



Testimony in OPPOSITION to SB 88 (ADU allowances)

To: Senate Committee on Environment and Natural Resources

From: Central Oregon LandWatch

Date: January 31, 2019

Mr. Chair, members of the Committee:

Central Oregon LandWatch has a mission of achieving a responsible, balanced approach to planning for and conserving Central Oregon's land and water resources, while recognizing the needs of future generations. We work to protect and conserve the region's ecosystems and wildlife habitats, to foster thriving, sustainable communities and to spread the costs and benefits of growth equitably across the community as a whole.

Generally, Landwatch has historically supportive of accessory dwelling units (ADUs) within urban growth boundaries. In light of that, we were excited to participate in the workgroup that generated SB 88, in order to (hopefully) untangle some of the policy questions and develop a quality, lasting policy on ADUs in rural areas.

However, we recognize the value in building for growth where residents can best access services and employment. Further, these priorities need to be balanced against strain on infrastructure, the environment, and also against the overriding priority of public safety.

Even within urban growth boundaries, there are some scenarios where Landwatch has recognized the wisdom of practicing restraint on increased density -- for example, within the urban-forest interface areas on Bend's west side, where many parties determined that an increase in density may give rise to unresolved public safety concerns.

Similarly, we do not feel that Senate Bill 88 is -- either at this point in time or with the dash-1 amendments -- suitable for passage in light of a number of unresolved issues:

1. Unclear Objectives.

Early on in the workgroup process, Landwatch posited to the group what the “objective” of the resulting legislation would be. We received several responses which are, strikingly, mutually exclusive to a large degree: a) to alleviate the “housing crisis,” b) to provide opportunities for homeowners to profit off of ADU short-term rentals, and c) to provide multigenerational housing opportunities. Without a clear understanding of objective, we are at a loss even to understand how the committee intends to evaluate the efficacy of the measure in front of it.

2. Outstanding data needs.

Much of the measure deals with the allowance of ADUs to differing degrees based on an area’s “fire risk” designation. Before we address the safety concerns, it is relevant to note that despite these designations having a significant regulatory role in the legislation, the workgroup has not yet seen maps of these areas. Even so, the fire risk maps developed by the Department of Forestry will be in the context of restrictions on fires -- not restrictions on development. We believe that the Department of Forestry would tell the committee that these maps are not appropriate for use in a development planning context. (Although the underlying ODF data is publicly available, it has not yet been converted to a format applicable to these discussions.)

3. Unresolved safety concerns.

Even with the provision of detailed, relevant mapping, the measure reflects back to administrative rule when making a determination of what safety practices must be followed. Aside from the vagueness in some of these rules (e.g: what is “significantly” cleared of brush?), there is no thought given to how these regulations would be enforced, especially given the prospect of short-term rentals seeing a high turnover of guests -- many of whom may be unfamiliar with Oregon’s fire safety regulations.

4. Historic Examples.

Wildfire is caused either by lightning or by human interaction. More human beings results in more risk of fires being started. And while fire-safe building standards can help protect individual structures, it does not protect the community or region at large, nor does it alleviate the challenges of trying to evacuate more residents through an infrastructure that was built for half that. In 2005, the Topanga Fire whipped through Ventura County California, destroying 13 structures. There were no deaths. Last year, the Woolsey Fire blew through about the same area after the county had continued to allow rampant development in those same areas, with only minimal infrastructure improvements in some of these rural enclaves. The fire quickly spread to about 4 times the size of the 2005 conflagration. Over fifteen-hundred structures were destroyed. There were three deaths. In 2018, this fire was more destructive not because fire was new to the area... but because the density in 2018 was new to the area.

We fear that passage of SB 88 without significant analysis of what levels of development are appropriate in what areas is a premature move that will endanger lives and property. We understand that the committee may begin work on a more comprehensive mapping process led by the Department of Land Conservation and Development that could better inform on these decisions, and we ask that the committee moves forward with this level of research before allowing such an expansion of ADU development.

Landwatch is a supporter of ADUs, but not without clear data and objectives in mind to facilitate smart planning and certainly not at the expense of human safety.

Central Oregon LandWatch opposes Senate Bill 88.

Thank you.