serving local neighborhoods, the City, and the broader region.
- 286 acres of new parks and open space with 15 miles of new multi-use trails, co-located with planned school facilities and located such that all residents live within one-quarter mile of a park facility.
- A fully multi-modal transportation network including world-class bicycle infrastructure and expanded transit service.

OAPA believes that, if implemented, these community plans demonstrate the potential for thousands of needed housing units to be added to areas already annexed to the UGB.

HPAC Recommendations

We want to address a number of concepts that HPAC has been considering, many of which are sound and a few of which are not. Recognizing that some of the concepts may not be ultimately included in the Governor's recommendations, we provide our comments for consideration.

Before addressing the specific concepts below, we want to stress that a bad idea can do permanent harm *even if it is implemented on a finite, short-term time scale*. Furthermore, once implemented, the temptation to extend the time-frame of a temporary policy is ever present.

OAPA supports the following HPAC Recommendations:

Infrastructure fund:

OAPA strongly supports this concept, and we look forward to seeing more details.

Pre-approved plans:

OAPA supports the provision of pre-approved plans for middle housing in order to provide a level of certainty for homebuilders, and to expedite the permitting process.

Land availability - leverage all state owned land inventory. Or similar proposal for all local government lands:

OAPA generally supports this concept. We note appropriate limits would be required, such as avoiding certain hazard-identified and Goal 5 areas, as well as areas that are far from jobs and services.

Increase plan review and inspection services for local jurisdictions:

OAPA strongly supports this concept. The shortage of plan reviewers and inspectors is a problem affecting jurisdictions across Oregon.

OAPA is neutral or may potentially support the following HPAC Recommendations:

Require design review to be a Type 2 administrative decision:

OAPA is currently neutral on this concept. Depending on the particulars, OAPA could be supportive of this idea, understanding that it could reduce the complexities or timeframe for review.

All appeals to a hearings officer rather than a city council or county commission:

OAPA is generally neutral on this concept, as long as the appeals process remains intact. We also note that not all jurisdictions currently have hearings officers, and suggest that providing funding to local jurisdictions may be helpful.

Change cottage cluster requirement with respect to courtyard requirement:

OAPA is neutral on this concept. We note that the State defines a cottage cluster as, "groupings of no fewer than four detached housing units per acre with a footprint of less than 900 SF each and that include a common courtyard.

Separate utilities for units in cottage clusters:

OAPA is neutral on this concept.

Reconsidering SDCs – or a deferred SDC program:

OAPA may potentially support this concept, if provisions were included to reimburse local governments for the loss of revenue.

OAPA opposes the following HPAC Recommendations:

Preempt and override local tree codes:

OAPA strongly opposes any such effort. This concept is an example of a policy that even if temporarily implemented, will cause lasting harm. Trees provide too many ecosystem benefits to be disregarded in the name of housing. One of the most obvious benefits of tree canopy is to increase communities' resilience to the effects of climate change, including reducing the urban heat island effect, stabilizing slopes, retaining soil moisture, and taking up storm water that would otherwise contribute to flooding and erosion. A better solution would be to incentivize jurisdictions to simplify or otherwise add additional flexibility to their tree codes in a way that results in a resilient urban tree canopy.

Wetlands developments proposal - create more mitigation banks:

OAPA opposes this concept. We note that mitigation banks are not a good substitute for existing natural wetlands. Allowing for increased development in wetlands is problematic, complicating stormwater management and flood hazard mitigation efforts.

Additionally, because of the recent U.S. Supreme Court decision that forced the EPA to remove federal protections from approximately 63% of U.S. wetlands it is now more important than ever that Oregon maintain strong protections for wetlands.

Adjustments by right - Automatic approval for adjustment of 20% from a standard:

OAPA opposes a blanket reduction of local standards. We note that not all standards are dimensional, and that such a reduction may override health and safety standards. A better solution would be to incentivize local jurisdictions to identify and fix undue barriers to housing development. We note that the HAPO proposal outlined in HB 3414 would provide assistance to jurisdictions in such an endeavor.

Expedited UGB concept:

OAPA generally supports policies that reduce timeframes for UGB expansions, particularly where those expansions address a relatively immediate need. However, OAPA remains opposed to concepts proposed in the past few legislative sessions that would result in relaxed criteria for UGB expansions. OAPA also remains opposed to any policy changes that would weaken public and stakeholder engagement in the decision making process. In fact, OAPA would like to see more attention paid to practices that engage populations that are historically underrepresented in planning decision making processes.

LOC Recommendations

Revolving Loan Fund:

OAPA supports this effort to directly fund city and county efforts to increase the production of housing.

Regional Housing Coordinators:

OAPA supports this concept.

Boost local development capacity to ensure prompt processing of development (building codes, public works) permits and land use decisions over the next three years:

OAPA supports this concept.

Increase the Pipeline of Skilled Workers Needed to Support Development License/certification reciprocity Community College/CTE/university education and apprenticeship Professional Land Surveyor (PLS) – remove barriers for

accreditation:

OAPA supports this concept. We suggest that this funding be stable over time, so as to avoid the hiring/layoff cycle that discourages plan reviewers getting certified in the first place.

Land Use Education Curriculum for Local Decision Makers:

OAPA believes developing this curriculum could be a good investment, as many people are not familiar with the Oregon land use system and its history and would be willing to help develop the curriculum.

Continue/Increase Funding for Local Planning Grants at DLCD:

OAPA strongly supports leveraging the existing relationships that DLCD has built with local jurisdictions. The local planning grants program has been tremendously successful over the years, and we believe that funding for housing productions grants should be increased.

Remove Barriers to Development through CFEC Corrections, alignment with OHNA.

OAPA supports this concept so long as neither CFEC nor OHNA are rendered less effective or it delays implementation of CFEC. The implementation of CFEC is critical to the production of housing in areas that will support housing residents with more transportation options and equitable access to daily needs.

Again, OAPA thanks you for the opportunity to comment on HPAC and LOC's housing production recommendations.

Sincerely,



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