

Feb. 12. 2019

Oregon State Legislature  
900 Court St. NE  
Salem, OR 97301

RE: **HB 2001**

To: Chair Keny-Guyer and members of the House Committee on Human Services,

I write to you in support of HB2001 to allow 'missing middle' housing options in single dwelling zones within urban growth boundaries.

Single family zoning, which started gaining broad traction in the 1950s, has roots in economic segregation. Intentionally or not, minimum lot sizes and bans on small plexes across large portions of Oregon cities (often over 50% of the land area) make these places out-of-reach for less affluent households and/or drive the creation of homes much larger than most of today's smaller households want or need.

This is not consistent with Oregon Housing Goal 10 which, according to a 1970s administrative law decision by Al Johnson, means that cities "are not going to be able to "pass the housing buck to their neighbors on the assumption that some other community will open wide its doors and take in the teachers, police, firemen, clerks, secretaries and other ordinary folk who can't afford homes in the towns where they work."

That, unfortunately, is exactly what single family zoning does – at the neighborhood level. To paraphrase testimony from Portland's residential code update: "How are Single Family zoning and meat jello alike? They were bad ideas in the 1950s – and they're still bad ideas today."

HB2001 is just one of many complementary tools to address rising housing costs. Tenant protection and funds for affordable housing are also essential.

**What would this bill do on the ground?**

- When people hear "duplex", "triplex" or "fourplex", they often assume each would be bigger than the next. That needn't be the case. Cities can adopt reason restrictions on the height, bulk, floor area, setbacks... of homes so any of these housing types fits within the context of traditional neighborhoods. In fact, they might use this as an opportunity to trim down the allowed size of new single family homes, as Portland's considering.
- For communities focused on protecting trees, they can leave existing lot coverage caps in place. For those focused on solar shading, they can leave height restrictions un-touched.
- Note that in many traditional neighborhoods, people-density has been *decreasing* as households have shrunk. Meanwhile, houses and the lots they sit on have stubbornly remained the same size. So streets, parks and other public

amenities in older neighborhoods likely already have room for a few more people - to bring them up to historic population levels.

### **Communities can still build SF homes under HB2001**

- I don't question surveys saying that most people want to live in a detached single family home. If people want a single family home and can afford one, they have that option – and will continue to have it under HB2001.
- *But if someone expects that single family zoning means there won't be less affluent residents in their neighborhoods (and even renters, god forbid), that's not a reasonable expectation.* Every one of us interacts with people on a daily basis who teach our children, serve our coffee, bag our groceries, work at non-profits, tend our gardens... We should be able to share our neighborhoods too.
- Especially now that single family zoning covers huge swaths of our cities, it's not acceptable to ban housing types in these large areas where less affluent residents might live.
- I don't think the intention of this zoning was to create a mono-crop of large SF homes – but that's exactly what it's doing.
- We need to re-think single dwelling zones based on residential scale of development more so than number of dwellings per lot.

### **The sky won't fall**

- Even with missing middle options allowed, that doesn't mean it'll get used all that much. Consider that...
  - 75+ years ago, before the proliferation of SF zoning, builders could construct single-family homes or courtyard plexes on most neighborhood lots. Although on 'missing middle' walking tours, we like to highlight examples of middle housing. But *most* lots were developed as single-family detached homes, even where the builder could have opted to create a plex instead.
  - More recently... For the past 15 years, Portland has allowed an ADU with every new home, duplexes on every corner lot (doubling the density), and hasn't required off-street parking on homes within 500' of transit. Yet the vast majority of new homes are single family detached with off-street parking – even as zoning allowed other options.

### **Although I strongly support this bill, it's not perfect.**

- Private agreements (e.g. CC&Rs) can stifle housing choices even if zoning allows them. The extent of this dynamic hasn't yet been well quantified. But especially in suburban areas built out since the 1960s, when the trend of draping HOAs across expansive subdivisions became standard practice, it's possible that zoning

requirements to add housing choice might have limited impact. This may be more than HB2001 can take on, but should be looked at in the future.

- I support the idea of DLCD writing a default code that would apply in jurisdictions that don't get around to updating their local code to comply with HB2001. But it might take more time to get having been immersed in Portland's code update and seeing other jurisdictions adjust their codes to support 'missing middle' housing, I appreciate the challenge of crafting regulations that add housing choices and also fit in with the neighborhood. To do this with a default state code won't be easy – especially given that we haven't had much time to learn 'best practices' from early adopter cities, including Tigard, Milwaukie and Portland. Perhaps we'll need more time than ~16 months to write a solid default code.
- That said, I think it would be quite realistic to adopt a default zoning code for accessory dwelling units that would apply in any jurisdiction that hasn't yet updated their ADU code to comply with state law. We have lots of experience with ADU codes in Oregon, including decades of experience that has yielded some best practices. Smaller jurisdictions might even appreciate this, since it would spare them the staff time of writing their own ADU codes to comply with state statute. They could do nothing at all – and just point local residents who want to build an ADU to the state code.

I look forward to tracking HB2001 as it goes through the legislative process, and would be happy to vet amendments along the way.

Thank you for your consideration,



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