



American Planning Association
Oregon Chapter

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Making Great Communities Happen

March 8, 2017

Senator Michael Dembrow, Chair
Senate Committee on Environmental and Natural Resources
900 Court Street NE, Room 347
Salem, OR 97301

RE: Oregon Chapter of the American Planning Association testimony to the Senate Committee on Environmental and Natural Resources on SB 865.

Dear Chair Dembrow and Committee Members.

The Oregon Chapter of the American Planning Association (OAPA) is an independent, statewide, not-for-profit educational organization with 850 members that provides leadership in the development of vital communities by advocating excellence in community planning, promoting education and citizen empowerment, and providing the tools and support necessary to meet the challenges of growth and change.

OAPA appreciates the opportunity to provide this testimony on SB 865, and recommends the Committee not pass the bill as drafted.

A local government's review of tentative subdivision and partition plats are land use decisions under ORS 197.015(10). The government's review of such decisions involves both notice to owners of record of property within a certain distance of the property that is the subject of the application, and to affected state agencies and local governments. These include irrigation districts. Both cities and counties coordinate with irrigation districts, and provide them notice of land use applications, including tentative plats for subdivisions and partitions, at the time notice is given and comments requested from property owners and other affected public agencies.

It is during this public process period that irrigation districts can review a tentative plat and provide comment to the local government. The local government then incorporates comments of the irrigation district into the final approval of the plat. Typically, local governments include a "condition of approval" as part of the final plat, to address issues or concerns raised by an irrigation district. However, the local government can only include conditions that are necessary to satisfy a requirement of the local land use code.

As written, SB 865 would allow the irrigation district to conduct this review and propose conditions of approval after the local government has made a final land use decision. This presents several problems for the district, the applicant, and the local government:

1. The bill provides the district will an opportunity to require things of the local government and applicant after a final land use decision has already been made. If the city or county approve a tentative plat for either a partition or subdivision that is a final land use decision upon which the applicant can rely to complete the process of creating new units of land (either parcels or lots). Introducing new requirements after the land use process is complete is redundant and introduces uncertain risks and costs.
2. The city or county who has made a land use decision on a tentative plat cannot enforce another local government's regulations unless there is an intergovernmental agreement to that effect pursuant to ORS 190.
3. Some districts have codified their regulations for development within their boundaries, some have not. The process for local government review of a land use decision on a tentative plat cannot be a substitute for enforcing requirements of an irrigation district that may not have been adopted by its governing body and incorporated in its regulations.
4. The bill would give the irrigation district veto authority over a lawful land use decision made by the local government. This is contrary to ORS 197 which requires cities and counties to adopt and carry out comprehensive plans. This includes making land use decisions consistent with the adopted implementing zoning and land use regulations.

Thank you again for the opportunity to testify on SB 865. OAPA recommends the committee not pass the bill as written.

Sincerely,

A handwritten signature in cursive script, appearing to read "Damian Syrnyk".

Damian Syrnyk, AICP

Chair, Legislative and Policy Affairs Committee