

HB 3536
TESTIMONY IN OPPOSITION
June 5, 2013 Rules Committee

I Introduction

My name is David A. Lee
I reside at 4580 39th Avenue NE, Salem, OR 97305

I also own Lot 12, Rim at Aspen Lakes, 70140 Camp Polk Rd., Sisters, OR 97759

I am registered as a Professional Civil Engineer, a Professional Environmental Engineer, a Professional Land Surveyor and a Certified Water Rights Examiner in the State of Oregon. I have practiced engineering in Oregon for over 40 years.

I am currently the president of the Rim at Aspen Lakes Homeowner's Association.

II Aspen Lakes Development

Background in Land Development

As a civil engineer in private practice I have been involved in more than 50 subdivisions, either as a designer, a project manager, or as an acting city engineer in several communities. That work included preliminary planning, final plats, infra-structure design, construction contract administration, and final acceptance. The size of those developments ranged from six lots to more than 200 lots per project Thus I am familiar with land development processes.

Familiarity with Aspen Lakes Development

I first became involved in the Aspen Lakes project during the preliminary planning and initial master plan phase in early 1989. In May 1989 I negotiated option agreements to purchase two lots in the project. In 1990 I took title to Lot 12 in The Rim at Aspen Lakes and in August 1995 I took title to Lot 40, Golf Course Estates at Aspen Lakes. I served on the initial Board of the Homeowner's Association, first as vice-president and then as president, during the period 1990-1996.

Open Space

Through my observations of the entire development process and having spent hundreds of hours at board meetings, at public hearings, and in letter writing, I know that the Deschutes County Planning Department never intended that Aspen Lakes would become a Destination Resort, but rather the project was approved as an RR-10 Clustered Subdivision under County Ordinances. All of the land located in the original Wild Horse Meadows Subdivision (Section 35, T14S, R10E, WM, Deschutes County), and not located in the Rim at Aspen Lakes Subdivision is Open Space that was required in conjunction with the development of Aspen Lakes. These tracts, along with Tracts A and B of the Rim at Aspen Lakes, are in completed subdivisions and are not subject to further development, thus cannot be included in the land identified in this proposed legislation. Chapter 636 of Oregon Law specifically does not allow siting of small-scale recreational communities in established Open Space.

The language of the proposed legislation makes reference to a segment of the Whychus Creek flood plain and potential spawning beds as an element of the proposal's environmental enhancement. This segment of Whychus Creek is Tract B of the Rim at Aspen Lakes and is already designated as Open Space on the final plat. In addition this segment is a portion of a State Scenic Waterway. The County has established a Landscape Overlay that extends 1/4 mile each side of the creek that restricts development and uses. Finally, deed restrictions were filed at the county recorder's office in 1991 that further define its use to passive recreation and wildlife habitat. It is deceptive to suggest that the proposed plan would provide additional public benefit.

III Objectives of House Bill 3536

The introductory language of this bill states that the objective is to "Modify alternatives for establishing a small-scale recreation community using transferable development opportunities (TDO) from Metolius resort sites."

The language of the draft legislation flaunts the original legislation that became Chapter 636 of Oregon Law, and OAR 660-28 that establishes specific criteria for pilot projects, and abandons the small-scale recreation community concept and substitutes a mega-destination resort called a Heritage Guest Ranch. This approach in no way conforms to the foundational concepts of TDO including, 1)shifting development from natural resource areas to an urban environment, 2)placing an emphasis on over-night accommodation, 3)enhancement and preservation of resources on public land, 4)promoting sustainability and stewardship of critical natural resources, 5)preservation of open space, 6)decreasing dependence on golf courses at recreation destinations, and 7)providing assurance of coordination between multiple local jurisdictions i.e., Jefferson and Deschutes Counties.

Any valid alternative plan must demonstrate that the participants, meaning the local governments and the developer, have the ability and intent on completing the project in a reasonable time frame. The draft bill contains the following language, "Development of the development area....may occur in phases at the discretion of the Developer." This raises major concerns in my mind because it has been 24 years of frustration for me and other property owners and we still do not know the full scope of the Aspen Lakes Development, what development will occur, and when it will be completed. It is inconceivable that we may have to endure another 25 years or more of construction and disruption under the proposed development plan.

The proposed legislation does not address or provide a reasonable alternative to the complex issues of public interest verse private property rights which arose during the proposed development within the Metolius basin. OAR 660-28 establishes a well thought out set of pilot projects to explore and refine a market base solution. This proposal does not allow for inter-agency interaction, public input, or an open debate on its merits. The proposed alternative approach does not have state wide application and, therefore, it would not be good public policy.

IV Concluding Statement

I strongly request that the committee members vote to reject the proposed HB 3536.